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*Proposed Counsel for Debtors and
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
	:	
AVIANCA HOLDINGS S.A., <i>et al.</i> , ¹	:	Case No. 20-11133 (MG)
	:	
Debtors.	:	(Joint Administration Requested)
	:	

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**DEBTORS’ MOTION FOR ENTRY OF ORDER
PURSUANT TO SECTIONS 105(a) AND 546(c) OF BANKRUPTCY CODE
ESTABLISHING AND IMPLEMENTING EXCLUSIVE AND GLOBAL
PROCEDURES FOR TREATMENT OF RECLAMATION CLAIMS**

¹ The Debtors in these chapter 11 cases, and each Debtor’s federal tax identification number (to the extent applicable), are as follows: Avianca Holdings S.A. (N/A); Aero Transporte de Carga Unión, S.A. de C.V. (N/A); Aeroinversiones de Honduras, S.A. (N/A); Aerovías del Continente Americano S.A. Avianca (N/A); Airlease Holdings One Ltd. (N/A); America Central (Canada) Corp. (00-1071563); America Central Corp. (65-0444665); AV International Holdco S.A. (N/A); AV International Holdings S.A. (N/A); AV International Investments S.A. (N/A); AV International Ventures S.A. (N/A); AV Investments One Colombia S.A.S. (N/A); AV Investments Two Colombia S.A.S. (N/A); AV Taca International Holdco S.A. (N/A); Avianca Costa Rica S.A. (N/A); Avianca Leasing, LLC (47-2628716); Avianca, Inc. (13-1868573); Avianca-Ecuador S.A. (N/A); Aviaservicios, S.A. (N/A); Aviateca, S.A. (N/A); Avifreight Holding Mexico, S.A.P.I. de C.V. (N/A); C.R. Int’l Enterprises, Inc. (59-2240957); Grupo Taca Holdings Limited (N/A); International Trade Marks Agency Inc. (N/A); Inversiones del Caribe, S.A. (N/A); Isleña de Inversiones, S.A. de C.V. (N/A); Latin Airways Corp. (N/A); Latin Logistics, LLC (41-2187926); Nicaraguense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aereo y Rampa S.A. (N/A); Servicios Aeroportuarios Integrados SAI S.A.S. (92-4006439); Taca de Honduras, S.A. de C.V. (N/A); Taca de México, S.A. (N/A); Taca International Airlines S.A. (N/A); Taca S.A. (N/A); Tampa Cargo S.A.S. (N/A); Technical and Training Services, S.A. de C.V. (N/A). The Debtors’ principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.



TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Avianca Holdings S.A. and its affiliated debtors in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), as debtors and debtors-in-possession (collectively, the “Debtors”), respectfully represent as follows in support of this motion (the “Motion”):²

RELIEF REQUESTED

1. By this Motion, the Debtors request entry of an order, substantially in the form annexed hereto as **Exhibit A** (the “Proposed Order”), pursuant to sections 546(c) and 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (as amended, the “Bankruptcy Code”), (i) establishing exclusive procedures (the “Reclamation Procedures”) for the assertion and resolution of all unpaid claims (the “Reclamation Claims”) whose holders seek reclamation of Goods (as defined below); and (ii) prohibiting Sellers (as defined below) from taking any other remedial action with respect to Goods, including any effort to reclaim the same.

JURISDICTION

2. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334.

3. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The bases for the relief requested herein are sections 105(a) and 546(c) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 9019(a).

STATUS OF THE CASE

6. On the date hereof (the “Petition Date”), each of the Debtors filed with this Court voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

² Capitalized terms not defined herein shall have the meaning ascribed to them in the First Day Declaration (as defined below).

7. Each Debtor is continuing to operate its business and manage its properties as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

8. No creditors' committee has yet been appointed in these cases. No trustee or examiner has been appointed.

9. The Debtors have filed a motion requesting joint administration of the Chapter 11 Cases pursuant to Bankruptcy Rule 1015.

BACKGROUND

10. Avianca is the second-largest airline group in Latin America and the most important carrier in the Republic of Colombia and in the Republic of El Salvador. It is the largest airline in the Republic of Colombia (the third largest Latin American economy), a code-share partner of United Airlines, and a member of the Star Alliance which, with 26 members, is the world's largest global airline alliance. Established in 1919, Avianca has a 100-year legacy as a leading provider of air travel and cargo services in the Latin American market and around the globe. Avianca is well respected throughout Latin America and maintains significant customer brand equity and market share in the regions it services.

11. The Debtors operate an extensive network of routes from their primary hubs in Bogotá and San Salvador (in addition to other focus markets) and offer passenger services on more than 5,350 weekly flights to more than 76 destinations in 27 countries. With approximately 18,900 employees and approximately \$3.9 billion in annual revenues, the Debtors play a key role in the Latin American airline market.

12. Despite an effective debt reprofiling executed in the second half of 2019, a significant improvement in Avianca's liquidity position in early 2020, and the successful 2019 launch of the "Avianca 2021" transformation plan (as further described below), the Debtors have been compelled to file these Chapter 11 Cases for one principal reason: the COVID-19 pandemic,

which has affected the world's population and economies in ways that have never been experienced. The reduction in travel as a result of the virus, and the measures undertaken to combat the virus, including restrictions commercial flights and on travel, have had and will continue to have an adverse impact on the Debtors. As a result of the ongoing pandemic and its consequences, the Debtors are facing significantly reduced revenues from ticket sales and ancillary revenues, government prohibitions globally on international flights, substantial ongoing contractual obligations to their lessors, lenders and other creditors, and a near complete standstill of the global economy—all with significant continued impact and limited visibility as to the potential market recovery.

13. On March 20, 2020, the Republic of Colombia, consistent with what numerous other governments around the world have done, announced that it would close its airspace to address the spread of COVID-19. As a result of the restrictions imposed by the Colombian government, as well as similar measures in various other of the Debtors' primary markets, on March 24, 2020 the Debtors announced that they were suspending all scheduled passenger flights from March 25, 2020 until at least the end of April 2020; this situation has now been extended and is ongoing, and no date has been established for restart of flights.

14. Additional information regarding the Debtors' business, capital structure, and the circumstances leading to the commencement of these Chapter 11 Cases is set forth in the *Declaration of Adrian Neuhauser in Support of Chapter 11 Petitions and First Day Motions* (the "First Day Declaration"), which is being filed contemporaneously herewith and is incorporated by reference herein.

BACKGROUND RELEVANT TO MOTION

15. Prior to the Petition Date, in the ordinary course of business, the Debtors purchased on credit a variety of parts, supplies, and other goods used in their operations (collectively, the

“Goods”). As of the Petition Date, the Debtors were in possession of certain Goods that had been delivered to them, but for which they had not yet been invoiced or made payment to the applicable vendors. As a result of the commencement of these Chapter 11 Cases, the various vendors (collectively, the “Sellers”) may seek to reclaim, or take other remedial action with respect to, the Goods.

16. To avoid piecemeal litigation that would interfere with the Debtors’ efforts to preserve enterprise value and successfully reorganize, the Debtors seek to establish the Reclamation Procedures for the reconciliation and allowance of Reclamation Claims. The Debtors submit that the Reclamation Procedures will effectively and efficiently streamline the process of resolving Reclamation Claims to the benefit of the Debtors, the Sellers, and the Debtors’ estates.

PROPOSED RECLAMATION PROCEDURES

17. The Debtors propose the following Reclamation Procedures:

- (a) Any Seller asserting a Reclamation Claim must satisfy all procedural and timing requirements that entitle it to have the right to reclamation under section 546(c) of the Bankruptcy Code;
- (b) Any Seller asserting a Reclamation Claim must submit a written demand asserting such Reclamation Claim (a “Reclamation Demand”), which must include (i) a description of the Goods subject to the Reclamation Demand, (ii) the name of the Debtor to which such Goods were delivered, (iii) copies of any purchasing orders, invoices, receipts, bills of lading and the like, identifying the Goods for which the Reclamation Demand is being asserted, (iv) any evidence regarding the date(s) such Goods were shipped to and received by the Debtors and the alleged value of such Goods, (v) a statement indicating whether the Seller has filed or intends to file any other claim against any Debtor regarding the Goods with respect to which its Reclamation Demand is made, and (vi) the postal and email address of the Seller;
- (c) Unless a Seller has submitted a Reclamation Demand within forty-five (45) days prior to the Petition Date, such Seller must submit a Reclamation Demand so that it is received by the Debtors and the Debtors’ attorneys on or before twenty (20) calendar days after the Petition Date (the “Reclamation Deadline”);

- (d) Upon receipt of a Reclamation Demand, the Debtors will serve upon the applicable Seller, at the address indicated in its Reclamation Demand, a copy of the order approving the Reclamation Procedures (the “Reclamation Order”);
- (e) No later than one hundred and twenty (120) days after entry of the Reclamation Order (the “Reclamation Notice Deadline”), the Debtors will file with the Court a notice (the “Reclamation Notice”), listing the timely submitted Reclamation Claims and the amount (if any) of each such Reclamation Claim that the Debtors determine to be valid. The Debtors will serve the Reclamation Notice on the following parties (the “Notice Parties”), (i) the Office of the United States Trustee for the Southern District of New York (the “U.S. Trustee”), (ii) the attorneys for any statutory committee of unsecured creditors appointed in these cases, and (iii) each Seller listed in the Reclamation Notice, at the address indicated in such Seller’s Reclamation Demand;
- (f) Any party that wishes to object to the Reclamation Notice must file and serve an objection (a “Reclamation Notice Objection”) on the Notice Parties and the attorneys for the Debtors, so as to be received no later than 4:00 p.m. (Eastern Time) on the twentieth (20th) day after the date on which the Reclamation Notice is filed (the “Objection Deadline”). Any Reclamation Notice Objection must include (i) a copy of the Seller’s Reclamation Demand, with evidence of the date it was submitted to the Debtors; and (ii) a statement describing with specificity the objections to the Reclamation Notice and any legal and factual bases for such objections;
- (g) Any Reclamation Claim listed in the Reclamation Notice for which no Reclamation Notice Objection is filed and served by the Objection Deadline shall be deemed allowed in the amount identified by the Debtors in the Reclamation Notice, provided that all issues relating to the treatment of such allowed Reclamation Claim shall be reserved by all parties;
- (h) If the Debtors fail to file the Reclamation Notice by the Reclamation Notice Deadline, any Seller that had submitted a timely Reclamation Demand in accordance with the Reclamation Procedures may bring a motion to seek relief with respect to its Reclamation Claim;
- (i) Notwithstanding and without limiting the foregoing, the Debtors will be authorized, but not required, in their sole discretion, to negotiate with any Seller an agreement resolving the Seller’s Reclamation Claim. If the Debtors and a Seller agree on the validity, amount, and treatment of the Seller’s Reclamation Claim, the Debtors will file with the Court a notice of such settlement (a “Settlement Notice”) and serve such Settlement Notice on the Notice Parties. Each Notice Party will have ten (10) days from the date of service of such Settlement Notice to file with the Court and serve on

the other Notice Parties and attorneys for the Debtors an objection thereto (a “Settlement Objection”);

- (j) If no Settlement Objection with respect to a Reclamation Claim that is the subject of a Settlement Notice is timely filed and served, such Reclamation Claim will be treated in accordance with the Settlement Notice without further order of the Court;
- (k) If a Settlement Objection is timely filed and served, the parties may negotiate a consensual resolution of such objection to be incorporated in a stipulation filed with the Court (a “Settlement Stipulation”). Upon the filing of a Settlement Stipulation, the applicable Reclamation Claim shall be allowed and treated in accordance with the terms of the Settlement Stipulation without further order of the Court;
- (l) If no consensual resolution of a Settlement Objection is reached, the Debtors may file a motion with the Court requesting a hearing with respect to the applicable Settlement Notice; and
- (m) All Sellers shall be forever barred, without further order of the Court, from asserting a Reclamation Demand after the expiration of the Reclamation Deadline, but they shall not be barred from asserting, subject to applicable deadlines, general unsecured claims or administrative expense claims pursuant to section 503(b)(9) of the Bankruptcy Code.

18. The Debtors propose that, except to the extent a Seller has received payment on account of its Reclamation Claim pursuant to another order of the Court, the Reclamation Procedures be the sole and exclusive method for addressing and resolving Reclamation Claims. Accordingly, the Debtors request that all Sellers be prohibited from seeking any other means for the assertion and resolution of their Reclamation Claims, including, without limitation, the following: (a) commencing adversary proceedings or contested matters against the Debtors in connection with any Reclamation Claim; (b) seeking to obtain possession of any Goods except as may be permitted in accordance with the Reclamation Procedures; or (c) interfering with the delivery of any Goods to the Debtors or the retention of any Goods by the Debtors.

BASIS FOR RELIEF REQUESTED

19. Upon the commencement of a chapter 11 case, reclamation rights are governed by section 546(c)(1) of the Bankruptcy Code, which provides, in relevant part:

[S]ubject to the prior rights of a holder of a security interest in such goods or the proceeds thereof, the rights and powers of the [debtor-in-possession] under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such a seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

(A) not later than 45 days after the date of receipt of such goods by the debtor; or

(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

11 U.S.C. § 546(c)(1).³

20. In addition, pursuant to Bankruptcy Rule 9019(a), after notice and a hearing, the Court may approve a compromise or settlement between the Debtors and any Seller who files a Reclamation Demand and/or Reclamation Notice Objection. See Fed. R. Bankr. P. 9019(a). The ability to negotiate with the Sellers will expedite the resolution of Reclamation Claims and promote the economic administration of these Chapter 11 Cases.

21. Furthermore, section 105(a) of the Bankruptcy Code provides that the Court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions” of the Bankruptcy Code. See 11 U.S.C. § 105(a). Establishing and implementing the Reclamation

³ Any Seller that fails to provide notice in the manner described in section 546(c) still may assert an administrative expense claim pursuant to section 503(b)(9) of the Bankruptcy Code for the value of goods received by the Debtors within twenty (20) days before the Petition Date in the ordinary course of the Debtors' businesses. See 11 U.S.C. §§ 503(b)(9), 546(c)(2).

Procedures is necessary and appropriate and the Reclamation Procedures are consistent with section 546(c) of the Bankruptcy Code and Bankruptcy Rule 9019.

22. The Debtors submit that the relief requested herein will ensure the continuous supply of Goods that are vital to the Debtors' ongoing operations. Reclamation procedures similar to those requested herein are routinely granted in large chapter 11 cases in this and other Districts. See, e.g., In re Westinghouse Elec. Co. LLC, Case No. 17-10751 (MEW) (Bankr. S.D.N.Y. May 24, 2017); In re Republic Airways Holdings, Inc., Case No. 16-10429 (SHL) (Bankr. S.D.N.Y. Feb. 29, 2016); In re AMR Corp., Case No. 11-15463 (SHL) (Bankr. S.D.N.Y. Dec. 14, 2011); In re Northwest Airlines Corp., Case No. 05-17930 (ALG) (Bankr. S.D.N.Y. Oct. 20, 2005); In re US Airways, Inc., Case No. 04-13819 (SSM) (Bankr. E.D. Va. Sep. 14, 2004).

23. The Reclamation Procedures and the Debtors' ability to resolve Reclamation Claims in accordance with the Reclamation Procedures will effectively and efficiently streamline the process of resolving the Reclamation Claims for the Debtors and the Sellers alike, without impacting the parties' substantive rights to pursue or contest the Reclamation Claims. Moreover, the Reclamation Procedures will minimize costly and distracting litigation, particularly at the early stages of these cases, and enable the Debtors to focus their resources and energies on maximizing enterprise value and enhancing the prospects for a successful reorganization. Therefore, the relief requested in this Motion is in the best interests of the Debtors and their respective estates and should be granted in all respects.

RESERVATION OF RIGHTS

24. Nothing contained herein is intended to be or shall be construed as: (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' or any appropriate party in interest's right to dispute any claim; or (iii) an approval or assumption of any agreement,

contract, program, policy, or lease under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be, and should not be construed as, an admission to the validity of any claim or waiver of the Debtors' rights to dispute such claim subsequently.

NOTICE

25. The Debtors will provide notice of this Motion to the following parties: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the forty (40) largest unsecured claims against the Debtors (on a consolidated basis); (c) the holders of the five (5) largest secured claims against the Debtors (on a consolidated basis); (d) the Internal Revenue Service; (e) the Securities and Exchange Commission; (f) the Federal Aviation Administration; and (g) any party that requests service pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

NO PRIOR REQUEST

26. No prior request for the relief sought in this Motion has been made to this or to any other court.

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CONCLUSION

WHEREFORE, the Debtors respectfully request that this Court enter an order, substantially in the form of the Proposed Order, granting the relief requested herein and granting such other and further relief as is just and proper.

Dated: New York, New York
May 10, 2020

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*Proposed Counsel for Debtors and
Debtors-in-Possession*

EXHIBIT A

Proposed Order

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

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: In re: : Chapter 11
: :
: AVIANCA HOLDINGS S.A., *et al.*,¹ : Case No. 20-11133 (MG)
: :
: Debtors. : (Joint Administration Requested)
: :
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**ORDER PURSUANT TO SECTIONS 105(a) AND 546(c) OF THE
BANKRUPTCY CODE ESTABLISHING AND IMPLEMENTING EXCLUSIVE AND
GLOBAL PROCEDURES FOR TREATMENT OF RECLAMATION CLAIMS**

Upon consideration of the motion (the “Motion”)² of the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”), seeking entry of an order (this “Order”) pursuant to sections 546(c) and 105(a) of the Bankruptcy Code authorizing the Debtors to establish and implement procedures to address and reconcile Reclamation Claims, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated

¹ The Debtors in these chapter 11 cases, and each Debtor’s federal tax identification number (to the extent applicable), are as follows: Avianca Holdings S.A. (N/A); Aero Transporte de Carga Unión, S.A. de C.V. (N/A); AeroInversiones de Honduras, S.A. (N/A); Aerovías del Continente Americano S.A. Avianca (N/A); Airlease Holdings One Ltd. (N/A); America Central (Canada) Corp. (00-1071563); America Central Corp. (65-0444665); AV International Holdco S.A. (N/A); AV International Holdings S.A. (N/A); AV International Investments S.A. (N/A); AV International Ventures S.A. (N/A); AV Investments One Colombia S.A.S. (N/A); AV Investments Two Colombia S.A.S. (N/A); AV Taca International Holdco S.A. (N/A); Avianca Costa Rica S.A. (N/A); Avianca Leasing, LLC (47-2628716); Avianca, Inc. (13-1868573); Avianca-Ecuador S.A. (N/A); Aviaservicios, S.A. (N/A); Aviateca, S.A. (N/A); Avifreight Holding Mexico, S.A.P.I. de C.V. (N/A); C.R. Int’l Enterprises, Inc. (59-2240957); Grupo Taca Holdings Limited (N/A); International Trade Marks Agency Inc. (N/A); Inversiones del Caribe, S.A. (N/A); Isleña de Inversiones, S.A. de C.V. (N/A); Latin Airways Corp. (N/A); Latin Logistics, LLC (41-2187926); Nicaraguense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aereo y Rampa S.A. (N/A); Servicios Aeroportuarios Integrados SAI S.A.S. (92-4006439); Taca de Honduras, S.A. de C.V. (N/A); Taca de México, S.A. (N/A); Taca International Airlines S.A. (N/A); Taca S.A. (N/A); Tampa Cargo S.A.S. (N/A); Technical and Training Services, S.A. de C.V. (N/A). The Debtors’ principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.

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

February 1, 2012; and it appearing that venue of these chapter 11 cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the Motion and the *Declaration of Adrian Neuhauser in Support of Chapter 11 Petitions and First Day Pleadings*, dated as of the Petition Date; and upon the statements of counsel in support of the relief requested in the Motion at the hearing before the Court; and all of the proceedings had before the Court; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties-in-interest; and after due deliberation thereon; and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED and approved in all respects.
2. The following procedures (the “Reclamation Procedures”) shall apply to all

Reclamation Claims:

- a. Any Seller asserting a Reclamation Claim must satisfy all procedural and timing requirements that entitle it to have the right to reclamation under section 546(c) of the Bankruptcy Code;
- b. Any Seller asserting a Reclamation Claim must submit a written demand asserting such Reclamation Claim (a “Reclamation Demand”), which must include (i) a description of the Goods subject to the Reclamation Demand, (ii) the name of the Debtor to which such Goods were delivered, (iii) copies of any purchasing orders, invoices, receipts, bills of lading and the like, identifying the Goods for which the Reclamation Demand is being asserted, (iv) any evidence regarding the date(s) such Goods were shipped to and received by the Debtors and the alleged value of such Goods, and (v) a statement indicating whether the Seller has filed or intends to file any other claim against any Debtor regarding the Goods with respect to which its Reclamation Demand is made;
- c. Unless a Seller has submitted a Reclamation Demand within forty-five (45) days prior to the Petition Date, such Seller must submit a Reclamation Demand so that it is received by the Debtors and the Debtors’ attorneys on or before twenty (20) calendar days after the Petition Date (the “Reclamation Deadline”);

- d. Upon receipt of a Reclamation Demand, the Debtors will serve upon the applicable Seller, at the address indicated in its Reclamation Demand, a copy of this order (the “Reclamation Order”);
- e. No later than one hundred and twenty (120) days after entry of this Reclamation Order (the “Reclamation Notice Deadline”), the Debtors will file with the Court a notice (the “Reclamation Notice”), listing the timely submitted Reclamation Claims and the amount (if any) of each such Reclamation Claim that the Debtors determine to be valid. The Debtors will serve the Reclamation Notice on the following parties (the “Notice Parties”), (i) the Office of the United States Trustee for the Southern District of New York (the “U.S. Trustee”); (ii) the attorneys for any statutory committee of unsecured creditors appointed in these cases; and (iii) each Seller listed in the Reclamation Notice, at the address indicated in such Seller’s Reclamation Demand;
- f. Any party that wishes to object to the Reclamation Notice must file and serve an objection (a “Reclamation Notice Objection”) on the Notice Parties and the attorneys for the Debtors, so as to be received no later than 4:00 p.m. (Eastern Time) on the twentieth (20th) day after the date on which the Reclamation Notice is filed (the “Objection Deadline”). Any Reclamation Notice Objection must include (i) a copy of the Seller’s Reclamation Demand, with evidence of the date it was submitted to the Debtors; and (ii) a statement describing with specificity the objections to the Reclamation Notice and any legal and factual bases for such objections;
- g. Any Reclamation Claim listed in the Reclamation Notice for which no Reclamation Notice Objection is filed and served by the Objection Deadline shall be deemed allowed in the amount identified by the Debtors in the Reclamation Notice, provided that all issues relating to the treatment of such allowed Reclamation Claim shall be reserved by all parties;
- h. If the Debtors fail to file the Reclamation Notice by the Reclamation Notice Deadline, any Seller that had submitted a timely Reclamation Demand in accordance with the Reclamation Procedures may bring a motion to seek relief with respect to its Reclamation Claim;
- i. Notwithstanding and without limiting the foregoing, the Debtors will be authorized, but not required, in their sole discretion, to negotiate with any Seller an agreement resolving the Seller’s Reclamation Claim. If the Debtors and a Seller agree on the validity, amount, and treatment of the Seller’s Reclamation Claim, the Debtors will file with the Court a notice of such settlement (a “Settlement Notice”) and serve such Settlement Notice on the Notice Parties. Each Notice Party will have ten (10) days from the date of service of such Settlement Notice to file with the Court and serve on the other Notice Parties and attorneys for the Debtors an objection thereto (a “Settlement Objection”);

- j. If no Settlement Objection with respect to a Reclamation Claim that is the subject of a Settlement Notice is timely filed and served, such Reclamation Claim will be treated in accordance with the Settlement Notice without further order of the Court;
 - k. If a Settlement Objection is timely filed and served, the parties may negotiate a consensual resolution of such objection to be incorporated in a stipulation filed with the Court (a "Settlement Stipulation"). Upon the filing of a Settlement Stipulation, the applicable Reclamation Claim shall be allowed and treated in accordance with the terms of the Settlement Stipulation without further order of the Court;
 - l. If no consensual resolution of a Settlement Objection is reached, the Debtors may file a motion with the Court requesting a hearing with respect to the applicable Settlement Notice; and
 - m. All Sellers shall be forever barred, without further order of the Court, from asserting a Reclamation Demand after the expiration of the Reclamation Deadline, but they shall not be barred from asserting, subject to applicable deadlines, general unsecured claims or administrative expense claims pursuant to section 503(b)(9) of the Bankruptcy Code.
3. The foregoing Reclamation Procedures shall be the sole and exclusive method for addressing and resolving unpaid Reclamation Claims asserted against any Debtor.
4. All Sellers are prohibited from seeking any other means for the resolution or treatment of their Reclamation Claims, including without limitation: (a) commencing adversary proceedings and contested matters in connection with their Reclamation Claims; (b) seeking to obtain possession of any Goods except as may be permitted by the Reclamation Procedures; and (c) interfering with the delivery of any Goods to the Debtors or the retention of any Goods by the Debtors.
5. Any adversary proceedings or contested matters related to Reclamation Claims, whether currently pending or initiated in the future, except those proceedings initiated by the Debtors in accordance with the Reclamation Procedures, are stayed and the claims asserted therein shall be resolved exclusively pursuant to the Reclamation Procedures.
6. To the extent a Reclamation Claim has been paid by the Debtors pursuant to another order entered by the Court, the Reclamation Procedures shall not apply to such Seller, and any

Reclamation Claim filed by such Seller shall be deemed withdrawn without the need for any further order of the Court.

7. Notwithstanding the relief granted herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party..

8. Nothing contained in this Order shall constitute a rejection or assumption by the Debtors of any executory contract or unexpired lease by virtue of reference to any such contract or lease in the Motion.

9. The Debtors are authorized and empowered to take all actions necessary to implement the relief requested in this Order.

10. This Court shall retain jurisdiction with respect to any matters, claims, rights, or disputes arising from or related to the implementation of this Order.

Dated: _____, 2020

UNITED STATES BANKRUPTCY JUDGE