

Hearing Date and Time (Only if Objection Filed): To Be Determined if Necessary

DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 701-5800
Marshall S. Huebner
Timothy Graulich
Joshua Y. Sturm
Thomas S. Green

*Counsel to the Debtors
and Debtors in Possession*

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

In re:

**GRUPO AEROMÉXICO, S.A.B. de C.V., et
al.,**

Debtors.¹

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**NOTICE OF PRESENTMENT OF STIPULATIONS AND ORDERS BETWEEN
CERTAIN DEBTORS AND COUNTERPARTIES
CONCERNING AIRCRAFT FINANCING AGREEMENTS**

PLEASE TAKE NOTICE that pursuant to paragraph 4 of the *Order Authorizing Entry into Stipulations Concerning Aircraft Finance Agreements* [ECF No. 650], certain Stipulations and Orders Between Certain Debtors and Counterparties Concerning Aircraft Financing Agreements annexed hereto as **Annex A** (the “**Stipulations**”) will be presented for signature to the Honorable Judge Shelley C. Chapman, United States Bankruptcy Judge for the Southern District of New York (the “**Court**”), Room 623, One Bowling Green, New York, New York, 10004 on December 3, 2020 at 12:00 p.m. (prevailing Eastern Time).

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.

PLEASE TAKE FURTHER NOTICE that, pursuant to paragraph 2 of the *Order (I) Authorizing the Debtors to Partially Redact Stipulations and (II) Granting Related Relief* [ECF No. 649], the Stipulations are being filed in a partially redacted form.

PLEASE TAKE FURTHER NOTICE that any objections or responses to the Stipulations shall: (a) be in writing; (b) conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, all General Orders applicable to chapter 11 cases in the United States Bankruptcy Court for the Southern District of New York, and the Order Establishing Certain Notice, Case Management, and Administrative Procedures [ECF No. 79] (the “**Case Management Order**”); (c) be filed electronically with this Court on the docket of In re Grupo Aeroméxico, S.A.B. de C.V., et, Case 20-11563 (SCC) by registered users of this Court’s electronic filing system and in accordance with the General Order M-399 (which is available on this Court’s website at <http://www.nysb.uscourts.gov>) by December 2, 2020, at 4:00 p.m., prevailing Eastern Time (the “**Objection Deadline**”); and (d) be promptly served on the following parties: (i) the Chambers of the Honorable Shelley C. Chapman, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, NY 10004; (ii) proposed counsel to the Debtors, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 10017 (Attn: Timothy Graulich (timothy.graulich@davispolk.com); Joshua Y. Sturm (joshua.sturm@davispolk.com) and Thomas S. Green (thomas.green@davispolk.com)); (iii) proposed counsel to the Official Committee of Unsecured Creditors, Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019 (Attn: Brett H. Miller, Esq. (BrettMiller@mofo.com), Todd M. Goren, Esq. (TGoren@mofo.com), Erica J. Richards, Esq. (ERichards@mofo.com) and Benjamin W. Butterfield, Esq. (BButterfield@mofo.com)); (iv)

the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, NY 10014 (Attn: Andrea B. Schwartz, Esq.); (v) the Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549; (vi) the Federal Aviation Administration, 800 Independence Ave., S.W. Washington, DC 20591 (Attn: Office of the Chief Counsel); and (vii) the attorneys for any other official committee(s) that may be appointed in these chapter 11 cases.

PLEASE TAKE FURTHER NOTICE that, if no objections are received by the Objection Deadline, the Court may approve the Stipulations without further notice.

PLEASE TAKE FURTHER NOTICE that if an objection is timely filed by the Objection Deadline, the Court will notify the Debtors and the objecting parties of the date and time of the hearing with respect to the Stipulations and the Debtors' obligation to notify all other parties entitled to receive notice. The Debtors and any objecting parties are required to attend the hearing in accordance with General Order M-543 (which can be found at <http://www.nysb.uscourts.gov>), and failure to attend may result in relief being granted or denied upon default.

PLEASE TAKE FURTHER NOTICE that copies of the Stipulations and other pleadings for subsequent hearings may be obtained free of charge by visiting the Debtors' case website at <https://dm.epiq11.com/aeromexico>). You may also obtain copies of any pleadings by visiting at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

[Remainder of Page Intentionally Left Blank.]

Dated: New York, New York
November 25, 2020

DAVIS POLK & WARDWELL LLP

By: /s/ Timothy Graulich

450 Lexington Avenue
New York, New York 10017
Tel: (212) 450-4000
Fax: (212) 607-7983
Marshall S. Huebner
Timothy Graulich
Joshua Y. Sturm
Thomas S. Green
Counsel to the Debtors and Debtors in Possession

ANNEX A

DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 701-5800
Marshall S. Huebner
Timothy Graulich
Joshua Y. Sturm
Thomas S. Green

*Proposed Counsel to the Debtors
and Debtors in Possession*

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

In re:

GRUPO AEROMÉXICO, S.A.B. de C.V., *et al.*,

Debtors.¹

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**STIPULATION AND ORDER BETWEEN CERTAIN DEBTORS AND
COUNTERPARTIES CONCERNING CERTAIN EQUIPMENT**

This Stipulation (this “**Stipulation**”) is entered into on the date hereof by and among Aerovías de México, S.A. de C.V. (the “**Operator**”) and each of the parties set forth in Exhibit A hereto (the “**Counterparties**,” and the Counterparties together with the Operator, the “**Parties**”) with respect to the agreements (collectively, the “**Agreements**” and, each an “**Agreement**”) and the equipment (the “**Equipment**”), in each case, listed on Exhibit A hereto.

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.

Recitals

A. On June 30, 2020 (the “**Petition Date**”), the Operator and certain of its affiliates as debtors and debtors in possession (collectively, the “**Debtors**”) each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101, et seq. (as amended or modified, the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of New York (the “**Court**”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these cases. On July 13, 2020, the United States Trustee for the Southern District of New York appointed the official committee of unsecured creditors. The Chapter 11 Cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedures (the “**Bankruptcy Rules**”).

B. The Debtors and the Counterparties have engaged in extensive good faith negotiations in an effort to assist the Debtors in their efforts to rationalize the fleet while (i) minimizing the administrative costs and burdens associated with the Equipment and (ii) protecting the respective Counterparties’ rights and interests (collectively, the “**Interests**” and each, an “**Interest**”) in the Equipment.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the Parties, intending to be legally bound, stipulate and agree as follows:

1. (a) This Stipulation is effective for the period from July 1, 2020 through the earliest to occur of (i) the date the Equipment is made available for return to the Counterparties as contemplated pursuant to decretal paragraph 4(a)(x) hereof, (ii) with respect to any Agreement subject to assumption under section 365 of the Bankruptcy Code, the date of the entry of an order

of the Court approving the assumption of such Agreement, (iii) the date of the entry of an order approving the abandonment of any of the Equipment; (iv) the effective date of a plan of reorganization for the Debtors that has been confirmed by the Court, (v) the effective date of any sale of the Equipment to which the Counterparties have consented, (vi) the date of an order converting the Operator's or other Debtors' chapter 11 cases to cases under chapter 7 of the Bankruptcy Code, (vii) the date that Aerovías de México, S.A. de C.V. and/or, if different, the Operator announce(s) that it has permanently discontinued all scheduled passenger service, (viii) the date of substantial consummation of a sale of all or substantially all assets of the Debtors, (ix) the date the Operator's chapter 11 case is dismissed and (x) such other date as the Counterparties and the Debtors may agree in writing with respect to the Equipment (such period of effectiveness, the "**Stipulation Period**").

(b) Upon the termination of the Stipulation Period for any reason other than assumption of an Agreement, the Debtors shall (i) return the Equipment to the Counterparties in accordance with the procedures set forth in decretal paragraphs 3(d), 3(e) and 4 hereof and (ii) comply with the provisions of decretal paragraphs 3(a) through 3(c) hereof until the earlier of (x) the date of such return and (y) the thirtieth (30th) day after the date the Stipulation Period terminates (or for such longer period as may be agreed to by the Debtors and the Counterparties).

2. The Debtors represent and warrant that as of the date of the execution of this Stipulation and at the time the Agreements were entered into by and between the relevant Debtors and Counterparties, the Debtors did not hold an air carrier operating certificate issued pursuant to chapter 447 of title 49, United States Code and, accordingly for that reason, section 1110 of the Bankruptcy Code is not applicable to the Equipment.

3. During the Stipulation Period:

(a) while the Equipment is stored in accordance with Operator's maintenance and storage program approved by the applicable aviation authority and based on the recommendations of the manufacturer of such item of Equipment (the "**Storage Program**") (for clarification, during the Stipulation Period, this subclause 3(a) applies during all periods that subclause 3(b) does not apply), the Operator shall:

(i) at Operator's expense, maintain and store the Equipment under such Storage Program; *provided* that such maintenance obligation under this Stipulation shall not include the performance of any Excluded Maintenance (as defined in the Exhibits hereto) of the Equipment;

(ii) at Operator's expense, continue to carry and maintain hull and liability insurance with respect to the Equipment in accordance with the terms required by, and in amounts not less than the amounts required under, the applicable Agreement(s);

(iii) provide the applicable Counterparty with reasonable access to inspect the Equipment at the sole expense of such Counterparty, *provided* that such inspection shall not unreasonably interfere with the operations of the Operator and shall be conducted in accordance with the applicable procedures and protocols established by the Operator which do not unreasonably interfere with such Counterparty's ability to conduct an inspection of the scope and nature contemplated by such Counterparty's inspection rights in the applicable Agreement(s); and

(iv) pay the applicable Counterparty pursuant to the terms set forth in Exhibit B hereto;

(b) while the Equipment is not stored in accordance with the Storage Program, the Operator shall:

(i) at Operator's expense, operate and maintain the Equipment pursuant

to the maintenance, possession, and use covenants of the Agreements; *provided* that such maintenance obligation under this Stipulation shall not include the performance of any Excluded Maintenance (as defined in the Exhibits hereto) of the Equipment; *provided further* that the Operator shall not operate any Equipment that would have been eligible as of the Petition Date or the date hereof for the issuance of a special ferry flight permit for a return flight (as contemplated under decretal paragraph 4(a) hereof) in a manner that would cause such Equipment to possess insufficient flight hours and/or flight cycles remaining for safe and permissible operation of the Equipment from where located to such return location;

(ii) at Operator's expense, continue to carry and maintain hull and liability insurance with respect to the Equipment in accordance with the terms required by, and in amounts not less than the amounts required under, the applicable Agreement(s);

(iii) provide the applicable Counterparty with reasonable access to inspect the Equipment at the sole expense of such Counterparty; *provided* that any such inspection does not unreasonably interfere with the operation or maintenance of the Equipment or the Operator's operations generally and shall be conducted in accordance with the applicable procedures and protocols established by the Operator which do not unreasonably interfere with such Counterparty's ability to conduct an inspection of the scope and nature contemplated by such Counterparty's inspection rights in the applicable Agreement(s); and

(iv) pay the applicable Counterparty pursuant to the terms set forth in Exhibit B hereto;

(c) except for the Excluded Obligations (as defined in the Exhibits hereto) and as otherwise set forth in this Stipulation, the Debtors and the Counterparties shall comply with all other provisions of the applicable Agreements insofar as they relate to the Stipulation Period;

(d) the relevant Debtors may, subject to any requirement by the Court that a further order or notice is necessary, at any time upon 15 days' notice to the Counterparties, reject an Agreement or abandon the Equipment and return the Equipment in accordance with the procedures set forth in decretal paragraph 4 hereof. For the avoidance of doubt and notwithstanding anything to the contrary herein, the Debtors may seek authorization to reject or abandon all of the Equipment subject to this Stipulation and all of the Agreements corresponding to such Equipment, but shall not be permitted to reject or abandon only a portion of the Equipment (*e.g.* an airframe but not its associated engines) or some but not all of the Agreements subject to this Stipulation; and

(e) the Counterparties may notify the Debtors of the Counterparties' desire to terminate the Stipulation Period (i) at any time following the 6-month anniversary of the date on which the Court enters this Stipulation, upon 60 days' prior written notice to the Debtors, or (ii) in the case of a breach of Debtors' obligations under decretal paragraphs 3(a) or 3(b) of this Stipulation which is continuing for more than five (5) Business Days, or in the case of a breach of the Debtor's obligations under decretal paragraph 3(c) of this Stipulation which is continuing for more than 30 days after the Counterparties provide notice of such breach to the Debtors, and in any such case the Debtors shall return the Equipment in accordance with procedures set forth in decretal paragraph 4 hereof.

4. Upon termination of the Stipulation Period for any reason other than assumption of an Agreement:

(a) (x) the Debtors shall cooperate with the relevant Counterparty on completing an orderly redelivery process by:

(i) making the Equipment (together with (1) the original engines listed on Exhibit A hereto, which shall be installed on the airframe (unless any such engine is not in an airworthy condition or is subject to a possessory lien relating to the pre-petition period and remains in the custody of the party holding such lien or a post-petition lien permitted under Exhibit C), (2) any other items constituting the Equipment under the Agreement that were installed thereon during the last regularly scheduled flight (*it being understood* that Operator shall not intentionally discriminate by replacing an APU or landing gear with a lesser value part in anticipation of redelivery), and (3) any quick engine change (QEC) kit that was delivered to the Operator together with the Equipment (which QEC may be returned either installed on the airframe or, if a particular engine is off-wing, in parts)) available to the applicable Counterparty at its or their then-current location and in its or their then “as is, where is” condition;

(ii) providing reasonable access to any electronically accessible records relating to the Equipment and permitting the downloading and copying thereof, including access to the digital aircraft records repository Stream;

(iii) upon the applicable Counterparty’s request and at such Counterparty’s sole cost and expense, cooperating in taking all actions (including filings) and signing and providing all documents reasonably required by the Counterparties with regard to the deregistration and export from the current state of registration or country of previous importation (in each case, to the extent applicable);

(iv) preparing and signing a non-incident statement; and

(v) preparing and delivering all technical records, documents, reports and statements relating to the Equipment that are in the Debtors’ possession or control (the

“**Technical Records**”), in their then “as is, where is” condition, without certification or signature and without performing any independent verification or audit thereof, except that the Operator will certify or sign any such Technical Record that, in its reasonable judgment, does not require Operator to perform more than *de minimis* additional verification or audit and otherwise as more particularly described in Exhibit D; and

(y) the Debtors shall, upon the applicable Counterparty’s request and at such Counterparty’s sole cost and expense, in a commercially reasonable manner:

(i) deliver the Equipment, the Technical Records and all other items listed in clause (a)(x)(i) above, as applicable, from its or their then current location to a location in the contiguous United States advised by such Counterparty and reasonably acceptable to the Debtors via a ferry flight (the timing, manner and scheduling of such ferry flight to be subject to a commercial reasonableness standard, taking into account Debtors’ operational and commercial limitations as to timing and manner of redelivery), *provided that*, absent gross negligence or willful misconduct of the Debtors, the Debtors shall incur no liability as a result of complying with their obligations under this paragraph 4(a)(y)(i);

(ii) use its commercially reasonable efforts to cooperate with such Counterparty on locating any technical records and documents relating to the Equipment that such Counterparty identifies as missing or otherwise not made available at the time of the return; and

(iii) cooperate with the Counterparties in order to assign any remaining assignable manufacturer warranties and warranty claims, or the benefit thereof, to the owner of the related Equipment;

(b) the automatic stay provided under section 362 of the Bankruptcy Code shall be and hereby is modified to (i) allow the Debtors and the Counterparties to effectuate the provisions of this Stipulation, (ii) allow the Counterparties to provide any notice and/or invoices to one or more of the Debtors as provided herein, and (iii) transfer, move, deregister, dispose of or effect title transfer of such Equipment, as applicable. The Counterparties agree that they shall not assert any claims against the Debtors in any court other than this Court, except as authorized by this Court;

(c) the Counterparties shall, within ten (10) Business Days (as such term is defined in the Agreements) of receipt of the Debtors' summary of charges therefor, reimburse the Debtors for their actual and reasonable costs and expenses of (i) storing, insuring and maintaining the Equipment beginning on the fifteenth day after the date that the Stipulation Period terminates through the date that the Equipment is returned to the Counterparties (provided that the delay past such fifteenth day is not caused by commercially unreasonable delays of the Debtors) and (ii) performing any other services or taking any other actions described in paragraphs 4(a)(x)(iii) and 4(a)(y). For the avoidance of doubt, any amounts charged by the Debtors to the Counterparties pursuant to the terms of this Stipulation for storage, maintenance or other services shall (x) if performed or provided by parties other than Debtors, be the actual amounts invoiced to Operator for such services without any added profit or other mark-up and (y) otherwise, be charged in accordance with the Operator's standard rates charged to third parties for such services. All payments to the Debtors under this Stipulation shall be made by wire transfer in immediately available funds, without any set-off or counterclaim; and

(d) notwithstanding the termination of the Stipulation Period, the Agreements shall be deemed to continue in effect through the date that the Debtors return the Equipment to the

Counterparties solely for the purpose of enabling Debtors to comply with their obligations under this decretal paragraph 4.

5. During the Stipulation Period, the performance by the Operator of the terms and conditions set forth in this Stipulation shall satisfy any and all rights of the Counterparties to administrative expense status or priority in payment under any applicable provision of the Bankruptcy Code for any claims arising out of or related to the Stipulation Period based on the obligations (both monetary or performance based, or in each case lack thereof) of any Debtors in these chapter 11 cases, including pursuant to sections 361, 362, 363, 364, 365 or 503 of the Bankruptcy Code, or any similar provision under the Cape Town Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters Specific to Aircraft Equipment, each as opened for signature on November 16, 2001, that arise out of or relate to the Equipment.

6. Following any breach of this Stipulation by the Debtors, the Counterparties may (in addition to their rights pursuant to decretal paragraph 3(e)(ii) hereof) assert an administrative expense claim against the Debtors, as permitted under the Bankruptcy Code, for any actual damages resulting from such breach. Except in the case of a breach of Debtors' obligations under decretal paragraphs 3(a) or 3(b) of this Stipulation, as to which Debtors shall not have any notice or cure period for purposes of this paragraph 6, to the extent that the Counterparties assert that the Debtors have breached their obligations under any other provision of this Stipulation (the "**Specified Obligations**"), (i) if the Counterparties have actual knowledge of such breach, the Counterparties shall provide the Debtors prompt written notice thereof, (ii) Debtors shall have 30 days to remedy such breach and (iii) if such breach is remedied within such 30-day period, then the Counterparties shall not assert or otherwise be entitled to any administrative expense or priority in payment with respect to a breach of the applicable Specified Obligations. Nothing contained

herein shall be deemed to require a Counterparty to provide Debtors with notice of a breach of any of the Specified Obligations if the Counterparty is not actually aware of such breach. In addition, notwithstanding anything herein to the contrary, the Counterparties have and may assert (subject to allowance of the amount of the claim by the Court) each of the following against the Debtors solely as pre-petition (non-administrative priority status expense) claims: (x) any claim that (1) would have been entitled to administrative expense or priority in payment but for this Stipulation and (2) is not payable under this Stipulation, and (y) any claims for the difference between the rent payments or other obligations payable or performable by the Debtors under the Agreements during the Stipulation Period as compared to the rent payments or other obligations payable or performable by the Debtors under the Agreements (as modified by this Stipulation) during the Stipulation Period. The Counterparties shall have until the later of (1) 30 days after the effective date of rejection of the Agreements or the abandonment of the Equipment and (2) any general claims bar date set by the Court to file a proof of claim for any pre-petition claims, including claims arising out of or relating to the rejection of the Agreements or the abandonment of the Equipment. The Counterparties may file an administrative claim on or before any administrative claim bar date that is set by the Court. The Debtors and any representative of the Debtors' estates reserve all defenses, rights and remedies with respect to any claim (administrative or otherwise) asserted by any Counterparty.

7. The execution of this Stipulation is not an assumption or cure under any applicable provision of the Bankruptcy Code by the Debtors in respect of the Agreements between the Debtors, as applicable, and the Counterparties. The rights of the Debtors, as applicable, (i) to assume any Agreements under Bankruptcy Code section 365(b)(1), including, without limitation, ascertaining the cure amounts and other obligations required with respect to such assumptions, (ii)

to reinstate any Agreement or otherwise leave any Counterparty unimpaired under Bankruptcy Code section 1124, or (iii) to provide the “indubitable equivalent” under Bankruptcy Code section 1129(b)(2)(A)(iii), shall, in each case, be based upon the Agreements (ignoring in their entirety any changes, revisions or modifications to the terms of the Agreements effected by this Stipulation). Debtors agree that they shall not include any Agreement, their rights under such Agreement, or any Equipment as collateral nor grant any lien on such Agreement, their rights under such Agreement or any Equipment under any debtor in possession financing without the prior written consent of the applicable Counterparty. In addition, any currently existing right of the Counterparties to seek adequate protection in the event that any motion could be anticipated to result in the diminution in the value of the Counterparties’ Interests in Debtors’ property or the Equipment, or to interpose objections to any sale by the Debtors of any property in which the Counterparties have an Interest, are hereby reserved and preserved, as are all of the Debtors’ rights, remedies, defenses and objections with respect to any such matters.

8. The Parties hereby agree that the terms and procedures set forth in that certain *Order Establishing Procedures for the Rejection of Executory Contracts And Unexpired Leases and the Abandonment Of Personal Property*, entered October 27, 2020 [Docket No. 584], shall not apply to the Agreements or the Equipment; rather the rejection of the Agreements and/or the abandonment of the Equipment shall be governed and controlled by this Stipulation and, to the extent not addressed hereunder, by the Bankruptcy Code and Bankruptcy Rules.

9. Except as provided in this Stipulation, all rights of the Parties are hereby reserved and preserved. All rights of the Parties provided in this Stipulation shall survive the termination of the Stipulation.

10. This Stipulation shall be binding, *nunc pro tunc*, as of the Petition Date, upon (i) the Debtors and any trustee or examiner that may be appointed in these chapter 11 cases, and their respective successors and assigns, (ii) the Counterparties and their respective successors and assigns and (with respect to those Counterparties that are trusts or trustees) trust beneficiaries who so direct or authorize the trusts or trustee of the trusts to enter into this Stipulation, and (iii) the trustee in the event that any of the chapter 11 cases are converted to cases under chapter 7 of the Bankruptcy Code.

11. This Stipulation and the Agreements contain the entire agreement among the Parties with respect to the subject matter hereof, and may only be modified in writing, signed by the applicable Parties or their duly appointed agents. In the event of any conflict or inconsistency between any provision of any Agreement, on the one hand, and any provision of this Stipulation, on the other hand, the provisions of this Stipulation shall control.

12. This Stipulation may be executed in one or more counterparts, by facsimile, electronic transmission or otherwise, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

13. This Stipulation shall be effective immediately upon approval by the Court. The Court shall retain jurisdiction for purposes of resolving any issues arising out of or relating to this Stipulation.

SO ORDERED:

Dated: New York, New York
_____, 2020

THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

Stipulated and agreed to by:

Dated: New York, New York
_____, 2020

AEROVÍAS DE MÉXICO, S.A. DE C.V.

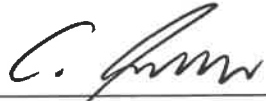
By: _____
Name: Diego Hernanz-Martín del Campo
Title: Attorney in Fact


By: _____
Name: Daniel Martínez Martínez
Title: Attorney in Fact



Dated: _____, 2020

DVB BANK SE, as Agent, Security Trustee and
Loan Participant

By: 
Name: Carsten Gutknecht-Stöhr
Title: *SVP*

By: 
Name:
Title: *TID*

Dated:

_____, 2020

BANK OF UTAH, not in its individual capacity,
but solely as owner trustee

By: 

Name: **Joseph H. Pugsley**

Title: **Vice President**

By: 

Name: **Kirk Peterson**

Title: **Vice President**

EXHIBIT A

Counterparties

1. DVB Bank SE, as loan participant, agent and security trustee
2. Bank of Utah, not in its individual capacity, but solely as owner trustee, as borrower

Equipment

1. One (1) Boeing model B737-76Q airframe bearing manufacturer's serial number 30283 and FAA registration number N997AM, together with two (2) CFM International, Inc. model CFM56-7B22 engines respectively bearing manufacturer's serial numbers 889997 and 660271.

Agreements

1. Guaranty (*Fianza*) dated December 18, 2015, granted by Aerovías de México, S.A. de C.V., as guarantor, in favor of DVB Bank SE, as loan participant, agent and security trustee.
2. Guarantor Consent and Acknowledgement Agreement dated September 4, 2019, by and between Aerovías de México, S.A. de C.V., as guarantor, and DVB Bank SE, as loan participant, agent and security trustee.
3. Amended and Restated Facility Agreement [Aeromexico B737 [30283]] dated September 4, 2019, by and among Bank of Utah, not in its individual capacity, but solely as owner trustee, as borrower, Aerovías de México, S.A. de C.V., as owner participant and guarantor, and DVB Bank SE, as loan participant, agent and as security trustee.
4. Loan Certificate dated September 4, 2019, issued by Bank of Utah, not in its individual capacity but solely as owner trustee, as borrower, and Aerovías de México, S.A. de C.V., as guarantor.
5. Any and all other operative documents relating to the Aircraft, including, without limitation, all lease agreements, loan agreements, funding agreements, security agreements, indentures, all parties agreements, participation agreements, intercreditor agreements, guarantee agreements and indemnity agreements, as applicable, and any amendments, supplements, side letters, novations or assignments pertaining to any of the foregoing.

PRIVATE AND CONFIDENTIAL

EXHIBIT B

Term Sheet

1. Interest Payments	<p>(i) As of and from the Petition Date until the termination of the Stipulation Period (as defined in the Stipulation), Operator shall pay to the Security Trustee (on behalf of the Borrower) on each Interest Payment Date (as defined in the Agreements) during such period, the amount of [REDACTED] payable on such Interest Payment Date in accordance with the Agreements, which [REDACTED] is to be calculated [REDACTED] (which Interest Payments shall be paid [REDACTED]). Operator shall commence the Interest Payments on the first Interest Payment Date (as defined in the Agreements) following the date of approval of the Stipulation by the Bankruptcy Court (the "<u>Court Approval</u>"), <i>provided</i> that all Interest Payments payable on each [REDACTED] shall be paid by Operator [REDACTED]</p> <p><i>provided further</i> that, in any case, [REDACTED].</p> <p>All Interest Payments (including [REDACTED]) shall be subject to receipt by the Operator from the Counterparties of an invoice and a calculation in reasonable detail in respect of such payment no later than three (3) Business Days prior to the corresponding due date.</p>
2. Maintenance Utilization Payment	<p>i. The maintenance utilization rate for each relevant component of Equipment shall be the rate set forth in the table on Schedule 1 hereto under the column designated for such component opposite the corresponding equipment type (the "<u>Maintenance Utilization Rate</u>").</p> <p>ii. For each component of Equipment, the Operator shall, in accordance with paragraph 3 below, pay to the Security Trustee (on behalf of the Borrower) an amount (the "<u>Maintenance Utilization Payment</u>") equal to the Maintenance Utilization Rate corresponding to such component, multiplied by the [REDACTED] (or, if the Aircraft is operated by the Debtors after the Stipulation Period, until such operations terminate); <i>provided</i> that for purposes of this calculation:</p>

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	<p>a. subject to clause (b) below, [REDACTED]; and</p> <p>b. notwithstanding clause (a) above, [REDACTED].</p>
3. Payment Procedures	<p>i. If [REDACTED], the Operator will pay the Maintenance Utilization Payment to the Security Trustee on the latest of: (x) [REDACTED], (y) [REDACTED] and (z) three (3) Business Days after the Operator receives the Counterparties' invoice for the Maintenance Utilization Payment; <i>provided</i> that, in any case, if the outstanding Maintenance Utilization Payment has not been paid in full by the Debtors before the effective date of the Debtors' chapter 11 plan of reorganization (the "<i>Plan Effective Date</i>"), then the Debtors will pay any such unpaid Maintenance Utilization Payment on the Plan Effective Date (or such later date as the Debtors and the Counterparties may agree); <i>provided further</i> that, for the avoidance of doubt, if no chapter 11 plan of reorganization becomes effective, and any Maintenance Utilization Payment remains unpaid, then any such unpaid Maintenance Utilization Payment shall be paid by the Debtors by no later than the same time as other administrative expense claims against the Operator are paid in the Operator's Chapter 11 Case.</p> <p>If [REDACTED], the Operator will pay the Maintenance Utilization Payment upon the Plan Effective Date (or such later date as the Debtors and the Counterparties may agree), provided that, for the avoidance of doubt, if no chapter 11 plan of reorganization becomes effective, and any Maintenance Utilization Payment remains unpaid, then any such unpaid Maintenance Utilization Payment shall be paid by the Debtors by no later than the same time as other administrative expense claims against the Operator are paid in the Operator's Chapter 11 Case.</p> <p>If [REDACTED], the Operator will pay the Maintenance Utilization Payment upon such termination; provided that, in any case, if the outstanding Maintenance Utilization Payment has not been paid in full by the Debtors before the Plan Effective Date, then the Debtors will pay any such unpaid Maintenance Utilization Payment on the Plan Effective Date (or such later date as the Debtors and the Counterparties may agree); provided further that, for the avoidance of doubt, if no chapter 11 plan of reorganization</p>

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	<p>becomes effective, and any Maintenance Utilization Payment remains unpaid, then any such unpaid Maintenance Utilization Payment shall be paid by the Debtors by no later than the same time as other administrative expense claims against the Operator are paid in the Operator's Chapter 11 Case.</p> <p>ii. The Counterparties shall have the right to assert an administrative expense claim against the Debtors as permitted under the Bankruptcy Code in respect of the Interest Payments and the Maintenance Utilization Payment due and payable in accordance with the terms hereof. The Interest Payments and the Maintenance Utilization Payment shall be entitled to administrative priority as an "actual, necessary cost" of preserving the estates pursuant to section 503(b)(1) of the Bankruptcy Code.</p> <p>iii. In the event of a disagreement with respect to the Utilization Report, the Interest Payments or the Maintenance Utilization Payment, the Debtors and the Counterparties shall use good faith efforts to resolve such dispute, provided, however, (a) the Debtors shall pay any undisputed amount in accordance with the foregoing provisions and (b) to the extent the Debtors and the Counterparties come to agreement on the disputed amounts, such amounts shall be paid at the time that the payments are due in accordance with the foregoing or, if resolved after such payment would otherwise have been due, within three Business Days after any dispute is resolved in writing between the Debtors and the Counterparties (which agreement may be evidenced by e-mails) and the Debtors receive the corresponding invoice from the Counterparties (provided that, upon application of either party, the Bankruptcy Court may adjudicate any disputes relating to such matters).</p>
4. Claims for the Difference between Stipulation rates and Agreement rates	As provided for in the Stipulation (i.e., pre-petition claims).
5. Utilization Report	On or before the tenth (10 th) business day of each calendar month during the period from the date of the execution of this Stipulation through the tenth (10 th) business day of the month after the

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	conclusion of the Stipulation Period (such date, the “ <u>Report Date</u> ”), the Debtors shall issue to the Security Trustee a report (the “ <u>Utilization Report</u> ”) detailing their usage of each relevant item of Equipment during the immediately preceding calendar month (with the first Utilization Report also detailing usage from the Petition Date through the end of the calendar month immediately preceding the Report Date for such Utilization Report).
6. Payment Account	All amounts paid hereunder by the Operator (including, without limitation Interest Payments and the Maintenance Utilization Payments) shall be paid to such account of the Security Trustee as the Security Trustee may provide in writing to the Operator and applied in accordance with the distribution and waterfall provisions of the applicable Agreements.
7. Excluded Maintenance	If the Debtors elect, in their sole discretion, to perform Excluded Maintenance during the Stipulation Period, [REDACTED].

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Schedule 1 to Exhibit B

Maintenance Utilization Rates

Maintenance Utilization Rates	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
USD Per:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
737-700W	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

EXHIBIT C

Certain Definitions

“Excluded Maintenance” means [REDACTED]. For avoidance of doubt, [REDACTED] shall not be deemed Excluded Maintenance.

“Excluded Obligations” means (i) Excluded Maintenance, (ii) Excluded Return Obligations, (iii) [REDACTED]. For the avoidance of doubt, no commitment is being made as part of the Stipulation to cure or remedy any outstanding defaults or events of default that may exist under any Agreement prior to the effectiveness of the Stipulation, but Debtors shall be obligated to [REDACTED].

“Excluded Return Obligations” means [REDACTED], but notwithstanding the foregoing the Debtors shall comply with paragraph 4 of the Stipulation with respect to such Equipment.

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EXHIBIT D

Technical Records

1. The Operator will:
 - (i) [REDACTED];
 - (ii) [REDACTED]; and
 - (iii) [REDACTED].
2. If, [REDACTED], the Operator will [REDACTED].

DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 701-5800
Marshall S. Huebner
Timothy Graulich
Joshua Y. Sturm
Thomas S. Green

*Proposed Counsel to the Debtors
and Debtors in Possession*

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

In re:

GRUPO AEROMÉXICO, S.A.B. de C.V., *et al.*,

Debtors.¹

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**STIPULATION AND ORDER BETWEEN CERTAIN DEBTORS AND
COUNTERPARTIES CONCERNING CERTAIN EQUIPMENT**

This Stipulation (this “**Stipulation**”) is entered into on the date hereof by and among Aerovías de México, S.A. de C.V. (the “**Operator**”) and each of the parties set forth in Exhibit A hereto (the “**Counterparties**,” and the Counterparties together with the Operator, the “**Parties**”) with respect to the agreements (collectively, the “**Agreements**” and, each an “**Agreement**”) and the equipment (the “**Equipment**”), in each case, listed on Exhibit A hereto.

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.

Recitals

A. On June 30, 2020 (the “**Petition Date**”), the Operator and certain of its affiliates as debtors and debtors in possession (collectively, the “**Debtors**”) each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101, et seq. (as amended or modified, the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of New York (the “**Court**”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these cases. On July 13, 2020, the United States Trustee for the Southern District of New York appointed the official committee of unsecured creditors. The Chapter 11 Cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedures (the “**Bankruptcy Rules**”).

B. The Debtors and the Counterparties have engaged in extensive good faith negotiations in an effort to assist the Debtors in their efforts to rationalize the fleet while (i) minimizing the administrative costs and burdens associated with the Equipment and (ii) protecting the respective Counterparties’ rights and interests (collectively, the “**Interests**” and each, an “**Interest**”) in the Equipment.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the Parties, intending to be legally bound, stipulate and agree as follows:

1. (a) This Stipulation is effective for the period from July 1, 2020 through the earliest to occur of (i) the date the Equipment is made available for return to the Counterparties as contemplated pursuant to decretal paragraph 4(a)(x) hereof, (ii) with respect to any Agreement subject to assumption under section 365 of the Bankruptcy Code, the date of the entry of an order

of the Court approving the assumption of such Agreement, (iii) the date of the entry of an order approving the abandonment of any of the Equipment; (iv) the effective date of a plan of reorganization for the Debtors that has been confirmed by the Court, (v) the effective date of any sale of the Equipment to which the Counterparties have consented, (vi) the date of an order converting the Operator's or other Debtors' chapter 11 cases to cases under chapter 7 of the Bankruptcy Code, (vii) the date that Aerovías de México, S.A. de C.V. and/or, if different, the Operator announce(s) that it has permanently discontinued all scheduled passenger service, (viii) the date of substantial consummation of a sale of all or substantially all assets of the Debtors, (ix) the date the Operator's chapter 11 case is dismissed and (x) such other date as the Counterparties and the Debtors may agree in writing with respect to the Equipment (such period of effectiveness, the "**Stipulation Period**").

(b) Upon the termination of the Stipulation Period for any reason other than assumption of an Agreement, the Debtors shall (i) return the Equipment to the Counterparties in accordance with the procedures set forth in decretal paragraphs 3(d), 3(e) and 4 hereof and (ii) comply with the provisions of decretal paragraphs 3(a) through 3(c) hereof until the earlier of (x) the date of such return and (y) the thirtieth (30th) day after the date the Stipulation Period terminates (or for such longer period as may be agreed to by the Debtors and the Counterparties).

2. The Debtors represent and warrant that as of the date of the execution of this Stipulation and at the time the Agreements were entered into by and between the relevant Debtors and Counterparties, the Debtors did not hold an air carrier operating certificate issued pursuant to chapter 447 of title 49, United States Code and, accordingly for that reason, section 1110 of the Bankruptcy Code is not applicable to the Equipment.

3. During the Stipulation Period:

(a) while the Equipment is stored in accordance with Operator's maintenance and storage program approved by the applicable aviation authority and based on the recommendations of the manufacturer of such item of Equipment (the "**Storage Program**") (for clarification, during the Stipulation Period, this subclause 3(a) applies during all periods that subclause 3(b) does not apply), the Operator shall:

(i) at Operator's expense, maintain and store the Equipment under such Storage Program; *provided* that such maintenance obligation under this Stipulation shall not include the performance of any Excluded Maintenance (as defined in the Exhibits hereto) of the Equipment;

(ii) at Operator's expense, continue to carry and maintain hull and liability insurance with respect to the Equipment in accordance with the terms required by, and in amounts not less than the amounts required under, the applicable Agreement(s);

(iii) provide the applicable Counterparty with reasonable access to inspect the Equipment at the sole expense of such Counterparty, *provided* that such inspection shall not unreasonably interfere with the operations of the Operator and shall be conducted in accordance with the applicable procedures and protocols established by the Operator which do not unreasonably interfere with such Counterparty's ability to conduct an inspection of the scope and nature contemplated by such Counterparty's inspection rights in the applicable Agreement(s); and

(iv) pay the applicable Counterparty pursuant to the terms set forth in Exhibit B hereto;

(b) while the Equipment is not stored in accordance with the Storage Program, the Operator shall:

(i) at Operator's expense, operate and maintain the Equipment pursuant

to the maintenance, possession, and use covenants of the Agreements; *provided* that such maintenance obligation under this Stipulation shall not include the performance of any Excluded Maintenance (as defined in the Exhibits hereto) of the Equipment; *provided further* that the Operator shall not operate any Equipment that would have been eligible as of the Petition Date or the date hereof for the issuance of a special ferry flight permit for a return flight (as contemplated under decretal paragraph 4(a) hereof) in a manner that would cause such Equipment to possess insufficient flight hours and/or flight cycles remaining for safe and permissible operation of the Equipment from where located to such return location;

(ii) at Operator's expense, continue to carry and maintain hull and liability insurance with respect to the Equipment in accordance with the terms required by, and in amounts not less than the amounts required under, the applicable Agreement(s);

(iii) provide the applicable Counterparty with reasonable access to inspect the Equipment at the sole expense of such Counterparty; *provided* that any such inspection does not unreasonably interfere with the operation or maintenance of the Equipment or the Operator's operations generally and shall be conducted in accordance with the applicable procedures and protocols established by the Operator which do not unreasonably interfere with such Counterparty's ability to conduct an inspection of the scope and nature contemplated by such Counterparty's inspection rights in the applicable Agreement(s); and

(iv) pay the applicable Counterparty pursuant to the terms set forth in Exhibit B hereto;

(c) except for the Excluded Obligations (as defined in the Exhibits hereto) and as otherwise set forth in this Stipulation, the Debtors and the Counterparties shall comply with all other provisions of the applicable Agreements insofar as they relate to the Stipulation Period;

(d) the relevant Debtors may, subject to any requirement by the Court that a further order or notice is necessary, at any time upon 15 days' notice to the Counterparties, reject an Agreement or abandon the Equipment and return the Equipment in accordance with the procedures set forth in decretal paragraph 4 hereof. For the avoidance of doubt and notwithstanding anything to the contrary herein, the Debtors may seek authorization to reject or abandon all of the Equipment subject to this Stipulation and all of the Agreements corresponding to such Equipment, but shall not be permitted to reject or abandon only a portion of the Equipment (*e.g.* an airframe but not its associated engines) or some but not all of the Agreements subject to this Stipulation; and

(e) the Counterparties may notify the Debtors of the Counterparties' desire to terminate the Stipulation Period (i) at any time following the 6-month anniversary of the date on which the Court enters this Stipulation, upon 60 days' prior written notice to the Debtors, or (ii) in the case of a breach of Debtors' obligations under decretal paragraphs 3(a) or 3(b) of this Stipulation which is continuing for more than five (5) Business Days, or in the case of a breach of the Debtor's obligations under decretal paragraph 3(c) of this Stipulation which is continuing for more than 30 days after the Counterparties provide notice of such breach to the Debtors, and in any such case the Debtors shall return the Equipment in accordance with procedures set forth in decretal paragraph 4 hereof.

4. Upon termination of the Stipulation Period for any reason other than assumption of an Agreement:

(a) (x) the Debtors shall cooperate with the relevant Counterparty on completing an orderly redelivery process by:

(i) making the Equipment (together with (1) the original engines listed on Exhibit A hereto, which shall be installed on the airframe (unless any such engine is not in an airworthy condition or is subject to a possessory lien relating to the pre-petition period and remains in the custody of the party holding such lien or a post-petition lien permitted under Exhibit C), (2) any other items constituting the Equipment under the Agreement that were installed thereon during the last regularly scheduled flight (*it being understood* that Operator shall not intentionally discriminate by replacing an APU or landing gear with a lesser value part in anticipation of redelivery), and (3) any quick engine change (QEC) kit that was delivered to the Operator together with the Equipment (which QEC may be returned either installed on the airframe or, if a particular engine is off-wing, in parts)) available to the applicable Counterparty at its or their then-current location and in its or their then “as is, where is” condition;

(ii) providing reasonable access to any electronically accessible records relating to the Equipment and permitting the downloading and copying thereof, including access to the digital aircraft records repository Stream;

(iii) upon the applicable Counterparty’s request and at such Counterparty’s sole cost and expense, cooperating in taking all actions (including filings) and signing and providing all documents reasonably required by the Counterparties with regard to the deregistration and export from the current state of registration or country of previous importation (in each case, to the extent applicable);

(iv) preparing and signing a non-incident statement; and

(v) preparing and delivering all technical records, documents, reports and statements relating to the Equipment that are in the Debtors’ possession or control (the

“**Technical Records**”), in their then “as is, where is” condition, without certification or signature and without performing any independent verification or audit thereof, except that the Operator will certify or sign any such Technical Record that, in its reasonable judgment, does not require Operator to perform more than *de minimis* additional verification or audit and otherwise as more particularly described in Exhibit D; and

(y) the Debtors shall, upon the applicable Counterparty’s request and at such Counterparty’s sole cost and expense, in a commercially reasonable manner:

(i) deliver the Equipment, the Technical Records and all other items listed in clause (a)(x)(i) above, as applicable, from its or their then current location to a location in the contiguous United States advised by such Counterparty and reasonably acceptable to the Debtors via a ferry flight (the timing, manner and scheduling of such ferry flight to be subject to a commercial reasonableness standard, taking into account Debtors’ operational and commercial limitations as to timing and manner of redelivery), *provided that*, absent gross negligence or willful misconduct of the Debtors, the Debtors shall incur no liability as a result of complying with their obligations under this paragraph 4(a)(y)(i);

(ii) use its commercially reasonable efforts to cooperate with such Counterparty on locating any technical records and documents relating to the Equipment that such Counterparty identifies as missing or otherwise not made available at the time of the return; and

(iii) cooperate with the Counterparties in order to assign any remaining assignable manufacturer warranties and warranty claims, or the benefit thereof, to the owner of the related Equipment;

(b) the automatic stay provided under section 362 of the Bankruptcy Code shall be and hereby is modified to (i) allow the Debtors and the Counterparties to effectuate the provisions of this Stipulation, (ii) allow the Counterparties to provide any notice and/or invoices to one or more of the Debtors as provided herein, and (iii) transfer, move, deregister, dispose of or effect title transfer of such Equipment, as applicable. The Counterparties agree that they shall not assert any claims against the Debtors in any court other than this Court, except as authorized by this Court;

(c) the Counterparties shall, within ten (10) Business Days (as such term is defined in the Agreements) of receipt of the Debtors' summary of charges therefor, reimburse the Debtors for their actual and reasonable costs and expenses of (i) storing, insuring and maintaining the Equipment beginning on the fifteenth day after the date that the Stipulation Period terminates through the date that the Equipment is returned to the Counterparties (provided that the delay past such fifteenth day is not caused by commercially unreasonable delays of the Debtors) and (ii) performing any other services or taking any other actions described in paragraphs 4(a)(x)(iii) and 4(a)(y). For the avoidance of doubt, any amounts charged by the Debtors to the Counterparties pursuant to the terms of this Stipulation for storage, maintenance or other services shall (x) if performed or provided by parties other than Debtors, be the actual amounts invoiced to Operator for such services without any added profit or other mark-up and (y) otherwise, be charged in accordance with the Operator's standard rates charged to third parties for such services. All payments to the Debtors under this Stipulation shall be made by wire transfer in immediately available funds, without any set-off or counterclaim; and

(d) notwithstanding the termination of the Stipulation Period, the Agreements shall be deemed to continue in effect through the date that the Debtors return the Equipment to the

Counterparties solely for the purpose of enabling Debtors to comply with their obligations under this decretal paragraph 4.

5. During the Stipulation Period, the performance by the Operator of the terms and conditions set forth in this Stipulation shall satisfy any and all rights of the Counterparties to administrative expense status or priority in payment under any applicable provision of the Bankruptcy Code for any claims arising out of or related to the Stipulation Period based on the obligations (both monetary or performance based, or in each case lack thereof) of any Debtors in these chapter 11 cases, including pursuant to sections 361, 362, 363, 364, 365 or 503 of the Bankruptcy Code, or any similar provision under the Cape Town Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters Specific to Aircraft Equipment, each as opened for signature on November 16, 2001, that arise out of or relate to the Equipment.

6. Following any breach of this Stipulation by the Debtors, the Counterparties may (in addition to their rights pursuant to decretal paragraph 3(e)(ii) hereof) assert an administrative expense claim against the Debtors, as permitted under the Bankruptcy Code, for any actual damages resulting from such breach. Except in the case of a breach of Debtors' obligations under decretal paragraphs 3(a) or 3(b) of this Stipulation, as to which Debtors shall not have any notice or cure period for purposes of this paragraph 6, to the extent that the Counterparties assert that the Debtors have breached their obligations under any other provision of this Stipulation (the "**Specified Obligations**"), (i) if the Counterparties have actual knowledge of such breach, the Counterparties shall provide the Debtors prompt written notice thereof, (ii) Debtors shall have 30 days to remedy such breach and (iii) if such breach is remedied within such 30-day period, then the Counterparties shall not assert or otherwise be entitled to any administrative expense or priority in payment with respect to a breach of the applicable Specified Obligations. Nothing contained

herein shall be deemed to require a Counterparty to provide Debtors with notice of a breach of any of the Specified Obligations if the Counterparty is not actually aware of such breach. In addition, notwithstanding anything herein to the contrary, the Counterparties have and may assert (subject to allowance of the amount of the claim by the Court) each of the following against the Debtors solely as pre-petition (non-administrative priority status expense) claims: (x) any claim that (1) would have been entitled to administrative expense or priority in payment but for this Stipulation and (2) is not payable under this Stipulation, and (y) any claims for the difference between the rent payments or other obligations payable or performable by the Debtors under the Agreements during the Stipulation Period as compared to the rent payments or other obligations payable or performable by the Debtors under the Agreements (as modified by this Stipulation) during the Stipulation Period. The Counterparties shall have until the later of (1) 30 days after the effective date of rejection of the Agreements or the abandonment of the Equipment and (2) any general claims bar date set by the Court to file a proof of claim for any pre-petition claims, including claims arising out of or relating to the rejection of the Agreements or the abandonment of the Equipment. The Counterparties may file an administrative claim on or before any administrative claim bar date that is set by the Court. The Debtors and any representative of the Debtors' estates reserve all defenses, rights and remedies with respect to any claim (administrative or otherwise) asserted by any Counterparty.

7. The execution of this Stipulation is not an assumption or cure under any applicable provision of the Bankruptcy Code by the Debtors in respect of the Agreements between the Debtors, as applicable, and the Counterparties. The rights of the Debtors, as applicable, (i) to assume any Agreements under Bankruptcy Code section 365(b)(1), including, without limitation, ascertaining the cure amounts and other obligations required with respect to such assumptions, (ii)

to reinstate any Agreement or otherwise leave any Counterparty unimpaired under Bankruptcy Code section 1124, or (iii) to provide the “indubitable equivalent” under Bankruptcy Code section 1129(b)(2)(A)(iii), shall, in each case, be based upon the Agreements (ignoring in their entirety any changes, revisions or modifications to the terms of the Agreements effected by this Stipulation). Debtors agree that they shall not include any Agreement, their rights under such Agreement, or any Equipment as collateral nor grant any lien on such Agreement, their rights under such Agreement or any Equipment under any debtor in possession financing without the prior written consent of the applicable Counterparty. In addition, any currently existing right of the Counterparties to seek adequate protection in the event that any motion could be anticipated to result in the diminution in the value of the Counterparties’ Interests in Debtors’ property or the Equipment, or to interpose objections to any sale by the Debtors of any property in which the Counterparties have an Interest, are hereby reserved and preserved, as are all of the Debtors’ rights, remedies, defenses and objections with respect to any such matters.

8. The Parties hereby agree that the terms and procedures set forth in that certain *Order Establishing Procedures for the Rejection of Executory Contracts And Unexpired Leases and the Abandonment Of Personal Property*, entered October 27, 2020 [Docket No. 584], shall not apply to the Agreements or the Equipment; rather the rejection of the Agreements and/or the abandonment of the Equipment shall be governed and controlled by this Stipulation and, to the extent not addressed hereunder, by the Bankruptcy Code and Bankruptcy Rules.

9. Except as provided in this Stipulation, all rights of the Parties are hereby reserved and preserved. All rights of the Parties provided in this Stipulation shall survive the termination of the Stipulation.

10. This Stipulation shall be binding, *nunc pro tunc*, as of the Petition Date, upon (i) the Debtors and any trustee or examiner that may be appointed in these chapter 11 cases, and their respective successors and assigns, (ii) the Counterparties and their respective successors and assigns and (with respect to those Counterparties that are trusts or trustees) trust beneficiaries who so direct or authorize the trusts or trustee of the trusts to enter into this Stipulation, and (iii) the trustee in the event that any of the chapter 11 cases are converted to cases under chapter 7 of the Bankruptcy Code.

11. This Stipulation and the Agreements contain the entire agreement among the Parties with respect to the subject matter hereof, and may only be modified in writing, signed by the applicable Parties or their duly appointed agents. In the event of any conflict or inconsistency between any provision of any Agreement, on the one hand, and any provision of this Stipulation, on the other hand, the provisions of this Stipulation shall control.

12. This Stipulation may be executed in one or more counterparts, by facsimile, electronic transmission or otherwise, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

13. This Stipulation shall be effective immediately upon approval by the Court. The Court shall retain jurisdiction for purposes of resolving any issues arising out of or relating to this Stipulation.

SO ORDERED:

Dated: New York, New York
_____, 2020

THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

Stipulated and agreed to by:

Dated: New York, New York
_____, 2020

AEROVÍAS DE MÉXICO, S.A. DE C.V.

By: _____

Name: Diego Hernanz Martín del Campo

Title: Attorney in Fact

By: _____

Name: Daniel Martínez Martínez


Title: Attorney in Fact



Dated: _____, 2020

DVB BANK SE, as Agent, Security Trustee and
Loan Participant

By: 
Name: Carsten Gutknecht-Stöhr
Title: SVP

By: 
Name: TTD
Title: TTD

Dated: _____, 2020

BANK OF UTAH, not in its individual capacity,
but solely as owner trustee

By: 

Name:

Joseph H. Pugsley

Title:

Vice President

By: 

Name:

Kirk Peterson

Title:

Vice President

EXHIBIT A

Counterparties

1. DVB Bank SE, as agent, security trustee and loan participant
2. Bank of Utah, not in its individual capacity, but solely as owner trustee, as borrower

Equipment

1. One (1) Boeing model B737-752 airframe bearing manufacturer's serial number 33784 and FAA registration number N784XA, together with two (2) CFM International, Inc. model CFM56-7B22 engines respectively bearing manufacturer's serial numbers 890598 and 890599.

Agreements

1. Guaranty (*Fianza*) dated March 6, 2015, granted by Aerovías de México, S.A. de C.V., as guarantor, in favor of DVB Bank SE, as loan participant, agent and security trustee.
2. Guarantor Consent and Acknowledgement Agreement dated July 11, 2019, by and between Aerovías de México, S.A. de C.V., as guarantor, and DVB Bank SE, as loan participant, agent and security trustee.
3. Amended and Restated Facility Agreement [Aeromexico B737 [33784]] dated July 11, 2019, by and among Bank of Utah, not in its individual capacity, but solely as owner trustee, as borrower, Aerovías de México, S.A. de C.V., as owner participant and guarantor, and DVB Bank SE, as loan participant, agent and as security trustee.
4. Allonge to Loan Certificate No. 1 dated March 11, 2019, issued by Bank of Utah, not in its individual capacity but solely as owner trustee, as borrower, and Aerovías de México, S.A. de C.V., as guarantor.
5. Letter Agreement (33784) dated March 11, 2019, by and among Bank of Utah, not in its individual capacity but solely as owner trustee, as borrower, Aerovías de México, S.A. de C.V., as guarantor, DVB Bank SE, as loan participant, agent and security trustee.
6. Letter Agreement No. 2 (33784) dated June 11, 2019, by and among Bank of Utah, not in its individual capacity but solely as owner trustee, as borrower, Aerovías de México, S.A. de C.V., as guarantor, DVB Bank SE, as loan participant, agent and security trustee.
7. Loan Certificate dated July 11, 2019, issued by Bank of Utah, not in its individual capacity but solely as owner trustee, as borrower, and Aerovías de México, S.A. de C.V., as guarantor.
8. Any and all other operative documents relating to the Aircraft, including, without limitation, all lease agreements, loan agreements, funding agreements, security agreements, indentures, all parties agreements, participation agreements,

intercreditor agreements, guarantee agreements and indemnity agreements, as applicable, and any amendments, supplements, side letters, novations or assignments pertaining to any of the foregoing.

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EXHIBIT B

Term Sheet

1. Interest Payments	<p>(i) As of and from the Petition Date until the termination of the Stipulation Period (as defined in the Stipulation), Operator shall pay to the Security Trustee (on behalf of the Borrower) on each Interest Payment Date (as defined in the Agreements) during such period, the amount of [REDACTED] payable on such Interest Payment Date in accordance with the Agreements, which [REDACTED] is to be calculated [REDACTED] (which Interest Payments shall be paid [REDACTED]). Operator shall commence the Interest Payments on the first Interest Payment Date (as defined in the Agreements) following the date of approval of the Stipulation by the Bankruptcy Court (the “<u>Court Approval</u>”), <i>provided</i> that all Interest Payments payable on each [REDACTED] shall be paid by Operator [REDACTED]</p> <p><i>provided further</i> that, in any case, [REDACTED].</p> <p>All Interest Payments (including [REDACTED]) shall be subject to receipt by the Operator from the Counterparties of an invoice and a calculation in reasonable detail in respect of such payment no later than three (3) Business Days prior to the corresponding due date.</p>
2. Maintenance Utilization Payment	<p>i. The maintenance utilization rate for each relevant component of Equipment shall be the rate set forth in the table on Schedule 1 hereto under the column designated for such component opposite the corresponding equipment type (the “<u>Maintenance Utilization Rate</u>”).</p> <p>ii. For each component of Equipment, the Operator shall, in accordance with paragraph 3 below, pay to the Security Trustee (on behalf of the Borrower) an amount (the “<u>Maintenance Utilization Payment</u>”) equal to the Maintenance Utilization Rate corresponding to such component, multiplied by the [REDACTED] (or, if the Aircraft is operated by the Debtors after the Stipulation Period, until such operations terminate); <i>provided</i> that for purposes of this calculation:</p> <p>a. subject to clause (b) below, [REDACTED]; and</p>

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	b. notwithstanding clause (a) above, [REDACTED].
3. Payment Procedures	<p>i. If [REDACTED], the Operator will pay the Maintenance Utilization Payment to the Security Trustee on the latest of: (x) [REDACTED], (y) [REDACTED] and (z) three (3) Business Days after the Operator receives the Counterparties' invoice for the Maintenance Utilization Payment; provided that, in any case, if the outstanding Maintenance Utilization Payment has not been paid in full by the Debtors before the effective date of the Debtors' chapter 11 plan of reorganization (the "Plan Effective Date"), then the Debtors will pay any such unpaid Maintenance Utilization Payment on the Plan Effective Date (or such later date as the Debtors and the Counterparties may agree); provided further that, for the avoidance of doubt, if no chapter 11 plan of reorganization becomes effective, and any Maintenance Utilization Payment remains unpaid, then any such unpaid Maintenance Utilization Payment shall be paid by the Debtors by no later than the same time as other administrative expense claims against the Operator are paid in the Operator's Chapter 11 Case.</p> <p>If [REDACTED], the Operator will pay the Maintenance Utilization Payment upon the Plan Effective Date (or such later date as the Debtors and the Counterparties may agree), provided that, for the avoidance of doubt, if no chapter 11 plan of reorganization becomes effective, and any Maintenance Utilization Payment remains unpaid, then any such unpaid Maintenance Utilization Payment shall be paid by the Debtors by no later than the same time as other administrative expense claims against the Operator are paid in the Operator's Chapter 11 Case.</p> <p>If [REDACTED], the Operator will pay the Maintenance Utilization Payment upon such termination; provided that, in any case, if the outstanding Maintenance Utilization Payment has not been paid in full by the Debtors before the Plan Effective Date, then the Debtors will pay any such unpaid Maintenance Utilization Payment on the Plan Effective Date (or such later date as the Debtors and the Counterparties may agree); provided further that, for the avoidance of doubt, if no chapter 11 plan of reorganization becomes effective, and any Maintenance Utilization Payment remains unpaid, then any such unpaid Maintenance Utilization Payment shall be paid by the</p>

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	<p>Debtors by no later than the same time as other administrative expense claims against the Operator are paid in the Operator's Chapter 11 Case.</p> <p>ii. The Counterparties shall have the right to assert an administrative expense claim against the Debtors as permitted under the Bankruptcy Code in respect of the Interest Payments and the Maintenance Utilization Payment due and payable in accordance with the terms hereof. The Interest Payments and the Maintenance Utilization Payment shall be entitled to administrative priority as an "actual, necessary cost" of preserving the estates pursuant to section 503(b)(1) of the Bankruptcy Code.</p> <p>iii. In the event of a disagreement with respect to the Utilization Report, the Interest Payments or the Maintenance Utilization Payment, the Debtors and the Counterparties shall use good faith efforts to resolve such dispute, provided, however, (a) the Debtors shall pay any undisputed amount in accordance with the foregoing provisions and (b) to the extent the Debtors and the Counterparties come to agreement on the disputed amounts, such amounts shall be paid at the time that the payments are due in accordance with the foregoing or, if resolved after such payment would otherwise have been due, within three Business Days after any dispute is resolved in writing between the Debtors and the Counterparties (which agreement may be evidenced by e-mails) and the Debtors receive the corresponding invoice from the Counterparties (provided that, upon application of either party, the Bankruptcy Court may adjudicate any disputes relating to such matters).</p>
4. Claims for the Difference between Stipulation rates and Agreement rates	As provided for in the Stipulation (i.e., pre-petition claims).
5. Utilization Report	On or before the tenth (10 th) business day of each calendar month during the period from the date of the execution of this Stipulation through the tenth (10 th) business day of the month after the conclusion of the Stipulation Period (such date, the " <u>Report Date</u> "), the Debtors shall issue to the Security Trustee a report (the " <u>Utilization Report</u> ") detailing their usage of each relevant item of

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	Equipment during the immediately preceding calendar month (with the first Utilization Report also detailing usage from the Petition Date through the end of the calendar month immediately preceding the Report Date for such Utilization Report).
6. Payment Account	All amounts paid hereunder by the Operator (including, without limitation Interest Payments and the Maintenance Utilization Payments) shall be paid to such account of the Security Trustee as the Security Trustee may provide in writing to the Operator and applied in accordance with the distribution and waterfall provisions of the applicable Agreements.
7. Excluded Maintenance	If the Debtors elect, in their sole discretion, to perform Excluded Maintenance during the Stipulation Period, [REDACTED].

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Schedule 1 to Exhibit B

Maintenance Utilization Rates

Maintenance Utilization Rates	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
USD Per:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
737-700W	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

EXHIBIT C

Certain Definitions

“Excluded Maintenance” means [REDACTED]. For avoidance of doubt, [REDACTED] shall not be deemed Excluded Maintenance.

“Excluded Obligations” means (i) Excluded Maintenance, (ii) Excluded Return Obligations, (iii) [REDACTED]. For the avoidance of doubt, no commitment is being made as part of the Stipulation to cure or remedy any outstanding defaults or events of default that may exist under any Agreement prior to the effectiveness of the Stipulation, but Debtors shall be obligated to [REDACTED].

“Excluded Return Obligations” means [REDACTED], but notwithstanding the foregoing the Debtors shall comply with paragraph 4 of the Stipulation with respect to such Equipment.

DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 701-5800
Marshall S. Huebner
Timothy Graulich
Joshua Y. Sturm
Thomas S. Green

*Proposed Counsel to the Debtors
and Debtors in Possession*

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

In re:

GRUPO AEROMÉXICO, S.A.B. de C.V., *et al.*,

Debtors.¹

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**STIPULATION AND ORDER BETWEEN CERTAIN DEBTORS AND
COUNTERPARTIES CONCERNING CERTAIN EQUIPMENT**

This Stipulation (this “**Stipulation**”) is entered into on the date hereof by and among Aerovías de México, S.A. de C.V. (the “**Operator**”) and each of the parties set forth in Exhibit A hereto (the “**Counterparties**,” and the Counterparties together with the Operator, the “**Parties**”) with respect to the agreements (collectively, the “**Agreements**” and, each an “**Agreement**”) and the equipment (the “**Equipment**”), in each case, listed on Exhibit A hereto.

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.

Recitals

A. On June 30, 2020 (the “**Petition Date**”), the Operator and certain of its affiliates as debtors and debtors in possession (collectively, the “**Debtors**”) each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101, et seq. (as amended or modified, the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of New York (the “**Court**”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these cases. On July 13, 2020, the United States Trustee for the Southern District of New York appointed the official committee of unsecured creditors. The Chapter 11 Cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedures (the “**Bankruptcy Rules**”).

B. The Debtors and the Counterparties have engaged in extensive good faith negotiations in an effort to assist the Debtors in their efforts to rationalize the fleet while (i) minimizing the administrative costs and burdens associated with the Equipment and (ii) protecting the respective Counterparties’ rights and interests (collectively, the “**Interests**” and each, an “**Interest**”) in the Equipment.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the Parties, intending to be legally bound, stipulate and agree as follows:

1. (a) This Stipulation is effective for the period from July 1, 2020 through the earliest to occur of (i) the date the Equipment is made available for return to the Counterparties as contemplated pursuant to decretal paragraph 4(a)(x) hereof, (ii) with respect to any Agreement subject to assumption under section 365 of the Bankruptcy Code, the date of the entry of an order

of the Court approving the assumption of such Agreement, (iii) the date of the entry of an order approving the abandonment of any of the Equipment; (iv) the effective date of a plan of reorganization for the Debtors that has been confirmed by the Court, (v) the effective date of any sale of the Equipment to which the Counterparties have consented, (vi) the date of an order converting the Operator's or other Debtors' chapter 11 cases to cases under chapter 7 of the Bankruptcy Code, (vii) the date that Aerovías de México, S.A. de C.V. and/or, if different, the Operator announce(s) that it has permanently discontinued all scheduled passenger service, (viii) the date of substantial consummation of a sale of all or substantially all assets of the Debtors, (ix) the date the Operator's chapter 11 case is dismissed and (x) such other date as the Counterparties and the Debtors may agree in writing with respect to the Equipment (such period of effectiveness, the "**Stipulation Period**").

(b) Upon the termination of the Stipulation Period for any reason other than assumption of an Agreement, the Debtors shall (i) return the Equipment to the Counterparties in accordance with the procedures set forth in decretal paragraphs 3(d), 3(e) and 4 hereof and (ii) comply with the provisions of decretal paragraphs 3(a) through 3(c) hereof until the earlier of (x) the date of such return and (y) the thirtieth (30th) day after the date the Stipulation Period terminates (or for such longer period as may be agreed to by the Debtors and the Counterparties).

2. The Debtors represent and warrant that as of the date of the execution of this Stipulation and at the time the Agreements were entered into by and between the relevant Debtors and Counterparties, the Debtors did not hold an air carrier operating certificate issued pursuant to chapter 447 of title 49, United States Code and, accordingly for that reason, section 1110 of the Bankruptcy Code is not applicable to the Equipment.

3. During the Stipulation Period:

(a) while the Equipment is stored in accordance with Operator's maintenance and storage program approved by the applicable aviation authority and based on the recommendations of the manufacturer of such item of Equipment (the "**Storage Program**") (for clarification, during the Stipulation Period, this subclause 3(a) applies during all periods that subclause 3(b) does not apply), the Operator shall:

(i) at Operator's expense, maintain and store the Equipment under such Storage Program; *provided* that such maintenance obligation under this Stipulation shall not include the performance of any Excluded Maintenance (as defined in the Exhibits hereto) of the Equipment;

(ii) at Operator's expense, continue to carry and maintain hull and liability insurance with respect to the Equipment in accordance with the terms required by, and in amounts not less than the amounts required under, the applicable Agreement(s);

(iii) provide the applicable Counterparty with reasonable access to inspect the Equipment at the sole expense of such Counterparty, *provided* that such inspection shall not unreasonably interfere with the operations of the Operator and shall be conducted in accordance with the applicable procedures and protocols established by the Operator which do not unreasonably interfere with such Counterparty's ability to conduct an inspection of the scope and nature contemplated by such Counterparty's inspection rights in the applicable Agreement(s); and

(iv) pay the applicable Counterparty pursuant to the terms set forth in Exhibit B hereto;

(b) while the Equipment is not stored in accordance with the Storage Program, the Operator shall:

(i) at Operator's expense, operate and maintain the Equipment pursuant

to the maintenance, possession, and use covenants of the Agreements; *provided* that such maintenance obligation under this Stipulation shall not include the performance of any Excluded Maintenance (as defined in the Exhibits hereto) of the Equipment; *provided further* that the Operator shall not operate any Equipment that would have been eligible as of the Petition Date or the date hereof for the issuance of a special ferry flight permit for a return flight (as contemplated under decretal paragraph 4(a) hereof) in a manner that would cause such Equipment to possess insufficient flight hours and/or flight cycles remaining for safe and permissible operation of the Equipment from where located to such return location;

(ii) at Operator's expense, continue to carry and maintain hull and liability insurance with respect to the Equipment in accordance with the terms required by, and in amounts not less than the amounts required under, the applicable Agreement(s);

(iii) provide the applicable Counterparty with reasonable access to inspect the Equipment at the sole expense of such Counterparty; *provided* that any such inspection does not unreasonably interfere with the operation or maintenance of the Equipment or the Operator's operations generally and shall be conducted in accordance with the applicable procedures and protocols established by the Operator which do not unreasonably interfere with such Counterparty's ability to conduct an inspection of the scope and nature contemplated by such Counterparty's inspection rights in the applicable Agreement(s); and

(iv) pay the applicable Counterparty pursuant to the terms set forth in Exhibit B hereto;

(c) except for the Excluded Obligations (as defined in the Exhibits hereto) and as otherwise set forth in this Stipulation, the Debtors and the Counterparties shall comply with all other provisions of the applicable Agreements insofar as they relate to the Stipulation Period;

(d) the relevant Debtors may, subject to any requirement by the Court that a further order or notice is necessary, at any time upon 15 days' notice to the Counterparties, reject an Agreement or abandon the Equipment and return the Equipment in accordance with the procedures set forth in decretal paragraph 4 hereof. For the avoidance of doubt and notwithstanding anything to the contrary herein, the Debtors may seek authorization to reject or abandon all of the Equipment subject to this Stipulation and all of the Agreements corresponding to such Equipment, but shall not be permitted to reject or abandon only a portion of the Equipment (*e.g.* an airframe but not its associated engines) or some but not all of the Agreements subject to this Stipulation; and

(e) the Counterparties may notify the Debtors of the Counterparties' desire to terminate the Stipulation Period (i) at any time following the 6-month anniversary of the date on which the Court enters this Stipulation, upon 60 days' prior written notice to the Debtors, or (ii) in the case of a breach of Debtors' obligations under decretal paragraphs 3(a) or 3(b) of this Stipulation which is continuing for more than five (5) Business Days, or in the case of a breach of the Debtor's obligations under decretal paragraph 3(c) of this Stipulation which is continuing for more than 30 days after the Counterparties provide notice of such breach to the Debtors, and in any such case the Debtors shall return the Equipment in accordance with procedures set forth in decretal paragraph 4 hereof.

4. Upon termination of the Stipulation Period for any reason other than assumption of an Agreement:

(a) (x) the Debtors shall cooperate with the relevant Counterparty on completing an orderly redelivery process by:

(i) making the Equipment (together with (1) the original engines listed on Exhibit A hereto, which shall be installed on the airframe (unless any such engine is not in an airworthy condition or is subject to a possessory lien relating to the pre-petition period and remains in the custody of the party holding such lien or a post-petition lien permitted under Exhibit C), (2) any other items constituting the Equipment under the Agreement that were installed thereon during the last regularly scheduled flight (*it being understood* that Operator shall not intentionally discriminate by replacing an APU or landing gear with a lesser value part in anticipation of redelivery), and (3) any quick engine change (QEC) kit that was delivered to the Operator together with the Equipment (which QEC may be returned either installed on the airframe or, if a particular engine is off-wing, in parts)) available to the applicable Counterparty at its or their then-current location and in its or their then “as is, where is” condition;

(ii) providing reasonable access to any electronically accessible records relating to the Equipment and permitting the downloading and copying thereof, including access to the digital aircraft records repository Stream;

(iii) upon the applicable Counterparty’s request and at such Counterparty’s sole cost and expense, cooperating in taking all actions (including filings) and signing and providing all documents reasonably required by the Counterparties with regard to the deregistration and export from the current state of registration or country of previous importation (in each case, to the extent applicable);

(iv) preparing and signing a non-incident statement; and

(v) preparing and delivering all technical records, documents, reports and statements relating to the Equipment that are in the Debtors’ possession or control (the

“**Technical Records**”), in their then “as is, where is” condition, without certification or signature and without performing any independent verification or audit thereof, except that the Operator will certify or sign any such Technical Record that, in its reasonable judgment, does not require Operator to perform more than *de minimis* additional verification or audit and otherwise as more particularly described in Exhibit D; and

(y) the Debtors shall, upon the applicable Counterparty’s request and at such Counterparty’s sole cost and expense, in a commercially reasonable manner:

(i) deliver the Equipment, the Technical Records and all other items listed in clause (a)(x)(i) above, as applicable, from its or their then current location to a location in the contiguous United States advised by such Counterparty and reasonably acceptable to the Debtors via a ferry flight (the timing, manner and scheduling of such ferry flight to be subject to a commercial reasonableness standard, taking into account Debtors’ operational and commercial limitations as to timing and manner of redelivery), *provided that*, absent gross negligence or willful misconduct of the Debtors, the Debtors shall incur no liability as a result of complying with their obligations under this paragraph 4(a)(y)(i);

(ii) use its commercially reasonable efforts to cooperate with such Counterparty on locating any technical records and documents relating to the Equipment that such Counterparty identifies as missing or otherwise not made available at the time of the return; and

(iii) cooperate with the Counterparties in order to assign any remaining assignable manufacturer warranties and warranty claims, or the benefit thereof, to the owner of the related Equipment;

(b) the automatic stay provided under section 362 of the Bankruptcy Code shall be and hereby is modified to (i) allow the Debtors and the Counterparties to effectuate the provisions of this Stipulation, (ii) allow the Counterparties to provide any notice and/or invoices to one or more of the Debtors as provided herein, and (iii) transfer, move, deregister, dispose of or effect title transfer of such Equipment, as applicable. The Counterparties agree that they shall not assert any claims against the Debtors in any court other than this Court, except as authorized by this Court;

(c) the Counterparties shall, within ten (10) Business Days (as such term is defined in the Agreements) of receipt of the Debtors' summary of charges therefor, reimburse the Debtors for their actual and reasonable costs and expenses of (i) storing, insuring and maintaining the Equipment beginning on the fifteenth day after the date that the Stipulation Period terminates through the date that the Equipment is returned to the Counterparties (provided that the delay past such fifteenth day is not caused by commercially unreasonable delays of the Debtors) and (ii) performing any other services or taking any other actions described in paragraphs 4(a)(x)(iii) and 4(a)(y). For the avoidance of doubt, any amounts charged by the Debtors to the Counterparties pursuant to the terms of this Stipulation for storage, maintenance or other services shall (x) if performed or provided by parties other than Debtors, be the actual amounts invoiced to Operator for such services without any added profit or other mark-up and (y) otherwise, be charged in accordance with the Operator's standard rates charged to third parties for such services. All payments to the Debtors under this Stipulation shall be made by wire transfer in immediately available funds, without any set-off or counterclaim; and

(d) notwithstanding the termination of the Stipulation Period, the Agreements shall be deemed to continue in effect through the date that the Debtors return the Equipment to the

Counterparties solely for the purpose of enabling Debtors to comply with their obligations under this decretal paragraph 4.

5. During the Stipulation Period, the performance by the Operator of the terms and conditions set forth in this Stipulation shall satisfy any and all rights of the Counterparties to administrative expense status or priority in payment under any applicable provision of the Bankruptcy Code for any claims arising out of or related to the Stipulation Period based on the obligations (both monetary or performance based, or in each case lack thereof) of any Debtors in these chapter 11 cases, including pursuant to sections 361, 362, 363, 364, 365 or 503 of the Bankruptcy Code, or any similar provision under the Cape Town Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters Specific to Aircraft Equipment, each as opened for signature on November 16, 2001, that arise out of or relate to the Equipment.

6. Following any breach of this Stipulation by the Debtors, the Counterparties may (in addition to their rights pursuant to decretal paragraph 3(e)(ii) hereof) assert an administrative expense claim against the Debtors, as permitted under the Bankruptcy Code, for any actual damages resulting from such breach. Except in the case of a breach of Debtors' obligations under decretal paragraphs 3(a) or 3(b) of this Stipulation, as to which Debtors shall not have any notice or cure period for purposes of this paragraph 6, to the extent that the Counterparties assert that the Debtors have breached their obligations under any other provision of this Stipulation (the "**Specified Obligations**"), (i) if the Counterparties have actual knowledge of such breach, the Counterparties shall provide the Debtors prompt written notice thereof, (ii) Debtors shall have 30 days to remedy such breach and (iii) if such breach is remedied within such 30-day period, then the Counterparties shall not assert or otherwise be entitled to any administrative expense or priority in payment with respect to a breach of the applicable Specified Obligations. Nothing contained

herein shall be deemed to require a Counterparty to provide Debtors with notice of a breach of any of the Specified Obligations if the Counterparty is not actually aware of such breach. In addition, notwithstanding anything herein to the contrary, the Counterparties have and may assert (subject to allowance of the amount of the claim by the Court) each of the following against the Debtors solely as pre-petition (non-administrative priority status expense) claims: (x) any claim that (1) would have been entitled to administrative expense or priority in payment but for this Stipulation and (2) is not payable under this Stipulation, and (y) any claims for the difference between the rent payments or other obligations payable or performable by the Debtors under the Agreements during the Stipulation Period as compared to the rent payments or other obligations payable or performable by the Debtors under the Agreements (as modified by this Stipulation) during the Stipulation Period. The Counterparties shall have until the later of (1) 30 days after the effective date of rejection of the Agreements or the abandonment of the Equipment and (2) any general claims bar date set by the Court to file a proof of claim for any pre-petition claims, including claims arising out of or relating to the rejection of the Agreements or the abandonment of the Equipment. The Counterparties may file an administrative claim on or before any administrative claim bar date that is set by the Court. The Debtors and any representative of the Debtors' estates reserve all defenses, rights and remedies with respect to any claim (administrative or otherwise) asserted by any Counterparty.

7. The execution of this Stipulation is not an assumption or cure under any applicable provision of the Bankruptcy Code by the Debtors in respect of the Agreements between the Debtors, as applicable, and the Counterparties. The rights of the Debtors, as applicable, (i) to assume any Agreements under Bankruptcy Code section 365(b)(1), including, without limitation, ascertaining the cure amounts and other obligations required with respect to such assumptions, (ii)

to reinstate any Agreement or otherwise leave any Counterparty unimpaired under Bankruptcy Code section 1124, or (iii) to provide the “indubitable equivalent” under Bankruptcy Code section 1129(b)(2)(A)(iii), shall, in each case, be based upon the Agreements (ignoring in their entirety any changes, revisions or modifications to the terms of the Agreements effected by this Stipulation). Debtors agree that they shall not include any Agreement, their rights under such Agreement, or any Equipment as collateral nor grant any lien on such Agreement, their rights under such Agreement or any Equipment under any debtor in possession financing without the prior written consent of the applicable Counterparty. In addition, any currently existing right of the Counterparties to seek adequate protection in the event that any motion could be anticipated to result in the diminution in the value of the Counterparties’ Interests in Debtors’ property or the Equipment, or to interpose objections to any sale by the Debtors of any property in which the Counterparties have an Interest, are hereby reserved and preserved, as are all of the Debtors’ rights, remedies, defenses and objections with respect to any such matters.

8. The Parties hereby agree that the terms and procedures set forth in that certain *Order Establishing Procedures for the Rejection of Executory Contracts And Unexpired Leases and the Abandonment Of Personal Property*, entered October 27, 2020 [Docket No. 584], shall not apply to the Agreements or the Equipment; rather the rejection of the Agreements and/or the abandonment of the Equipment shall be governed and controlled by this Stipulation and, to the extent not addressed hereunder, by the Bankruptcy Code and Bankruptcy Rules.

9. Except as provided in this Stipulation, all rights of the Parties are hereby reserved and preserved. All rights of the Parties provided in this Stipulation shall survive the termination of the Stipulation.

10. This Stipulation shall be binding, *nunc pro tunc*, as of the Petition Date, upon (i) the Debtors and any trustee or examiner that may be appointed in these chapter 11 cases, and their respective successors and assigns, (ii) the Counterparties and their respective successors and assigns and (with respect to those Counterparties that are trusts or trustees) trust beneficiaries who so direct or authorize the trusts or trustee of the trusts to enter into this Stipulation, and (iii) the trustee in the event that any of the chapter 11 cases are converted to cases under chapter 7 of the Bankruptcy Code.

11. This Stipulation and the Agreements contain the entire agreement among the Parties with respect to the subject matter hereof, and may only be modified in writing, signed by the applicable Parties or their duly appointed agents. In the event of any conflict or inconsistency between any provision of any Agreement, on the one hand, and any provision of this Stipulation, on the other hand, the provisions of this Stipulation shall control.

12. This Stipulation may be executed in one or more counterparts, by facsimile, electronic transmission or otherwise, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

13. This Stipulation shall be effective immediately upon approval by the Court. The Court shall retain jurisdiction for purposes of resolving any issues arising out of or relating to this Stipulation.

SO ORDERED:

Dated: New York, New York
_____, 2020

THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

Stipulated and agreed to by:

Dated: New York, New York
_____, 2020

AEROVÍAS DE MÉXICO, S.A. DE C.V.

By: _____

Name: Diego Hernanz Martín del Campo

Title: Attorney in Fact

By: _____


Name: Daniel Martínez Martínez


Title: Attorney in Fact



Dated: _____, 2020

DVB BANK SE, as Agent, Security Trustee and
Loan Participant

By: 
Name: Carsten Gutknecht-Stöhr
Title: SVP

By: 
Name: [Name]
Title: TD

Dated: _____, 2020

BANK OF UTAH, not in its individual capacity,
but solely as owner trustee

By: 

Name:

Joseph H. Pugsley

Title:

Vice President

By: 

Name:

Kirk Peterson

Title:

Vice President

EXHIBIT A

Counterparties

1. DVB Bank SE, as loan participant, agent and security trustee
2. Bank of Utah, not in its individual capacity, but solely as owner trustee, as borrower

Equipment

1. One (1) Boeing model B737-752 airframe bearing manufacturer's serial number 33788 and FAA registration number N788XA, together with two (2) CFM International, Inc. model CFM56-7B22 engines respectively bearing manufacturer's serial numbers 890697 and 890699.

Agreements

1. Guaranty (*Fianza*) dated March 6, 2015, granted by Aerovías de México, S.A. de C.V., as guarantor, in favor of DVB Bank SE, as loan participant, agent and security trustee.
2. Guarantor Consent and Acknowledgement Agreement dated July 11, 2019, by and between Aerovías de México, S.A. de C.V., as guarantor, and DVB Bank SE, as loan participant, agent and security trustee.
3. Allonge to Loan Certificate No. 1 dated March 11, 2019, issued by Bank of Utah, not in its individual capacity but solely as owner trustee, as borrower, and Aerovías de México, S.A. de C.V., as guarantor.
4. Letter Agreement (33788) dated March 11, 2019, by and among Bank of Utah, not in its individual capacity but solely as owner trustee, as borrower, Aerovías de México, S.A. de C.V., as guarantor, DVB Bank SE, as loan participant, agent and security trustee.
5. Letter Agreement No. 2 (33788) dated June 11, 2019, by and among Bank of Utah, not in its individual capacity but solely as owner trustee, as borrower, Aerovías de México, S.A. de C.V., as guarantor, DVB Bank SE, as loan participant, agent and security trustee.
6. Amended and Restated Facility Agreement [Aeromexico B737 [33788]] dated July 11, 2019, by and among Bank of Utah, not in its individual capacity, but solely as owner trustee, as borrower, Aerovías de México, S.A. de C.V., as owner participant and guarantor, and DVB Bank SE, as loan participant, agent and as security trustee.
7. Loan Certificate dated July 11, 2019, issued by Bank of Utah, not in its individual capacity but solely as owner trustee, as borrower, and Aerovías de México, S.A. de C.V., as guarantor.
8. Any and all other operative documents relating to the Aircraft, including, without limitation, all lease agreements, loan agreements, funding agreements, security agreements, indentures, all parties agreements, participation agreements,

intercreditor agreements, guarantee agreements and indemnity agreements, as applicable, and any amendments, supplements, side letters, novations or assignments pertaining to any of the foregoing.

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EXHIBIT B

Term Sheet

<p>1. Interest Payments</p>	<p>(i) As of and from the Petition Date until the termination of the Stipulation Period (as defined in the Stipulation), Operator shall pay to the Security Trustee (on behalf of the Borrower) on each Interest Payment Date (as defined in the Agreements) during such period, the amount of [REDACTED] payable on such Interest Payment Date in accordance with the Agreements, which [REDACTED] is to be calculated [REDACTED] (which Interest Payments shall be paid [REDACTED]). Operator shall commence the Interest Payments on the first Interest Payment Date (as defined in the Agreements) following the date of approval of the Stipulation by the Bankruptcy Court (the “<u>Court Approval</u>”), <i>provided</i> that all Interest Payments payable on each [REDACTED] shall be paid by Operator [REDACTED]</p> <p><i>provided further</i> that, in any case, [REDACTED].</p> <p>All Interest Payments (including [REDACTED]) shall be subject to receipt by the Operator from the Counterparties of an invoice and a calculation in reasonable detail in respect of such payment no later than three (3) Business Days prior to the corresponding due date.</p>
<p>2. Maintenance Utilization Payment</p>	<p>i. The maintenance utilization rate for each relevant component of Equipment shall be the rate set forth in the table on Schedule 1 hereto under the column designated for such component opposite the corresponding equipment type (the “<u>Maintenance Utilization Rate</u>”).</p> <p>ii. For each component of Equipment, the Operator shall, in accordance with paragraph 3 below, pay to the Security Trustee (on behalf of the Borrower) an amount (the “<u>Maintenance Utilization Payment</u>”) equal to the Maintenance Utilization Rate corresponding to such component, multiplied by the [REDACTED] (or, if the Aircraft is operated by the Debtors after the Stipulation Period, until such operations terminate); <i>provided</i> that for purposes of this calculation:</p> <p>a. subject to clause (b) below, [REDACTED]; and</p>

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	b. notwithstanding clause (a) above, [REDACTED].
3. Payment Procedures	<p>i. If [REDACTED], the Operator will pay the Maintenance Utilization Payment to the Security Trustee on the latest of: (x) [REDACTED], (y) [REDACTED] and (z) three (3) Business Days after the Operator receives the Counterparties' invoice for the Maintenance Utilization Payment; provided that, in any case, if the outstanding Maintenance Utilization Payment has not been paid in full by the Debtors before the effective date of the Debtors' chapter 11 plan of reorganization (the "Plan Effective Date"), then the Debtors will pay any such unpaid Maintenance Utilization Payment on the Plan Effective Date (or such later date as the Debtors and the Counterparties may agree); provided further that, for the avoidance of doubt, if no chapter 11 plan of reorganization becomes effective, and any Maintenance Utilization Payment remains unpaid, then any such unpaid Maintenance Utilization Payment shall be paid by the Debtors by no later than the same time as other administrative expense claims against the Operator are paid in the Operator's Chapter 11 Case.</p> <p>If [REDACTED], the Operator will pay the Maintenance Utilization Payment upon the Plan Effective Date (or such later date as the Debtors and the Counterparties may agree), provided that, for the avoidance of doubt, if no chapter 11 plan of reorganization becomes effective, and any Maintenance Utilization Payment remains unpaid, then any such unpaid Maintenance Utilization Payment shall be paid by the Debtors by no later than the same time as other administrative expense claims against the Operator are paid in the Operator's Chapter 11 Case.</p> <p>If [REDACTED], the Operator will pay the Maintenance Utilization Payment upon such termination; provided that, in any case, if the outstanding Maintenance Utilization Payment has not been paid in full by the Debtors before the Plan Effective Date, then the Debtors will pay any such unpaid Maintenance Utilization Payment on the Plan Effective Date (or such later date as the Debtors and the Counterparties may agree); provided further that, for the avoidance of doubt, if no chapter 11 plan of reorganization becomes effective, and any Maintenance Utilization Payment remains unpaid, then any such unpaid Maintenance Utilization Payment shall be paid by the</p>

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	<p>Debtors by no later than the same time as other administrative expense claims against the Operator are paid in the Operator's Chapter 11 Case.</p> <p>ii. The Counterparties shall have the right to assert an administrative expense claim against the Debtors as permitted under the Bankruptcy Code in respect of the Interest Payments and the Maintenance Utilization Payment due and payable in accordance with the terms hereof. The Interest Payments and the Maintenance Utilization Payment shall be entitled to administrative priority as an "actual, necessary cost" of preserving the estates pursuant to section 503(b)(1) of the Bankruptcy Code.</p> <p>iii. In the event of a disagreement with respect to the Utilization Report, the Interest Payments or the Maintenance Utilization Payment, the Debtors and the Counterparties shall use good faith efforts to resolve such dispute, provided, however, (a) the Debtors shall pay any undisputed amount in accordance with the foregoing provisions and (b) to the extent the Debtors and the Counterparties come to agreement on the disputed amounts, such amounts shall be paid at the time that the payments are due in accordance with the foregoing or, if resolved after such payment would otherwise have been due, within three Business Days after any dispute is resolved in writing between the Debtors and the Counterparties (which agreement may be evidenced by e-mails) and the Debtors receive the corresponding invoice from the Counterparties (provided that, upon application of either party, the Bankruptcy Court may adjudicate any disputes relating to such matters).</p>
4. Claims for the Difference between Stipulation rates and Agreement rates	As provided for in the Stipulation (i.e., pre-petition claims).
5. Utilization Report	On or before the tenth (10 th) business day of each calendar month during the period from the date of the execution of this Stipulation through the tenth (10 th) business day of the month after the conclusion of the Stipulation Period (such date, the " <u>Report Date</u> "), the Debtors shall issue to the Security Trustee a report (the " <u>Utilization Report</u> ") detailing their usage of each relevant item of

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	Equipment during the immediately preceding calendar month (with the first Utilization Report also detailing usage from the Petition Date through the end of the calendar month immediately preceding the Report Date for such Utilization Report).
6. Payment Account	All amounts paid hereunder by the Operator (including, without limitation Interest Payments and the Maintenance Utilization Payments) shall be paid to such account of the Security Trustee as the Security Trustee may provide in writing to the Operator and applied in accordance with the distribution and waterfall provisions of the applicable Agreements.
7. Excluded Maintenance	If the Debtors elect, in their sole discretion, to perform Excluded Maintenance during the Stipulation Period, [REDACTED].

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Schedule 1 to Exhibit B

Maintenance Utilization Rates

Maintenance Utilization Rates	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
USD Per:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
737-700W	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

EXHIBIT C

Certain Definitions

“Excluded Maintenance” means [REDACTED]. For avoidance of doubt, [REDACTED] shall not be deemed Excluded Maintenance.

“Excluded Obligations” means (i) Excluded Maintenance, (ii) Excluded Return Obligations, (iii) [REDACTED]. For the avoidance of doubt, no commitment is being made as part of the Stipulation to cure or remedy any outstanding defaults or events of default that may exist under any Agreement prior to the effectiveness of the Stipulation, but Debtors shall be obligated to [REDACTED].

“Excluded Return Obligations” means [REDACTED], but notwithstanding the foregoing the Debtors shall comply with paragraph 4 of the Stipulation with respect to such Equipment.