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Debtors-In-Possession*

**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> , <sup>1</sup>	: Case No. 20-11133 (MG)
Debtors.	: (Joint Administration Requested)
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**DECLARATION OF ADRIAN NEUHAUSER IN SUPPORT OF  
CHAPTER 11 PETITIONS AND FIRST DAY PLEADINGS**

I, ADRIAN NEUHAUSER, hereby declare under penalty of perjury:

<sup>1</sup> 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.



1. I am the Chief Financial Officer of Avianca Holdings S.A. (“Avianca Holdings”), one of the above-captioned debtors and debtors-in-possession (each, a “Debtor” and, collectively, the “Debtors”), and have served in this position since June 2019. I have more than twenty (20) years of experience in the financial sector and was most recently a Managing Director at Credit Suisse, based in Chile and covering airlines throughout Latin America from 2016 to 2019. Previously, I held senior positions in investment banking at Deutsche Bank, Bank of America and Merrill Lynch.

2. The Debtors are (i) Avianca Holdings, a company organized under the laws of Panama and the ultimate parent company of the Debtors and their non-Debtor affiliates; and (ii) certain of Avianca Holding’ subsidiaries and affiliates. The Debtors, together with their direct and indirect subsidiaries, are referred to herein collectively as “Avianca.” On the date hereof (the “Petition Date”), the Debtors commenced voluntary cases (the “Chapter 11 Cases”) under Chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Court”).<sup>2</sup>

### **Preliminary Statement**

3. 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

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<sup>2</sup> Based on information and belief, venue for the Debtors’ Chapter 11 Cases is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409, due to, among other things, the incorporation of Avianca Inc., one of the Debtors, under New York law.

globe. Avianca is well respected throughout Latin America and maintains significant customer brand equity and market share in the regions it services.

4. Latin America is comprised of a diverse set of countries with separate aeronautical regulators, route rights, employment legislation, corporate legislation, and tax regulation. Over the years, Avianca has been able to establish itself as a combined network of several Air Operator Certificates (AOCs) operating what is in effect numerous airlines, under a single brand, in a commercially transparent way to customers. Unlike many other airlines and large, complex businesses, Avianca's separate businesses are confined to independent corporate entities, most of which are Debtors in these Chapter 11 Cases. This unique structure grants the Debtors a significant competitive advantage and allows them to interconnect numerous domestic and international markets.

5. 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.

6. 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.

7. 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.

8. The COVID-19 global pandemic has decimated the global passenger aviation industry with an estimated 70% of the world's passenger fleet having been grounded. The duration of these groundings will be determined by each government, but they are generally expected to last at least two to three months in domestic markets—and even longer for international flying—followed by a slow recovery given both (i) the uncertainty of demand for business and leisure travel, and (ii) the restrictions and operating requirements that are likely to continue to be imposed by governments around the world.

9. Generally, governmental consents for the reopening of international flight operations are expected to lag those for critical services and domestic operations. The International Air Transport Association (“IATA”) is working closely with its member carriers, the World Health

Organization (“WHO”), and governments around the world to draft recommended health safety practices to protect the traveling public as well as aviation workers as operations ramp up. Avianca is committed to fully participating in those “best practices” that are likely to be adopted by IATA and WHO to do its part to minimize contain the impact of COVID-19, while also assisting Colombia and the other countries where it flies in recovering from this global pandemic.

10. Demand for air transportation services likely will be impacted by these health and operational considerations, which are expected continue to evolve over the next six to eighteen months. Additionally, health and social distancing protocols have induced a global recession that is anticipated to cause many countries’ unemployment levels to rival those experienced in the Great Depression 90 years ago. Markets around the world, including the United States and many countries in Europe, are experiencing steep decreases in economic activity that likely will result in similar decreases to their gross national products (“GNP”). A country’s GNP is typically linked to air travel demand. The Debtors expect that, while the airline industry will eventually recover, the recovery will be slow. After the initial demand shock and slow return to service, the Debtors anticipate air travel demand will stabilize at 20-30% below pre-COVID-19 levels. As a result, a significant number of the Debtors’ aircraft will be surplus to the business need.

11. The Debtors are taking all steps necessary to mitigate the impact of COVID-19, and are exploring all available options for the recommencement of flight operations in the near future and their ultimate emergence from Chapter 11 protection as successful participants in the Latin American airline markets. To accomplish this successfully, the Debtors are mindful of the need to proceed with deliberate caution to avoid ramping up flight operations in a manner that may significantly exceed possible passenger revenues. For this reason, the Debtors expect their flight

operations to resume (when circumstances permit) on a relatively modest basis in the first instance, with a focus on linking important domestic markets within Colombia as a first step. Subsequent stages of rebuilding the Debtors' flight operations likely will include the use of narrow-body aircraft for flights within South America and Central America, followed by a broader flying pattern involving the United States and Europe and the reimplementation of wide-body aircraft flights.

12. In light of these circumstances, the Debtors are likely to have a significant surplus of owned and leased aircraft at the outset of this case. Given the very substantial costs associated with maintaining and insuring surplus aircraft, combined with the lease or interest expenses for such aircraft, the Debtors are likely to seek to reject numerous aircraft leases at the outset of the case while also entering into negotiations with various aircraft lenders and lessors with respect to other aircraft that may or may not be suitable candidates for retention by the Debtors. Absent a successful renegotiation process, the Debtors are likely to seek authority to reject additional aircraft leases and/or turn over certain owned aircraft to their secured lending parties.

13. The Debtors intend to use these Chapter 11 Cases productively while they navigate through these challenging economic conditions. While in bankruptcy, the Debtors will use the tools available to them to optimize their operations in an increasingly challenging market and right-size their network, fleet and related debt and lease obligations, and drive cost efficiencies wherever possible. The Debtors will work cooperatively with their stakeholders—including national governments and regulatory bodies—in order to achieve those results, and thus maximize going concern value for the benefit of all parties in interest. Indeed, in light of Avianca's importance to the Colombian domestic air transportation market, the Debtors anticipate that the Republic of Colombia may be one of the key stakeholders in the Debtors' restructuring efforts;

similarly, the Republic of El Salvador, and the Republic of Ecuador (and, potentially, the Republic of Peru) are also expected to play important roles.

14. In the medium to long term, airline travel is expected to continue to play a key part in the global economy, and in particular in the Colombian economy. Therefore, the Debtors' core businesses remain strong, and the challenges negatively impacting their industry will likely abate in the medium to long term. As such, upon optimizing their operations, building back their network and fleet at a modest pace, increasing their liquidity, and right-sizing their debt and lease obligations, the Debtors expect to emerge from Chapter 11 as a viable and highly competitive enterprise.

15. This declaration is submitted pursuant to Local Bankruptcy Rule 1007-2 to apprise the Court and parties in interest of the circumstances that compelled the commencement of these Chapter 11 Cases and in support of the Debtors' Chapter 11 petitions and the relief requested in the motions and applications the Debtors have filed contemporaneously herewith (the "First-Day Pleadings"). Section I describes the nature of the Debtors' businesses. Section II describes the Debtors' current capital structure. Section III describes the circumstances that compelled the commencement of these Chapter 11 Cases, the Debtors' need for Chapter 11 relief, and the Debtors' go-forward restructuring plan. Section IV contains a summary of the First-Day Pleadings. Section V identifies the attached schedules of information required by Local Bankruptcy Rule 1007-2.

16. Except as otherwise indicated herein, the facts set forth in this declaration are based upon my personal knowledge, my review of relevant documents, information provided to me by my employees and advisors working under my supervision, or my opinion based upon my experience, knowledge, and information concerning the Debtors' operations and the airline

industry. Unless otherwise indicated, the financial information contained herein, and in the schedules attached hereto, is unaudited and provided on a consolidated basis for the Debtors.

## **I. Debtors' Business**

17. Avianca is the market leader in terms of passengers carried in the domestic market of Colombia (the third largest domestic market in Latin America), with a consolidated market share of 50.3% in the Colombian domestic market in 2019. Avianca is also a leader in terms of passengers carried on international flights to and from Colombia to North America, Europe, and within the Andean region and Central America (its home markets). This strong presence within the Andean region and Central America enables Avianca to consolidate regional passenger traffic in its hubs and provide connectivity to international destinations, making it a leader in terms of international air passengers carried from its home markets to both North and South America, as well as Europe. In addition to its passenger business, Avianca operates a cargo and package delivery business that utilizes the passenger aircraft bellies and 13 dedicated freighter aircraft.

### **A. *Debtors' Route Network***

18. Avianca operates an extensive route network from its strategically located hubs in Colombia and El Salvador and its focus markets, including Ecuador, Guatemala, and Peru. Prior to the impact of COVID-19, Avianca was operating passenger and cargo service through approximately 5,379 weekly scheduled flights to more than 76 destinations in over 27 countries around the world. Its code share alliances, together with its membership in Star Alliance, provide its customers with access to a worldwide network of over 1,300 destinations. In 2019, Avianca transported approximately 30.5 million passengers and 602,000 metric tons of cargo.

19. As of December 31, 2019, Avianca operated a modern fleet of 156 aircraft (143 jet passenger aircraft and 13 cargo aircraft, excluding 15 turboprop aircraft), mainly from the



Airbus family. Avianca’s operational passenger jet fleet is one of the youngest among Latin American airlines, with an average aircraft age of 7.3 years, as of December 31, 2019.

20. Avianca also provides other products and services that complement its passenger and cargo businesses and diversify its sources of revenue. Its *LifeMiles* loyalty program is one of the largest and most recognized coalition loyalty programs in Latin America, particularly in its core markets of Colombia and Central America (excluding Panama), with approximately 9.7 million members as of December 31, 2019, and 586 active commercial partners. *LifeMiles* operates as a separate company (LifeMiles Ltd., a Bermuda limited company). As I describe more fully below, *LifeMiles* is an important source of profitability and cash flow for the Debtors, as well as important in building and maintaining a loyal customer base. In 2015, Avianca sold a 30.0% stake in Lifemiles Ltd. to Advent International and retained a 70.0% ownership stake. Lifemiles Ltd. is not a Debtor in these Chapter 11 Cases.

**B. Avianca’s Employees**

21. As of December 31, 2019, Avianca (both Debtors and non-Debtors) had a total of 21,556 employees. Approximately 68% of its employees are located in Colombia, 5% in Peru,<sup>3</sup> 5% in Ecuador, 12% in El Salvador, 3% in Costa Rica and 7% elsewhere. These employees can be categorized as follows:

	<b>At December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
Pilots	1,863	2,234	2,174
Flight attendants	2,882	3,400	3,484
Mechanics	2,172	2,414	2,285
Customer service agents, reservation agents, ramp and other <sup>(2)</sup>	5,893	5,452	5,910
Management and clerical <sup>(2)</sup>	3,906	5,460	5,425
Others	4,840	2,901	6,028
<b>Total employees</b>	<b>21,556</b>	<b>21,861</b>	<b>25,306</b>

<sup>3</sup> Employees reported on a consolidated basis for the aggregate Avianca enterprise. The Avianca Peru entities, which employ approximately 1,000 employees, are not Debtors in these Chapter 11 Cases.

22. In Colombia, approximately 22.5% of the employees were members of unions as of December 31, 2019. In addition, there are six unions in four different countries covering Avianca employees outside Colombia. Typically, Avianca's collective bargaining agreements in Colombia, Argentina, Peru and Mexico have terms of between two and five years. Avianca's non-unionized employees outside Colombia are also beneficiaries of a voluntary benefits program and Avianca provides employees in those countries with benefit plans and arrangements that grant bonuses, seniority and retirement benefits, partial medical benefits and disability coverage and other extralegal benefits.

**C. Debtors' Operations**

23. Avianca's principal product is the scheduled air transportation of customers, which generates passenger revenue. It targets both business travelers, which constitute the majority of its domestic and Latin American traffic, and leisure travelers. Leisure traffic tends to coincide with holidays, school schedules and cultural events and peaks in July and August and again in December and January, and also during the Easter holiday in March/April.

24. In addition, Avianca generates revenue through its *LifeMiles* loyalty program and through cargo and courier transportation operations, which consists of revenue derived from shipment of parcels between countries, on a door-to-door basis and with defined transit time commitments from carriers. Other revenue activities include air transport-related services such as maintenance, crew training and other airport services provided to other carriers through the Avianca Services division, as well as service charges and ticket penalties. Aircraft and property leases, marketing rebates, duty-free sales, charter flights and other general operating revenues are also included in this category.

**D. Passenger Operations**

25. Avianca's passenger airline business includes 76 destinations. Passenger revenue primarily comprises ticket sales, including revenue from redemption of miles under its *LifeMiles* loyalty program, as further described below. Ancillary revenue contributes to passenger revenue and includes additional charges that are billed to passengers, such as fees for excess baggage, changes to dates, destinations and/or names, as well as special services relating to empty seats, unaccompanied minors and lounge passes.

26. Avianca's passenger revenue represented 84.5%, 83.3% and 79.9% of its total revenue in 2019, 2018 and 2017, respectively.

***E. International Passenger Revenue***

27. Avianca's international traffic is served through the airlines Aerovias del Continente Americano S.A. Avianca (Colombia), Taca International (El Salvador), Avianca Costa Rica S.A. (Costa Rica), and Avianca Ecuador S.A. (Ecuador). Two of its subsidiaries, Aviateca S.A. (Guatemala) and Taca de Honduras (Honduras), operate their international routes through charter flights and wet leases with other Avianca subsidiaries. All of the above entities are Debtors in these Chapter 11 Cases.

28. International revenue accounted for approximately 48.8%, 50.8% and 46.5% of Avianca's total passenger revenue in 2019, 2018 and 2017, respectively.

***F. Regional Operations in Central America***

29. Avianca's regional operation in Central America is served through its regional airlines: Isleña de Inversiones S.A.—Isleña (Honduras) and Aviateca (Guatemala), each of which are Debtors in these Chapter 11 Cases. Avianca's passenger revenue from its regional operations in Central America accounted for 1.6%, 1.2% and 1.6% of its total passenger revenue in 2019, 2018 and 2017, respectively.

***G. Route Network and Schedules***

30. Through its network, Avianca operates more than 768 daily scheduled flights (including domestic flights) to 76 different destinations in North America, Central America, South America and Europe.<sup>4</sup> Its network combines strategically located hubs in Bogotá and San Salvador, as well as strong point-to-point service from and to different major destinations in North America, Central America, South America and Europe. Avianca also provides its passengers with access to flights to approximately 140 destinations and approximately 216 additional routes worldwide through code-share arrangements with Aeroméxico, All Nippon Airways, Air China, Air India, Air Canada, Azul, COPA, Etihad, EVA Airways, Gol Linhas Aereas, Iberia, Lufthansa, Silver Airways, Singapore Airlines, Turkish Airlines and United Airlines. Additionally, by joining Star Alliance in 2012, Avianca increased the reach of its frequent flyer program, granting clients access to more than 1,371 airports in 191 countries and more than 1,000 VIP lounges throughout the world, as well as mileage accruals and redemptions with the 26 Star Alliance carrier members.

31. For international connections at its two hubs, Avianca utilizes a morning bank, an evening bank, and, for some of its connections, a midday bank of flights, with flights timed to arrive at the corresponding hub at approximately the same time and to depart a short time later. These banks give Avianca the opportunity to provide more frequent service to many destinations, allow passengers more convenient connections and increase the flexibility of scheduling flights throughout the route network.

32. The following table shows the distribution of Avianca's passenger revenue generated in each of the different regions for the periods indicated measured by destination:

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<sup>4</sup> The summary that follows is provided as of December 31, 2019. Since then, Avianca has taken measures to manage the impact of reduced demand for global air transport resulting from the spread of the COVID-19 pandemic and related government travel restrictions, and has implemented a short-term plan to adjust capacity, reduce expenses and protect the Company's liquidity. In accordance with this plan and in line with the decisions taken across the airline industry, Avianca has decreased its capacity, in the short run, by 100% of passenger commercial flights, while maintaining its cargo freighter operations.

Region	Year Ended December 31,		
	2019	2018	2017
Domestic Colombia	23.0%	23.9%	23.1%
Domestic Ecuador	1.9%	1.8%	1.9%
Domestic Peru	0.9%	1.9%	2.4%
Central America & Caribbean (non-regional)	7.7%	7.7%	8.0%
Intra Home Markets	10.0%	10.0%	10.4%
Europe	13.9%	13.4%	12.2%
North America	29.0%	27.1%	26.0%
South America	13.5%	14.0%	15.8%
Regional Central America	0.0%	0.2%	0.3%
Total	100.0%	100.0%	100.0%

### ***Bogotá Hub***

33. As of December 31, 2019, through its Bogotá hub, Avianca operated approximately 3,279 weekly scheduled flights to 25 different destinations in Colombia, eight in North America, twelve in South America, ten in Central America and the Caribbean and four in Europe. Its domestic terminal at the El Dorado International Airport allows Avianca to efficiently manage its large volumes of domestic traffic. In its domestic operations, it utilizes a “rolling hub” system whereby its inbound and outbound connecting flights operate throughout the day, instead of during designated time banks.

### ***San Salvador Hub***

34. The San Salvador hub connects, principally, passengers from different destinations in North America, Central America and South America. As of December 31, 2019, through its San Salvador hub, Avianca operated approximately 628 weekly scheduled flights to 11 destinations in North America, four in South America and nine in Central America and the Caribbean.

### ***Lima***

35. Through its network in Lima, Peru, Avianca connects passengers from different destinations in South America to destinations in North America, Central America and

Europe, through Avianca's Bogotá and San Salvador hubs. As of December 31, 2019, Avianca operated approximately 367 weekly scheduled flights through Lima to one destination in Peru, three in North America, 11 in South America and three in Central America and the Caribbean.

***San José***

36. As of December 31, 2019, through its network in San José, Costa Rica, Avianca operated approximately 139 weekly scheduled flights to two destinations in South America and three in Central America and the Caribbean. Its San José network connects, principally, passengers from different destinations in South America and Central America.

***Ecuador***

37. Avianca operates approximately 357 weekly scheduled flights to six destinations in Ecuador, three in South America and one in Central America and the Caribbean, through its subsidiary Avianca-Ecuador S.A., which is a Debtor.

***Regional Operations in Central America and Point-to-Point Service***

38. Avianca operates approximately 559 weekly scheduled domestic flights to 15 destinations in Central America through certain of its subsidiary airlines. Moreover, in addition to the destinations served through its hubs, Avianca provides domestic and international point-to-point service between different destinations, including North, Central and South America as well as Europe.

***H. Cargo and Courier Operations***

39. In addition to providing passenger transportation services, Avianca generates revenue from its cargo and courier transportation operations. Cargo and courier revenue derive primarily from the air transportation of goods, on an airport-to-airport basis, and other complementary services. In addition, Avianca generates cargo and courier revenues by domestic

and international shipments of small parcels, on a door-to-door basis and with defined transit time commitments.

### *Cargo*

40. Avianca's cargo business operates on most of the route network of its passenger airline business. In addition, it strengthens its destination offering through close to 90 interline agreements with other airlines. Avianca efficiently uses the belly capacity of its passenger fleet, and also relies on freighter-only operations. Avianca carries cargo for a variety of customers, including other international air carriers, freight-forwarding companies, export-oriented companies and individual consumers. The cargo business is operated by Tampa Cargo S.A.S. doing business as Avianca Cargo, Latin Logistics Colombia S.A.S. doing business as DEPRISA, and Aero Transportes de Carga Union doing business as Aerounion (together hereinafter "Avianca Cargo"). In 2019, Avianca Cargo represented the largest cargo carrier in gross tons in Colombia, with 40.08% of market share. Additionally, Avianca Cargo, as a group, ranked in the top three airlines to carry international freight in/out of Miami, with a 13.46% market share as stated in the Miami International Airport Statistics.

41. Avianca's international cargo operations are headquartered in Bogotá, with additional significant cargo operations in Medellín, Mexico City, and Miami. The United States accounts for the majority of Avianca's international cargo traffic to and from Latin America. In Latin America, Avianca's cargo operations focus on Colombia, Ecuador, Peru, Brazil, Mexico, Argentina and Chile. Avianca operates in/out of Europe through its scheduled passenger services to Madrid, Barcelona, London and Munich and through a freighter service to Brussels. It also offers other destinations for cargo transportation around the world through block space, special prorate and commercial agreements.

42. The cargo business is an important revenue source to the Debtors. In 2019, cargo sales accounted for almost 11.4% of the Debtors' operating revenues.

***Courier***

43. In addition to its cargo operations, Avianca also offers domestic and international courier services. Under its DEPRISA brand, which is widely recognized throughout Colombia, Avianca provides logistics solutions in the context of sending and receiving documents, packages and other merchandise domestically and internationally. DEPRISA is a significant player in the courier industry with more than 225 sales branches in Colombia and more than 50 abroad, with 1,200 domestic destinations and 220 international destinations (as a result of Avianca Cargo's alliance with UPS). DEPRISA offers a wide portfolio of products and superior delivery times, with premium service offering delivery in less than 24 hours and standard services ranging from 24 to 72 hours.

44. DEPRISA also offers Avianca third-party logistics (3PL) services complementary to transportation, such as storage, inventory control and global distribution of uniforms to employees.

45. Courier revenue represented 1.3%, 1.3% and 1.4% of Avianca's total revenue for the years ending December 31, 2019, 2018 and 2017, respectively.

***I. Ancillary Services (Including the LifeMiles Loyalty Business)***

46. Avianca also provides an array of other services, whereby it is able to complement its passenger and cargo business and further diversify its sources of revenue. This other revenue is primarily comprised of sales of *LifeMiles* program rewards to commercial partners and members of the program (net of the value of the underlying rewards which, when redeemed, are recognized as passenger revenue). Other revenue also includes air transport-related services, such as maintenance, crew training and other airport services provided to other carriers through its



Avianca Services division, as well as service charges, ticket penalties, aircraft and property leases, marketing rebates, duty-free sales, charter flights and other general activities.

47. Avianca believes that its strong loyalty program enhances customer loyalty and brand recognition and is one of its key strengths in improving profitability. In March 2011, Avianca launched *LifeMiles*, the consolidated and improved frequent flyer program of Avianca and Taca. As of December 31, 2019, *LifeMiles* had approximately 9.7 million members. Avianca's international flights and strategic partnerships with international carriers, in addition to its extensive network of 586 commercial partners, including banks, hotels, car rental agencies, and retail stores, as of December 31, 2019, provide *LifeMiles* members with a broad range of attractive options to accrue and redeem miles. As of December 31, 2019, Avianca held a 70.0% ownership stake in Lifemiles Ltd., the company that operates *LifeMiles*.

48. *LifeMiles'* business model benefits from strong operating margins, positive working capital dynamics and minimal capital expenditure requirements, which provides a unique ability to gain scale quickly. This business model includes an attractive cash flow cycle, with cash inflows from the sale of miles well in advance of the cash outflows corresponding to the redemption of those miles, making it possible for *LifeMiles* to earn interest on such cash. In addition, *LifeMiles'* unit costs are largely contracted with its main partners for extended periods, providing visibility and stability to a significant portion of its total costs and gross margins.

**J. Fleet Plan**

49. As part of the Avianca 2021 Plan (which is further described below), Avianca has been in the process of streamlining its fleet in order to increase efficiency. In late 2019 and early 2020, Avianca renegotiated its aircraft purchase orders to align them with its strategic plans. It reduced firm commitments with Airbus to 88 A320neo aircraft (from 108) for delivery in 2025 through 2028 (20 per year) and the remaining eight aircraft in 2029. It cancelled

or deferred A320neo family deliveries in 2020 through 2024. It also entered into 12-year operating leases for 10 firm A320neo aircraft deliveries with BOC Aviation, with two in the fourth quarter of 2023 and eight spread throughout 2024. Additionally, during December 2019, it reached a mutually beneficial agreement with Boeing with regards to outstanding 787-9 deliveries. In light of the turmoil and uncertainty caused by the COVID-19 crisis, additional rationalization of the Avianca fleet is under consideration.

50. The following table sets forth Avianca's firm contractual deliveries scheduled through 2029:

<b>Aircraft Type</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>Total</b>
Boeing 787-9	—	—	—	—	2	—	—	—	—	—	2
Airbus A320 neo	—	—	—	—	—	20	20	20	20	8	88
BOCA A320 neo	—	—	—	2	8	—	—	—	—	—	10
<b>Total</b>	—	—	—	2	10	20	20	20	20	8	100

51. Given the impact of COVID-19, the Debtors are likely to have a significant surplus of owned and leased aircraft at the outset of these Chapter 11 Cases, and will seek to enter into negotiations with aircraft lenders and lessors with respect to such surplus aircraft.

**K. Competition**

52. Avianca faces intense passenger and cargo air transportation competition on domestic and international routes from competing airlines, charter airlines and potential new entrants in its market, as well as in the loyalty points market with regards to its *LifeMiles* loyalty program. Airlines compete primarily in the areas of pricing, scheduling (frequency and flight times), on-time performance, on-board experience, frequent flyer programs and other services.

53. Avianca has already faced, and may in the future face, increased competition from existing and new participants in the markets in which it operates, including full-service and low-cost carriers. The air transportation sector is highly sensitive to price discounting

and the use of aggressive pricing policies. Other factors, such as flight frequency, schedule availability, brand recognition, and quality of offered services (such as loyalty programs, VIP airport lounges, in-flight entertainment and other amenities) also have a significant impact on market competitiveness.

54. Low-cost carrier business models have been gaining increasing momentum in the Latin American aviation market in recent years, particularly as challenging macroeconomic conditions in Latin America persist with the effect of limiting consumer purchasing power. The recent successes of VivaAir Group and Wingo in Colombia, Gol and Azul in Brazil, Viva Aerobus and Volaris in Mexico, and JetSMART in Chile.

55. Low-cost carriers' operations are typically characterized by point-to-point route networks focusing on the highest-demand city pairs, high aircraft utilization, single-class service and fewer in-flight amenities. Avianca's business model is significantly different from that of low-cost carriers and is predicated on providing a level of service that we consider superior and charging higher prices for such service. As low-cost carriers continue to penetrate Avianca's home markets, however, significant and lasting downward pressure on fares could compel Avianca to continue to further adapt its business model to evolving passenger preferences.

***L. Strengths Going Forward***

56. Despite the various challenges faced by the Debtors, the Debtors are well-positioned to achieve success going forward. The Debtors will build on the core strengths of their existing businesses, including a market leadership position in the vibrant Latin American airline market, Avianca's strong brand, its focus on the key hub in Bogotá and the strength of the *LifeMiles* program, among other things, to emerge from these Chapter 11 Cases as an elite competitor in the Latin American and global airline marketplace for years to come.

## II. Capital Structure

57. Avianca Holdings is a public reporting company under section 12(b) of the Securities Exchange Act of 1934 (the “Exchange Act”).<sup>5</sup> Avianca’s shares of non-voting common stock (which are common shares with a dividend and liquidation preference, and are therefore also referred in the local markets as “preferred shares”) are traded under the symbol “PFAVH” on the Colombian Stock Exchange. Effective November 13, 2013, Avianca also issued American Depository Receipts (“ADRs”)<sup>6</sup> in the United States through The Bank of New York Mellon, as depository bank. The ADRs represent non-voting common shares and are traded under the symbol “AVH” on the New York Stock Exchange. As of March 31, 2020, and including the ADRs, Avianca had 660,800,003 shares of common stock outstanding and 340,507,917 shares of non-voting common stock outstanding (including 4,320,632 non-voting common shares held by Fiduciaria Bogotá on behalf of Avianca).

58. Avianca Holdings, a Panama corporation, is the direct and indirect parent company of the Debtors’ entire corporate enterprise. An organizational chart showing Avianca Holdings’ material subsidiaries is annexed hereto as Exhibit A.

59. As of March 31, 2020, on a consolidated basis (including non-Debtors), Avianca had assets and liabilities of approximately \$7,021,048,000 and \$7,137,842,000, respectively, unrestricted cash and cash equivalents of approximately \$473,607,351<sup>7</sup> (of which \$169,403,281 is in control accounts or otherwise unavailable), and negative stockholders’ equity of approximately \$116,794,000. The Debtors have sought Chapter 11 relief, in part, to preserve

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<sup>5</sup> While Avianca Holdings does file certain periodic reports with the SEC as a “foreign issuer” under Section 12(b) of the Exchange Act (*e.g.*, Form 6-F and Form 29-K), the Debtors do not currently prepare and maintain financial reports in the form required by Bankruptcy Rule 2015.3 for each of their non-Debtor affiliates

<sup>6</sup> Each ADR represents eight (8) preferred shares with a par value of \$0.125 per share.

<sup>7</sup> On a fully consolidated basis, including LifeMiles Ltd. and other non-Debtors.

their cash. The cash in control accounts or otherwise unavailable includes cash held at LifeMiles Ltd., which is not a Debtor.

60. As of March 31, 2020, on a consolidated basis, the Debtors had approximately \$5,356,880,678 of outstanding indebtedness, of which approximately \$5,272,406,861 (or 98.42%), was secured by certain assets of the Debtors. The secured indebtedness comprises both long-term indebtedness (generally incurred to finance or refinance the acquisition of aircraft), indebtedness under secured credit facilities, and a substantial portion of the Debtors' indebtedness under secured notes. The Debtors' total balance sheet debt secured by aircraft and engines is almost \$3.7 billion and requires substantial payments on a periodic basis. The Debtors' secured financings encumber a substantial portion of their assets, including (i) certain collections from the sale of airfare and collections of revenue related to freight and cargo transportation services, (ii) certain aircraft, aircraft engines and spare parts, (iii) certain real estate, (iv) slots at certain airports, (v) cash and cash equivalents pledged in deposit or security accounts, and (vi) certain trademarks owned by the Debtors. The weighted average interest rate paid per annum as of March 2020 under all the Debtors' indebtedness was 5.16%. An overview of the Debtors' indebtedness follows:

**A. Secured Debt**

*(i) Financed Aircraft – Bank Loans and  
Export Credit Agency Guarantees*

61. The vast majority of the Debtors' fleet of aircraft and engines is operated pursuant to a variety of lease arrangements under which the relevant Debtor makes periodic rent payments to the relevant lessor. Approximately half of the leased fleet is subject to financing arrangements involving one of the following structures: (i) export credit agency guaranteed debt; (ii) commercial debt, (iii) loan or note facilities provided pursuant to private placements; and (iv)

loan facilities provided by commercial lenders and sponsored by Japanese investors. These fleet related financings are provided by various commercial banks and private investors in the United States, Europe and Asia, including, among others, JPMorgan, Citibank, MUFG, New York Life, Natixis and BNP Paribas.

(ii) *Additional Syndicated Loans Secured by Credit Card Receivables*

62. The Debtors are parties to two syndicated loans, each of which is secured by certain credit card receivables.

- Syndicated Loan with Banco de Bogotá S.A., New York Agency, as Initial Lender, Sole Lead Arranger and Bookrunner, and Fiduciaria Bogotá S.A., as Administrative Agent, in the principal amount of \$245,000,000, bearing interest at 3-Month LIBOR + 3.9% per annum. The syndicated loan is secured by certain credit card receivables processed and collected by Credomatic. As of March 31, 2020, the syndicated loan had an outstanding balance of \$134,750,000.
- Syndicated Loan with the lenders thereunder, including Deutsche Bank, AG and Citibank, N.A., as Administrative and Collateral Agent, in the principal amount of \$150,000,000, bearing interest at One-Month LIBOR + 4.75% per annum. The loan is secured by collections rights under certain credit card processing agreements. As of March 31, 2020, the syndicated loan had an outstanding balance of \$103,125,000.

(iii) *Revolving Credit Facility*

63. The Debtors are borrowers under a \$100 million revolving credit facility with Citibank, N.A. as agent, (if needed we can add other lenders) secured by spare parts inventories, along with airport slots, cargo receivables and one aircraft. As of March 31, 2020, the revolving credit facility had an outstanding balance of approximately \$100,000,000.

(iv) *Conversion of Senior Unsecured Notes due 2020 to Senior Secured Exchange Notes due 2023*

64. As part of the Debtors' efforts to reprofile their financial debt, in August 2019 the Debtors launched an offer to exchange any and all of the Debtors' outstanding 8.375% Senior Notes due 2020 (the "2020 Notes") for a new issuance of Senior Secured Notes to be issued

by the Debtors (the “2020 Secured Notes”), which, subject to the satisfaction of certain conditions precedent (such as the funding of the \$250,000,000 stakeholder facility described in subsection (v) below), were further subject to an automatic mandatory exchange for an equivalent principal amount of 9.00% Senior Secured Notes due 2023 (the “2023 Secured Notes”). Upon expiration of the exchange offer, holders of \$484,419,000 aggregate principal amount of the Debtors’ issued and outstanding 2020 Notes had tendered such notes in exchange for 2020 Secured Notes, which were further automatically exchanged for 2023 Secured Notes on December 31, 2019. As of the date of this filing the aggregate principal amount of the 2023 Secured Notes is of \$484,419,000.

(v) *Convertible Secured Stakeholder Facility*

65. In December 2019, upon satisfaction of certain conditions precedent, a \$250 million convertible secured stakeholder facility loan by United Airlines, Inc. and an affiliate of Kingsland Holdings Limited (the “Stakeholder Facility”) was funded. The Stakeholder Facility has a four-year tenor and is subject to an interest rate of 3% per annum, payable in kind (PIK). The Stakeholder Facility is convertible into Avianca Holding equity (common shares or preferred shares at the lenders’ option) at any time and, after the first anniversary of its disbursement, it shall also be subject to mandatory conversion in Avianca’s discretion, as long as certain conditions are met. The obligations of Avianca Holdings and the obligors under the Stakeholder Facility are secured by pledge agreements in respect of Avianca Holdings’ equity interest in certain of its subsidiaries (including LifeMiles Ltd.), a New York Law governed security agreement in respect of certain rights assigned to the lenders under the Stakeholder Facility, credit card receivables and a trust collection account in respect of certain receivables from sales and a pledge over fiduciary rights subject to Colombian law.

66. Additionally, in January 2020, certain Latin American investors loaned to the Debtors (x) an additional \$50 million, on substantially the same economic terms (and collateral

security) as the Stakeholder Facility, and (y) an additional \$25 million, also on substantially the same economic terms as the Stakeholder Facility, except that any voluntary prepayment by the Debtors on or before the earlier to occur of June 5, 2020 or the completion of a contemplated convertible bond offering to preferred shareholders by the Debtors (the “Incremental Bonds”) triggers a cash interest payment at 12% per annum in respect of the prepaid amount.

(vi) *Citadel Senior Secured Convertible Notes*

67. In January 2020, the Debtors issued certain senior secured convertible notes in an aggregate principal amount of \$50 million to an investment vehicle managed by Citadel Advisors LLC (the “Citadel Notes”).

68. The Citadel Notes have a one-year tenor and are subject to an initial interest rate of 9% per annum, payable in kind (PIK). Upon the issuance of at least \$140 million aggregate principal amount of Incremental Bonds, the annual interest rate on the Citadel Notes would be subject to reduction to 3% (while it would remain payable in kind), and the Debtors’ would automatically have the right, at their discretion, to optionally prepay the Citadel Notes at par. The Citadel Notes are convertible at the election of their holders to ADRs, preferred shares of Avianca Holdings, or Incremental Bonds. The obligations of Avianca Holdings and the obligors under the Citadel Notes are secured by pledge agreements in respect of Avianca Holdings’ equity interest in certain of its subsidiaries, a New York Law governed security agreement in respect of certain rights assigned Citadel and any purchasers under the Citadel Notes, credit card receivables and a trust collection account in respect of certain receivables from sales, a cash collateral account and a pledge over fiduciary rights subject to Colombian law.

(vii) *Other Secured Debt*

69. The Debtors are borrowers under a loan agreement with Credit Agricole NY in the principal amount of \$80,562,900, bearing interest at 3-month LIBOR + 1.85% per annum



and maturing March 31, 2022. The loan is secured by certain spare engine units and, as of March 31, 2020, the loan had an outstanding balance of approximately \$58,671,190.

70. The Debtors are also borrowers under a loan agreement with Banco de Bogotá, New York Agency in the principal amount of \$50,600,000, bearing interest at the 1-month LIBOR + 3.5% per annum and maturing July 30, 2024. The loan is secured by certain real property in Colombia. As of March 31, 2020, the loan had an outstanding balance of approximately \$25,747,787.

71. The Debtors are also parties to multiple loan agreements with Nord/LB, which are secured by certain aircraft and, as of March 31, 2020, had an outstanding balance of approximately \$64.8 million.

**B. Unsecured Debt**

*(i) Senior Notes*

72. In May 2013, the Debtors issued \$300 million in aggregate principal amount of 2020 Notes, which was the Debtors' first offering in the international capital markets. In April 2014, the Debtors issued \$250 million in aggregate principal amount of additional 2020 Notes. The 2020 Notes are unsecured and will mature on May 10, 2020. As described *supra* ¶ 65, the 2020 Notes were subject to an exchange offer conducted by the Debtors, pursuant to which holders of 2020 Notes representing more than 88.1% of the original aggregate principal amount thereof exchanged their 2020 Notes for Secured 2020 Notes. Consequently, as of the date of this filing, the aggregate principal of the 2020 Notes still outstanding is \$65,581,000.

*(ii) Unsecured Revolving Lines of Credit*

73. The Debtors have unsecured revolving lines of credit with a range of financial institutions. As of March 31, 2020, \$42.1 million was outstanding, in the aggregate, under these various lines of credit.

(iii) *Trade Payables*

74. As of the Petition Date, the Debtors' have aggregated unsecured trade payables of approximately \$275 million.

(iv) *New Aircraft Commitments*

75. The Debtors have amended their aircraft purchase agreements and reduced their order of Airbus A320neo by 20 aircraft, and negotiated with Airbus a postponement in certain aircraft deliveries previously scheduled for 2020, 2021, 2022, 2023, and 2024, which will now be delivered between 2025 and 2029, as well as certain changes to the Airbus A320neo aircraft to be delivered. This agreement will reduce capital expenditures related to Avianca's fleet by approximately \$4.0 billion over the next three years. The Debtors have also amended their aircraft purchase agreements with Boeing to postpone the delivery date of two aircraft from 2021 to 2024.

76. As of December 31, 2019, the Debtors' financed aircraft obligations, including the foregoing purchase commitments, aggregated to more than \$2.32 billion, with approximately \$1.024 billion due payable over the next three years.

(v) *Other Contractual Obligations*

77. As of December 31, 2019, the Debtors operated 57 aircraft under long-term lease agreements, pursuant to which the Debtors are required to make monthly lease payments and to bear the maintenance, servicing, insurance, repair and overhaul expenses of the leased aircraft. As of December 31, 2019, the Debtors' aircraft lease obligations aggregated to more than \$1.44 billion, with approximately \$765.9 million due payable over the next three years. In addition, approximately 9 of the Debtors' owned aircraft are financed under Japanese operating leases with call options.

**III. Events Leading to Commencement of Chapter 11 Cases**

78. 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 economy 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 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 reduced revenues from ticket sales and ancillary revenues, government prohibitions around the world on international flights, substantial ongoing contractual obligations to their employees, lessors, lenders and other creditors, and a near complete standstill of the global economy.

79. As noted above, on March 20, 2020, the Republic of Colombia, similarly to many other governments around the world, announced that it would close its airspace to address the spread of COVID-19. Consistent with this decision and similar closures in 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. The Debtors are taking all steps necessary to mitigate the impact of this shutdown, and are exploring all available options for commencing flight operations in the near term and their ultimate emergence from Chapter 11 protection as successful participants in the Latin American airline market. In light of these circumstances, the Debtors are likely to have a significant surplus of owned and leased aircraft at the outset of this case and will seek to enter into negotiations with aircraft lenders and lessors with respect to such surplus aircraft.

80. In addition to the impacts of COVID-19, under previous management and going back a number of years, the Debtors and their controlling shareholders incurred substantial

leverage to increase capacity which ultimately outpaced demand in Colombia and other principal markets and resulted in an unsustainable level of debt service. The situation culminated in the first half of 2019 with defaults under loan agreements whereby the then-controlling shareholders had borrowed funds from United Airlines (the “United Loan”), triggering alleged cross-defaults under certain of the Debtors’ indebtedness beginning in mid-May 2019. This situation limited the Debtors’ access to the financing markets, resulting in ratings downgrades, and, together with other factors, contributed to the Debtors’ financial distress, preventing them from consummating certain transactions that they had expected to result in a significant improvement in liquidity and severely impacting their efforts to refinance near-term maturities of existing debt and their ability to finance capital expenditures.

81. Upon the default under the United Loan by the then-controlling shareholder, BRW Aviation LLC (“BRW”), United Airlines initiated and filed an enforcement action against BRW Aviation LLC and BRW Aviation Holding LLC to enforce a share pledge granted as collateral for the United Loan, seeking to take control of 78.1% of Avianca Holding’s common shares. Additionally, as provided for in the United Loan, United Airlines appointed Kingsland Holdings Limited as BRW’s manager and, as a result, BRW lost the right to direct the manner in which BRW votes the shares subject to the pledge.

82. In July 2019, in response to the headwinds facing the company, Avianca’s new board of directors adopted a transformation plan named the “Avianca 2021 Plan,” which contained three key elements: (1) the naming of a new, experienced airline leadership team with Mr. Anko van der Werff as Chief Executive Officer, myself as Chief Financial Officer, and additional executives in other key positions; (2) the launching of a comprehensive multi-year process to significantly enhance the Debtors’ business and drive an annual profitability

improvement of \$500-plus million; and (3) the implementation of various restructuring initiatives including the successful reprofiling of over \$4.5 billion in debt, the restructuring of its long-term aircraft-related commitments and critical vendor relationships, the sale of certain non-core assets (especially excess aircraft), and the strengthening of its balance sheet to support liquidity requirements and deleveraging going forward. With respect to the third element, Avianca's debt reprofiling consisted of: (i) the extension of the maturity on the 2020 Bonds (as discussed above); (ii) securing \$375 million of new long-term capital financing in the form of a mandatorily convertible debt financings by Avianca's stakeholders and other financing parties; and (iii) deferrals or other consents or waivers from creditors holding approximately \$4.5 billion in debt and lease obligations. In addition, the Debtors raised approximately \$159 million of additional cash over the course of first quarter of 2020 via sale/leaseback transactions with respect to nine midlife A320 aircraft.

83. The Avianca 2021 Plan also contained comprehensive initiatives to provide for significant improvements across the business commercially and operationally. The Avianca 2021 Plan eliminated unprofitable flying, grew the strategic Bogotá hub through an improved flight schedule, expanded international service (including code-sharing), enhanced customer choice through actions such as branded fares and the sale of ancillary products, implemented improved technology, and accelerated the growth of the *LifeMiles* program. Additionally, the Avianca 2021 Plan implemented greater efficiency in scheduling aircraft, expanded productivity in airport and flight operations, facilitated purchasing savings, reduced fuel consumption, simplified Avianca's operating model, and significantly reduced management and back office overhead.

84. In keeping with the Avianca 2021 Plan, the Debtors and their new leadership team made substantial progress on all of the foregoing key objectives during the second half of 2019 and the first quarter of 2020. The debt reprofiling plan was substantially completed by December 2019, which resulted in significantly improved liquidity for the Debtors. By January 2020, Avianca's business model transformation milestones had been achieved and the Avianca 2021 Plan had been translated into 12 and 24-month budgets with a detailed implementation roadmap. In addition, the price of jet fuel had trended below plan assumptions, yielding further projected cost savings. Operating results were also strong, with indications of year-over-year performance improvements and exceptional execution by Avianca's entire team of employees. In total, Avianca's first quarter 2020 results (pre-COVID-19) were consistent with its detailed strategy and financial outlook contained within the Avianca 2021 Plan and 2020 budget. COVID-19, of course, substantially changed the Company's performance beginning in March 2020.

85. After emerging from these Chapter 11 Cases, I expect Avianca to continue the implementation of the Avianca 2021 Plan and to rebuild its network at a measured pace, consistent with the rebound of demand for air transport services, while also reducing overall size and complexity in the Company's fleet, network, and corporate operations. As previously discussed, an important component of the Debtors' successful reorganization will be to expeditiously address the looming issue of surplus aircraft that the Debtors can ill afford to retain.

86. I believe that the changes described above, together with the ongoing implementation of the Avianca 2021 Plan, will be key components of Avianca's path to success. With new independent directors and additional members with significant airline industry experience, Avianca's new board of directors brings to bear an enhanced level of corporate

governance, which, along with new executive leadership, will work to implement a strategic vision of right-sizing operations and transforming Avianca into a highly-focused and profitable airline.

87. Moreover, notwithstanding the recent challenges facing the company, I believe that the Debtors' core businesses remain strong in large part due to the underlying strength of the Colombian air travel market. With a diverse topography that includes three mountain ranges, 42 rivers, and large distances between its population centers,<sup>8</sup> Colombia is heavily reliant on air transport for goods and people. Colombia's nearly 50 million inhabitants are dispersed over a large territory with a limited ground transportation network, thereby making the Debtors' services essential to the efficient operation of the country's economy. Further, the Debtors' primary hub in Bogotá plays a central role in Latin American air travel, ranking third in total available seats in 2019 behind only Mexico City and São Paulo.

88. The Debtors also expect to benefit from the underlying strength of the Colombian economy, which has been one of the fastest growing in Latin America in recent years and is expected to recover after COVID-19. The Colombian economy has experienced robust growth due to, among other things, the November 2016 peace deal that was signed by the government of Colombia and the Revolutionary Armed Forces of Colombia (commonly known as FARC), as well as the government's track record of prudent macroeconomic and fiscal management.<sup>9</sup> As the largest airline in Colombia with one of Latin America's strongest customer loyalty programs (*LifeMiles*), the Debtors are well-positioned to continue to leverage these competitive advantages as a go-forward enterprise upon emergence from Chapter 11 protection.

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<sup>8</sup> See *Encyclopedia Britannica – Colombia*, available at <https://www.britannica.com/place/Colombia#ref25345> (last accessed: April 15, 2020).

<sup>9</sup> See *The World Bank – Colombia*, available at <https://www.worldbank.org/en/country/colombia/overview> (last accessed: April 15, 2020); *Venezuela Diaspora Boosts Colombian Growth to Fastest Since 2015*, available at <https://www.bloomberg.com/news/articles/2019-11-14/colombia-defies-global-slowdown-with-fastest-growth-since-2015> (last accessed: April 15, 2020).

89. However, due to the uncertainty of the overall macroeconomic climate in the short to medium term and the precipitous decline in the Debtors' liquidity, their cessation of flights and other services, and the lack of any immediate access to external funding sources, there is a consensus among the Debtors' management and advisors that the Debtors and their employees, their creditors, shareholders, other stakeholders (including the many communities served by the Debtors), their codeshare partners, and their passengers, will all be better served by seeking to consummate a restructuring under the protections of the Bankruptcy Code, in order for the Debtors to avail themselves of the protections provided thereby while they negotiate a global deal with their lessors, lenders and other counterparties. The protections afforded by the Bankruptcy Code will also ensure an ongoing ability to pay the Debtors' employees, critical vendors and other counterparties, and maintain the Debtors' ability to resume flights and expeditiously exit the protection of the Court when circumstances permit.

90. Importantly, the Debtors currently have access to unrestricted cash that they intend to use to fund these Chapter 11 Cases in the near term, and therefore are not seeking approval of any debtor-in-possession financing facility at this time. That said, the Debtors' cash burn is anticipated to be significant given the precipitous decrease in the Debtors' revenues. The Debtors eventually may need a substantial infusion of new capital, whether in the form of debtor-in-possession financing or exit financing (or both), and are exploring various liquidity opportunities to fund the business plan and the Debtors' ultimate emergence.

#### **IV. First Day Pleadings**

91. Concurrently with its Chapter 11 petitions, the Debtors are filing the following First Day Pleadings:

- a. *Debtors' Motion for Entry of an Order Pursuant to Fed. R. Bankr. P. 1015(b) Directing Joint Administration of Chapter 11 Cases* (the "Joint Administration Motion");



- b. *Debtors' Motion Seeking Entry of an Order (i) Authorizing the Debtors to (a) Prepare a List of Creditors In Lieu of Submitting a Formatted Mailing Matrix and (b) File a Consolidated List of the Debtors' 30 Largest Unsecured Creditors, (ii) Authorizing the Debtors to Redact Certain Personal Identification Information for Individual Creditors, (iii) Approving the Form and Manner of Notifying Creditors of Commencement of these Chapter 11 Cases, and (iv) Granting Related Relief (the "Creditor Matrix Motion")*;
- c. *Debtors' Motion Pursuant to 11 U.S.C. §§ 105(A) and 521, Fed. R. Bankr. P. 1007(c) and 9006(b), and Local Rule 1007-1 for Entry of Order Extending Time to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Statements of Financial Affairs (the "Schedules and Statements Extension Motion")*;
- d. *Debtors' Motion Seeking Entry of an Order (i) Establishing Certain Notice, Case Management, and Administrative Procedures, and (ii) Granting Related Relief (the "Case Management Motion")*;
- e. *Debtors' Motion Pursuant to 11 U.S.C. § 105 for Entry of an Order Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541(c) (the "Automatic Stay Motion")*;
- f. *Debtors' Application Pursuant to 28 U.S.C. § 156(c), 11 U.S.C. § 105(a), and Local Rule 5075-1 for Entry of an Order Appointing Kurtzman Carlson Consulting LLC as Claims and Noticing Agent for the Debtors (the "KCC Retention Application")*;
- g. *Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a), 345(b), 363(b), 363(c), 364(a), 503(b)(1), and 507 and Fed. R. Bankr. P. 6003 and 6004 for (i) Interim and Final Authority to (a) Continue Existing Cash Management System, (b) Continue Existing Intercompany Transfers, (c) Honor Certain Prepetition Obligations Related Thereto, and (d) Maintain Business Forms and Existing Bank Accounts; (ii) an Extension of Time to Comply With, or Seek Waiver of, 11 U.S.C. § 345(b); and (iii) Related Relief (the "Cash Management Motion")*;
- h. *Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a), 362(d), 363(b), and 507 and Fed. R. Bankr. P. 4001, 6003, and 6004 for Interim and Final Authority To (i) Pay Prepetition Wages, Salaries, and other Compensation and Benefits, (ii) Maintain Employee Benefit Programs and Pay Related Administrative Obligations, and (iii) Authorize Banks to Honor and Process Related Checks and Transfers (the "Employee Wages Motion")*;
- i. *Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a), 363(b)(1), 503, 1107, 1108, and 1112 and Fed. R. Bankr. P. 6003 and 6004 for Interim and Final Orders (i) Authorizing Debtors To (a) Continue Insurance Coverage*

*Entered into Prepetition and Satisfy Prepetition Obligations Related Thereto and (b) Renew, Supplement, or Purchase Insurance Policies, and (ii) Granting Related Relief (the “Insurance Motion”);*

- j. *Debtors’ Motion Pursuant to 11 U.S.C. §§ 105(a), 363(b), 507(a), and 541 and Fed. R. Bankr. P. 6003 and 6004 for Order Authorizing Payment of Certain Prepetition Taxes (the “Taxes Motion”);*
- k. *Debtors’ Motion for an Order Pursuant to Sections 105(A) and 363 of the Bankruptcy Code Authorizing the Debtors to Pay Certain Outside Maintenance and Service Providers, Shippers, and Contractors in Satisfaction of Perfected or Potential Mechanics’, Materialmen’s or Similar Liens or Interests (the “Lien Claimants’ Motion”);*
- l. *Debtors’ Motion for Interim and Final Orders Pursuant to Sections 105(A) And 363 of the Bankruptcy Code (i) Authorizing Debtors to Pay or Honor Prepetition Obligations to Customers, Travel Agents, Charter and Tour Operators, and Certain Other Business Entities; (ii) Modifying Automatic Stay To The Extent Necessary To Effectuate Ordinary Course Setoffs With Such Counterparties; And (iii) Granting Related Relief (the “Customer Programs Motion”);*
- m. *Debtors’ Motion for Interim and Final Orders (I) Pursuant to Sections 105(A) and 365 of the Bankruptcy Code, Authorizing Debtors to Assume Certain Agreements; (ii) Pursuant to Sections 105(A) and 363 of the Bankruptcy, Code Authorizing but not Directing the Debtors to Satisfy (A) Certain Prepetition Obligations Pending Assumption, and (B) Certain Obligations to Other Airlines Settled Through Airline Clearinghouses And Certain Prepetition Frequent Flyer Obligations To Other Airlines; and (iii) Modifying The Automatic Stay Pursuant To Section 362 of the Bankruptcy Code To Effectuate The Foregoing (the “Interline and Clearinghouse Motion”);*
- n. *Debtors’ Motion for an Order Pursuant to Sections 105(A), 363, and 364(C) of the Bankruptcy Code for Authorization to Enter Into, Continue Performance and Provide Credit Support Under Hedging And Derivative Contracts (the “Derivative Contracts Motion”);*
- o. *Debtors’ Motion for an Order Pursuant to Sections 105(A), 362, 363, and 553 of the Bankruptcy Code (i) Authorizing, but not Directing, the Debtors to Pay Prepetition Amounts Owing to Fuel Relationship Parties and to Continue Performing Under Related Contracts, and (ii) Authorizing Fuel Relationship Parties to Exercise their Setoff and Recoupment Rights (the “Fuel Suppliers Motion”);*
- p. *Debtors’ Motion for an Order Pursuant to Sections 105(A) and 363 of the Bankruptcy Code Authorizing Debtors to Pay or Honor Prepetition*

*Obligations to Foreign Vendors, Service Providers, and Governments* (the “Foreign Creditor Motion”);

- q. *Debtors’ Motion for Entry of Interim and Final Orders Pursuant to Sections 105(A), 363(b)(1), and 503(B)(1) and 503(B)(9) of the Bankruptcy Code Authorizing the Payment of Certain Undisputed Obligations Arising from Goods Ordered Prepetition* (the “Section 503(b) Motion”); and
- r. *Debtors’ Motion for Entry of an 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* (the “Reclamation Procedures Motion”).

92. As noted above, contemporaneous with the filing of their Chapter 11 petitions, the Debtors have filed several First Day Pleadings seeking relief that is necessary to enable the Debtors to smoothly transition into these Chapter 11 Cases and minimize certain of the potential adverse effects of the commencement of the Chapter 11 Cases.

93. I have reviewed each of the First Day Pleadings or had their contents explained to me, and I believe the Debtors would suffer immediate and irreparable harm absent the ability to continue their business operations as contemplated by the relief requested in the First Day Pleadings. In my opinion, the grant of the relief sought in the First Day Pleadings will be critical to the Debtors’ efforts to monetize the value of their assets in bankruptcy in a manner that preserves and maximizes value for the benefit of all stakeholders.

94. Several of the First Day Pleadings request authority to pay certain prepetition claims. I am told by the Debtors’ advisors that Rule 6003 of the Federal Rules of Bankruptcy Procedure provides, in relevant part, that the Court shall not consider motions to pay prepetition claims during the first twenty-one (21) days following the filing of a Chapter 11 petition, “except to the extent relief is necessary to avoid immediate and irreparable harm.” In light of this requirement, the Debtors have limited their request for immediate authority to pay

prepetition claims to those circumstances where the failure to pay such claims would cause immediate and irreparable harm to the Debtors and their estates.

95. Notwithstanding the fact that the Debtors' passenger transport business has been grounded, the Debtors must obtain immediate authority to pay certain prepetition claims (including various vendor claims) in order to avoid irreparable harm to their businesses. The Debtors' cargo transport business remains in full operation, and generally has not been subject to the travel restrictions imposed by various governments in the markets which the Debtors operate. Moreover, the Debtors also must continue to operate limited charter flights, repatriation flights, and "ferry flights" of their passenger aircraft (involving the repositioning and relocation of various passenger aircraft depending on aircraft parking and storage availability in various locations). The Debtors also continue to perform certain "lead time" operations in anticipation of a modest near-term resumption of passenger flights. Certain operations must be undertaken sufficiently in advance—such as aircraft maintenance, ticket sales, and ongoing flight training—to allow for passenger flights to timely resume when circumstances permit. Furthermore, aircraft require substantial maintenance, even while grounded, in order to maintain airworthiness and asset values. The relief requested in the First Day Pleadings is therefore necessary and appropriate to accomplish these goals and to protect against further diminution in the value of the Debtors' businesses.

96. Below is a brief discussion of the Debtors' operations-related First Day Pleadings (purely procedural motions are not addressed) and an explanation of why, in my belief, such motions are critical to the successful prosecution of these Chapter 11 Cases. More detailed

descriptions of the facts regarding the Debtors' operations, and the bases for the relief requested in the operational motions, can be found in each relevant First Day Pleading.<sup>10</sup>

**A. Cash Management Motion**

97. By the Cash Management Motion, the Debtors request entry of interim and final orders (i) authorizing the Debtors to (a) continue using their existing Cash Management System, including the continued maintenance of the existing Bank Accounts (as defined below) and use of existing business forms; and (b) continue to perform and honor intercompany transactions in the ordinary course of business; (ii) granting a waiver of, or an extension of time to comply with, section 345(b) of the Bankruptcy Code; and (iii) granting related relief.

98. To facilitate the efficient operation of their businesses, the Debtors and their non-debtor affiliates use an integrated, centralized Cash Management System to collect, transfer, and disburse funds generated by their operations. The Cash Management System has several main components: (i) cash collection, including the collection of revenues generated in the ordinary course through ticket and other sales to customers;<sup>11</sup> (ii) cash transfers among the Debtors and certain of their non-debtor affiliates; and (iii) cash disbursements to fund the Debtors' business operations and related obligations.

99. The Cash Management System facilitates cash monitoring, forecasting, and reporting and enables the Debtors and their non-debtor affiliates to maintain control over the administration of approximately 257 Bank Accounts in Central America, North America, South

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<sup>10</sup> Capitalized terms not defined in the following summaries have the meanings ascribed to such terms in the relevant First Day Pleadings.

<sup>11</sup> As part of their daily operations, the Debtors collect cash, checks, wire transfers, automated clearing house ("ACH") transfers, and credit and debit card payments from customers and certain other parties. Each of the Debtors' operating airlines receives funds generated by or on account of that specific Debtor's operations either (i) directly via ACH, wire, money order, and check from third parties or (ii) indirectly via intercompany transfers when Bank Account balances reach a certain threshold.

America, Europe, and the Caribbean at a range of Banks. The Debtors use the Bank Accounts to organize and monitor cash flows across the Debtors' corporate enterprise and to centralize procurement for general administrative and operating expenses. Although each operating airline Debtor maintains a separate cash collection and disbursement system, the Cash Management System is an integrated, overarching system that is supervised by the Debtors' Treasury Department, which includes a Cash and Investment Department and a Cash Management Department.

100. The Cash Management Departments use the Cash Management System to direct the flow of funds collected in the ordinary course of their operations to certain Key Bank Accounts maintained primarily by their airline operating entities. The Key Bank Accounts are principally located in the United States, Colombia, Panama, Costa Rica, Curacao, Ecuador, Guatemala, Honduras, Mexico, Puerto Rico, El Salvador and Spain. The Debtors regularly concentrate their cash assets and collections into the Key Bank Accounts such that the Key Bank Accounts maintain the highest number of payment obligations and the highest availability of funds. As needed, the Debtors transfer funds from the Key Bank Accounts to non-key Banks Accounts to timely satisfy outstanding payment obligations.

101. Since the Cash Management System thus directs funds to each affiliate in accordance with its needs (the "Intercompany Transactions"), this may have the effect, from time-to-time, of rendering some entities net lenders and some net borrowers, creating intercompany claims. To ensure that each Debtor will not fund the operations of another entity without adequate means of recourse, the Cash Management Motion also requests that all Intercompany Claims arising after the Petition Date be accorded superpriority status, with priority

over any and all other administrative expense claims, subject and subordinate only to the priorities, liens, claims and security interests that may be granted by the Court, from time to time.

102. The Debtors' Investment Department manages the Debtors' excess cash pursuant to the Investment Policy. Funds not needed for disbursements or other operating requirements are invested in accordance with the Investment Policy. The primary objective of the Investment Policy is the preservation of principal, diversification of counterparty risk, and maintenance of accessibility to funds. Secondly, the goal of the Investment Policy is to optimize returns without compromising safety and liquidity.

103. The Investment Policy places appropriate safeguards on the approved investments. For example, the maximum limit to be allocated to a financial group is 35% of the total value of the Debtors' excess cash. Thus, the Investment Policy reflects a disciplined and prudent strategy that permits the Debtors to balance the need to maximize returns on excess cash while ensuring that such cash is readily available for use in the Debtors' business operations.

104. The Cash Management Motion also seeks a waiver, or an extension of the Debtors' time to comply with, the investment and deposit restrictions imposed by section 345 of the Bankruptcy Code. As set forth in the Cash Management Motion, cause exists for such a waiver. Many of the Bank Accounts are maintained at banks that have been approved by the U.S. Trustee as "authorized depositories." Any funds that are deposited in these accounts are, the Debtors believe, secure and, thus, with respect to these accounts, the Debtors are in compliance with section 345.

105. A number of other Bank Accounts, however, may be located at financial institutions that are not "authorized depositories," including foreign Banks. While the foreign Banks utilized by the Debtors are not on the U.S. Trustee's list of authorized depositories, they

are, by and large, internationally known and financially stable institutions, based upon, among other considerations, their Moody's, Fitch and S&P long-term debt/deposits ratings. Indeed, each is a highly rated financial institution, including the likes of Banco de Bogotá, Banco de America Central, Davivienda, La Caixa, Banamex and Banco Santander, all of which are considered in their home jurisdictions to be of the same rank as the U.S. institutions on the Authorized Depository list.

112. Because the Bank Accounts at foreign Banks are vital to the Cash Management System, requiring the Debtors to transfer these funds to other Banks would be crippling to the Debtors' operations, which must seamlessly operate across multiple jurisdictions. Indeed, given that the substantial majority of the Debtors' employees are based in locations outside of the United States (as well as the majority of the Debtors' operations and vendors), it is absolutely critical for the Debtors to maintain the Foreign Banks in the jurisdictions in which they operate in order to, among other things, pay their employees and vendors in local currencies. Additionally, in certain instances, the Debtors are required by their aeronautical regulators to maintain a bank account in applicable jurisdictions.

106. Indeed, the costs associated with satisfying the requirements of section 345 would be burdensome, and the process of satisfying those requirements would lead to needless inefficiencies in the management of the Debtors' business. A bond secured by the undertaking of a corporate surety would be prohibitively expensive, if such a bond were available at all. Requiring the Debtors to change their Bank Accounts and other components of the Cash Management System also would—especially in light of the turmoil and uncertainty caused by the COVID-19 crisis—result in a significant disruption of the Debtors' businesses, which rely upon the Cash Management System for their business operations.



107. The Cash Management System is integrated into the Debtors' business operations, with automatic and manual account actions occurring on a daily and weekly basis. Any disruption to the Cash Management System would, for all the reasons set forth above, be extremely detrimental to the Debtors' operations, as their businesses require prompt access to cash and accurate cash tracking.<sup>12</sup>

**B. Employee Wages Motion**

108. The Debtors are in the unfortunate position of having to file these Chapter 11 Cases in the middle of the COVID-19 global pandemic. COVID-19 has caused a complete cessation in the Debtors' passenger transport business (though the Debtors' cargo transport business and certain ancillary operations remain in full operation). Like many other airlines amidst these difficult times, a large percentage of the Debtors' employees (more than 40%) are currently on voluntary unpaid leave or have had their labor agreements suspended (collectively, the "Furloughed Employees"), though certain of the Furloughed Employees may receive continued employee benefits and a modest stipend.

109. The Debtors believe that their current situation in relation to COVID-19 is temporary. Although there remains considerable uncertainty as to when various national and local governments will lift travel restrictions, the Debtors hope to be in a position to return as many of their Furloughed Employees to work as possible. Based on information currently available, the Debtors hope that some of their Furloughed Employees will be able to return to work in early

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<sup>12</sup> As related relief, the Cash Management Motion also seeks authority to (i) pay periodic Service Charges and other fees to the Banks relating to the maintenance of the Cash Management System, of which the Debtors estimate there was approximately \$91,000 due and owing as of the Petition Date; and (ii) continue to use all correspondence and other Business Forms, as such forms were in existence immediately prior to the Petition Date without reference to the Debtors' status as debtors-in-possession; provided, however, that upon depletion of the Debtors' Business Forms stock, the Debtors will obtain new Business Forms reflecting their status as debtors-in-possession.

weeks and months of the Chapter 11 Cases, subject to governmental authorities lifting travel restrictions. In the short term, the Debtors have retained certain employees to maintain the Debtors' limited business operations during this global crisis. Many of the employees that have been retained have agreed to month-to-month voluntary wage reductions. These reductions do not constitute modifications of their employment agreements.

110. Because the Debtors are hopeful that they will eventually return the Furloughed Employees to work once they full re-operationalize, the relief sought by the Employee Wages Motion is with respect to both the Furloughed and Retained Employees. The Debtors reserve the right to seek additional and/or supplemental relief for Furloughed Employees. The Debtors believe that the skills and experience of their Employees, as well as their relationships with customers and vendors and institutional knowledge, are essential to the Debtors' ability to effectively operate their business. In order to maintain morale and ensure that the Furloughed Employees return to work for the Debtors after the furlough period and that Retained Employees continue in their jobs, and the Debtors request authority to pay and honor certain prepetition claims and obligations to all of their Employees, including the wages due under their employment agreements.

111. Absent the relief requested by this Motion, the Debtors' Employees will suffer undue hardship and, in many instances, serious financial difficulties, as the amounts in question are needed to enable them to meet their own personal financial obligations. Moreover, based on the role played by employee issues in other airline bankruptcies, the Debtors believe that, without the requested relief, the stability of their business operations will be undermined, perhaps irreparably, by the possibility that otherwise loyal Employees will seek other employment alternatives. For many months prior to the Petition Date, given the financial condition and

pressures faced by the Debtors, the Debtors' Employees have been working in an environment of uncertainty about their future. The commencement of these Chapter 11 Cases only heightens employee anxiety, and the requested relief is critical to stabilizing these concerns. The Employees' skills and knowledge of the Debtors' operations are essential to the continued operation of the Debtors' business. Without the Employees' continued services, an effective reorganization of the Debtors will not be possible.

112. Pursuant to the Employee Wages Motion, the Debtors seek entry of interim and final orders: (i) authorizing, but not directing, the Debtors to pay or otherwise honor, in their sole discretion, the Prepetition Employee Obligations; (ii) authorizing, but not directing, the Debtors to continue in the ordinary course of their business the Employee Programs and honor any related administrative costs and obligations arising thereunder; and (iii) directing the Banks to process and honor related transfers.

113. The Debtors request the authority to pay various amounts (including on account of wages, benefits, sick time, vacation time and other paid time off, and severance) payable to, or otherwise earned in the ordinary course of business by the Debtors' Employees and Retired Employees. With respect to certain benefits representing prepetition accruals, the Debtors reserve the right to allow Employees to use such benefits only in the ordinary course of business and not to cash out any such prepetition benefits upon termination of employment or otherwise. The Debtors further reserve the right to limit the amount paid to Employees on account of such benefits. The relief requested in the Employee Wages Motion is without prejudice to the Debtors' right to seek to discontinue or modify any compensation and/or benefit programs during these Chapter 11 Cases.

114. **Unpaid Compensation.** The Debtors’ Employees serve in a variety of roles, including as pilots, mechanics, customer service agents, reservation agents, management, in clerical roles, and others. Approximately 58% of Employees are located in Colombia, 15% in El Salvador, 6% in Costa Rica, 5% in Ecuador, and 16% elsewhere, including approximately 324 Employees in the United States of which 8 are in New York. The remaining Employees in the United States are in New Jersey, Massachusetts, Florida, Texas, California, Illinois, and Washington, D.C.

115. In the ordinary course of business, prior to the shutdown caused by the COVID-19 pandemic, the Debtors made payroll payments, in most cases by direct deposit bank transfer to Employee accounts, at intervals and on dates and/or days that vary by jurisdiction, as set forth below:

<b>REGION</b>	<b>COUNTRY</b>	<b>FREQUENCY OF PAYMENT</b>	<b>PAYMENT DAY</b>
<b>North America</b>	USA	Every two weeks	Friday
	Puerto Rico	Every two weeks	Friday
	Canada	Every fifteen days	15 and 30
<b>Central America</b>	Costa Rica (hourly)	Every fifteen days	15 and 30
	Costa Rica (salaried)	Monthly	25
	Mexico	Every fifteen days	14 and 29
	Panama	Every fifteen days	15 and 30
	Dominican Republic	Every fifteen days	15 and 30
	Aruba	Monthly	24
	Curaçao	Monthly	24
	El Salvador	Monthly	25
	Guatemala	Monthly	21
	Honduras	Monthly	21
	Nicaragua	Monthly	15
<b>Europe</b>	Germany	Monthly	24
	Spain	Monthly	24
	UK	Monthly	24
<b>South America</b>	Argentina	Monthly	21
	Bolivia	Monthly	26
	Brazil	Monthly	3

	Chile	Monthly	21
	Colombia	Monthly	21
	Ecuador	Monthly	30
	Paraguay	Monthly	25
	Perú	Monthly	25
	Uruguay	Monthly	5

116. The Debtors’ average gross monthly payroll, prior to COVID-19, was approximately \$46.6 million, which amount includes approximately \$6.7 million in monthly payroll tax obligations. The Debtors estimate that approximately \$29.8 million in prepetition wages, salaries and other non-incentive compensation (collectively, the “Unpaid Compensation”) may remain unpaid by relevant Debtors and “employer companies” as of the Petition Date because (a) the Debtors’ chapter 11 petitions were filed during one or more of the Debtors’ regular salary payroll periods; (b) some direct deposit transfers (or, in rare instances, payroll checks) made or issued to Employees prior to the Petition Date may not have cleared the banking system (or been presented for payment) as of the Petition Date; and/or (c) Employees have not yet been paid all their salaries and wages for services previously performed on behalf of the Debtors.

117. **Independent Contractors.** The Debtors also have a contract with a personnel vendor in Colombia pursuant to which the Debtors have hired individuals to serve, among other roles, as copilots in training and coordinators, analysts, and project assistants for special projects within the company (the “Independent Contractors”). The Debtors pay the personnel vendor with whom they contract and this vendor, in turn, pays the Independent Contractors. If such personnel vendor and, by extension, the Independent Contractors are not paid prepetition amounts, they will suffer—especially in light of the turmoil caused by the COVID-19 crisis—undue hardship and, in many instances, serious financial difficulties, as the amounts in question are needed to enable them to meet their own financial obligations. Further, if the Independent Contractors are not paid, they will likely no longer continue to be available to the

Debtors, which could put the Debtors at serious risk given the vital role such Independent Contractors play in the Debtors' daily operations.

118. *Non-Insider Incentive Plans.* In the ordinary course of business, certain of the Debtors maintain incentive plans for different categories of non-insider Employees (collectively, the "Incentive Plans"). The Debtors seek the authority to continue the Incentive Plans at their reasonable discretion and consistent with their prepetition practices in order to retain valuable Employees and preserve employee morale as the Debtors seek to implement a successful reorganization.

119. Generally, the Debtors utilize goal-driven compensation incentive programs for their Employees that utilize financial and operating metrics. The Debtors also have employee incentives for the achievement of monthly "on time performance" goals. The Debtors believe that the Incentive Plans contribute to the Debtors' success by rewarding the accomplishment of pre-defined financial and operating goals with variable compensation. Although the Incentive Plans are designed to reward outstanding operations, financial performance and customer service, safety is the Debtors' priority. Therefore, the Incentive Plans also take into account whether there are any accidents. The details of each Incentive Plan vary based on their aims and intended participants.

120. The Incentive Plans include annual incentive plans, long-term incentive plans (including stock incentive plans), sales commission arrangements, and other incentive programs. The Incentive Plans provide for bonuses that are paid at different intervals and on different dates depending on jurisdiction and the relevant Debtor, and can range from 10% to 50% of an Employee's annual fixed salary. Typically, 50% to 100% of the bonus amount is based on corporate performance, and, where not determined based entirely on corporate performance, the

remaining percentage is based on the achievement of individual goals, as determined for managers in each department. Importantly, many of the Debtors' direct competitors offer comparable types of incentive compensation plans. Such incentive plans are also common in numerous non-airline industries with which the Debtors compete for talented employees. Continuation of the Incentive Plans is critical to the Debtors' ability to remain a competitive employer and to avoid a potential loss of Employees.

121. With respect to Incentive Plan periods prior to the Petition Date, the Debtors estimate the gross obligations payable in connection with the Incentive Plans (the "Incentive Plan Obligations") to be approximately \$3.8 million. As it relates to postpetition Incentive Plan periods, given the massive financial and operational dislocations caused by the COVID-19 crisis, it is very difficult for the Debtors to estimate accurately such Incentive Plan Obligations. The Debtors seek to continue the Incentive Plans in the ordinary course of the Debtors' business (to the extent any amounts are due thereunder), and to pay all prepetition amounts due and owing under the Incentive Plans.

122. ***Non-Insider Retention Plan.*** The Debtors also maintain a retention plan with respect to approximately 34 of its non-insider Employees (the "Retention Plan"). The total award amounts for Employees under the Retention Plan range from 30% to 50% of the covered Employees' salaries, with cash payments made quarterly to applicable Employees who remain in good standing. Participants whose employment is terminated voluntarily or for cause before payment of any amounts (i.e., before the end of a quarter) are not eligible to receive any further retention awards under the Retention Plan. The Debtors estimate the approximately \$1.25 million in prepetition obligations remain outstanding under the Retention Plan. The Debtors seek the authority to continue the Retention Plan at their reasonable discretion and consistent with their

prepetition practices in order to retain valuable Employees and preserve employee morale as the Debtors seek to implement a successful reorganization.

123. ***Paid Leave.*** All Employees are eligible for paid vacation. In some cases, eligibility for paid vacation requires completion of a probationary or a minimum period of active service in the employment of the Debtors, as specified by the applicable collective bargaining agreement, individual agreement, or company policy. Accrual of vacation days is based on years of service and Employees accrue a specified number of vacation days or fraction of days for each month of active service. Taking into account (i) the vacation time earned but unused as of the Petition Date; and (ii) the amounts that would be earned relating to postpetition services, the Debtors estimate that, going forward, they may owe Vacation Obligation of approximately \$13.5 million to Employees.<sup>13</sup>

124. ***Workers' Compensation.*** The Debtors provide Workers' Compensation Plans to all Employees, both in the United States and internationally. These benefits are currently administered by the respective insurers covering the countries in which Employees are located. Failure to maintain these benefits could result in the institution of administrative or legal proceedings and material fines against the Debtors and their officers and directors. As of the Petition Date, there were 23 workers' compensation claims pending against the Debtors, as to which the Debtors had not set aside any reserves with respect to any potential liability for such claims.

125. The Debtors seek authority to continue paying all undisputed amounts on account of the Workers' Compensation Obligations that arose prior to the Petition Date, including,

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<sup>13</sup> In addition, under the applicable collective bargaining agreements or company policies, Employees are entitled to paid sick leave and are paid for holidays; the non-U.S. Employees are paid in accordance with the applicable collective bargaining agreement and local labor laws in each applicable country, while the U.S. Employees are paid for 13 holidays per year.



without limitation, any payments for workers’ compensation claims, fees owed for administrative costs and other amounts required in connection with the Debtors’ workers’ compensation programs, as such amounts become due in the ordinary course of the Debtors’ business.

126. **Employee Benefits.** The Debtors have various plans and policies, as more fully described in **Exhibit N** hereto, pursuant to which Employees are provided with medical, dental, vision, disability, life insurance, retirement savings and other benefits (collectively, the “Employee Benefits” and amounts owed on account thereof, the “Employee Benefit Obligations”). The Debtors seek the authority, but not the direction, to (i) satisfy Employee Benefit Obligations relating to prepetition periods; and (ii) continue providing Employee Benefits going forward.

127. The monthly/annual costs of such Employee Benefits and any amounts owed with respect thereto are as follows:

<b>Employee Benefit</b>	<b>Monthly/Annual Cost</b>	<b>Approx. Amount Outstanding Prepetition</b>
Social Security Health	\$1.3 million/month	\$1.8 million
Colombia Health	\$4 million/year	\$402,249
Non-Colombia Health	\$5.3 million/year	\$733,318
Additional Health	\$2.2 million/year	\$67,460
Retired Employee	\$45,333/month	\$58,697
Life Insurance	TBD	\$0
Disability Insurance	TBD	\$0
Retirement Saving	\$1.4 million/month	\$0
Foreign Pension	\$38.7 million/year	\$3.3 million
Social Security Pension	\$21.7 million/year	\$442,945
Compensation Fund	\$655,000/month	\$994,407
	<b>Total:</b>	\$7.8 million

128. ***Reimbursable Business Expenses.*** As is customary for businesses comparable to the debtors' business, the debtors reimburse their employees for certain business expenses incurred in the performance of their duties. Reimbursable business expenses include, among others, those incurred in connection with domestic and overseas business travel, medical care outside of the country, issuance of travel documents such as visas and equipment licenses for pilots and cabin crew, fuel charges, automobile maintenance, cellular phone charges, and meals (collectively, the "Reimbursable Business Expenses"). The Debtors estimate that, as of the Petition Date, an aggregate of approximately \$29,000 will be owed on account of Reimbursable Business Expenses.

129. ***Employee Payroll Deductions.*** Periodically, the Debtors are presented with garnishment or child support orders requiring withholding of an Employee's wages to satisfy such Employee's obligations (the "Garnishment Deductions"). Amounts withheld on account of the Garnishment Deductions are remitted to the appropriate state, federal, or non-U.S. authorities. The average amount withheld on account of the Garnishment Deductions per month is approximately \$25,000. Payment of these obligations is made from amounts otherwise payable to the Employee and is not an incremental cost obligation of the Debtors' estates.

130. ***Payroll Tax Obligations.*** Debtors operating in the United States are required by law to withhold from Employees' salaries and wages certain amounts related to federal, state, local, and foreign income taxes, social security and Medicare taxes, and other taxes imposed by law and remit the same to the appropriate taxing authorities (collectively, with the similar obligations of foreign-based Debtors, the "Payroll Tax Obligations"). Foreign-based Debtors have similar obligations under the laws of the various foreign nations in which they

operate. As of the Petition Date, the Debtors estimate that they owed approximately \$6.7 million in prepetition Payroll Tax Obligations.

131. *Severance Plans.* As of the Petition Date, the Debtors offer certain severance programs to Employees. In the U.S., Employees' entitlement to severance is based solely on the discretion of the Debtors and is evaluated on a case by case basis. Non-U.S. Employees may be entitled to varying levels of severance (together with the severance obligations to U.S. Employee, the "Severance Obligations") based on existing individual contracts, collective bargain agreements or, in many jurisdictions, as mandated by local labor laws.

132. The Severance Obligations arise in the ordinary course of the Debtors' business and their payment is necessary to sustain the morale of the Employees during these bankruptcy cases. The Debtors believe that continuation of the existing severance programs is advisable, but reserve the right to make modifications in the event such modifications become necessary or otherwise advisable in the Debtors' business judgment. The Debtors cannot reasonably estimate—especially in light of the turmoil caused by the COVID-19 crisis—the amount of Severance Obligations that would become payable during the pendency of these cases. However, by way of example, in the eleven months ending in November 2019, the Debtors paid approximately \$15.2 million on account of the Severance Obligations.

133. The Debtors request authority (but not direction) to continue honoring the Severance Obligations and to continue making severance payments to eligible Employees in the ordinary course of business and at their sole discretion. To the extent that severance is payable pursuant to an agreement, the Debtors do not seek, by this Motion, to assume such agreement.

134. To minimize the personal hardship the Debtors' Employees will suffer in connection with the filing of these cases—especially in light of the turmoil and uncertainty caused

by the COVID-19 crisis—the Debtors request entry of an order (i) authorizing (but not directing) the Debtors to pay, in their sole discretion, prepetition obligations described in the Employee Wages Motion, including, but not limited to the Prepetition Employee Obligations; (ii) authorizing (but not directing) the Debtors to continue to honor their practices, programs and policies with respect to the Employees and Retired Employees, as such practices, programs and policies were in effect as of the Petition Date, with authorization (but not direction) to pay the Employee Obligations that become due and owing during the pendency of these cases; and (iii) authorizing and directing applicable banks and other financial institutions to receive, process and pay any and all checks drawn on the Debtors’ payroll and general disbursement accounts, and automatic payroll transfers to the extent that such checks or transfers relate to any of the foregoing.

**C. Insurance Motion**

135. By the Insurance Motion, the Debtors seek entry of interim and final orders(a) for authority, in their discretion, to (i) continue their Insurance Programs and Surety Bond Programs (as below), (ii) pay various premiums, fees and other obligations related to the Insurance Programs and Surety Bond Programs, including certain brokerage fees, (iii) renew, supplement, modify or purchase insurance coverage or surety bonds on a postpetition basis, and (iv) enter into new premium finance agreements on a postpetition basis, each in the ordinary course of business; and (b) granting related relief.

136. As of the Petition Date, the Debtors maintained over 300 insurance programs (the “Insurance Programs”) and surety bond programs (the “Surety Bond Programs”) administered by multiple U.S. and non-U.S. insurance carriers and financial institutions. The Insurance Programs provide coverage for, among other things, director and officer liability, property, general liability, commercial automobile liability, underground storage tank liability, lawyers’ professional liability, special risk, commercial crime, employment practices liability,

health, life, aviation, marine cargo, and fidelity. The Surety Bond Programs provide surety bonds in favor of certain third parties, often to governmental units or other public agencies, to secure the Debtors' payment or performance of various obligations related to, among other things, local laws and regulations, airport-related activities, and judicial bonding requirements.

137. As of the Petition Date, the aggregate annual premiums for the Insurance Programs and Surety Bond Programs totaled approximately \$31,638,135. These premiums (plus applicable taxes and surcharges) come due either on an annual, quarterly, or monthly basis depending on the policy. None of the premiums for the Insurance Programs or Surety Bond Programs are currently financed pursuant to a premium financing agreement.

138. Insurance Brokers, including Aon, Marsh, Emphasis Benefits, and Willis Towers Watson, assist the Debtors with: (a) obtaining comprehensive insurance coverage for their operations; (b) negotiating policy terms, provisions, and premiums; (c) assisting the Debtors with administering insurance claims; (d) providing various consultancy services such as estimating maximum losses (EML) for catastrophic exposure, fire, and explosion; and (e) providing training for employees regarding insurance matters and regulation.

139. Maintaining certain of the Insurance Programs is required by various state, federal, and foreign regulations. For instance, the FAA requires aircraft certificate holders to carry a foreign air carriers certificate of insurance, which mandates policies regarding accident, bodily injury, and property damage liability in order to maintain such a license. If the Debtors fail to carry such insurance, the FAA may seek to revoke the Debtors' license and ability to operate.

140. Continuation of the Insurance Programs and Surety Bond Programs and entry into new policies, programs and premium financing agreements in the ordinary course are essential to the preservation of the value of the Debtors' estates. Moreover, in many cases,

coverage provided by the Insurance Programs and Surety Bond Programs is required by U.S. and foreign regulations, laws, contracts governing the Debtors' commercial activities, and the Office of the U.S. Trustee. Accordingly, the Debtors request authority to maintain their existing Insurance Programs and Surety Bond Programs, pay prepetition obligations related thereto, and enter into new policies, programs and premium financing agreements in the ordinary course of business going forward.

**D. Taxes Motion**

141. By the Taxes Motion, the Debtors are requesting (i) interim and final authority to pay, in their discretion, various taxing authorities all taxes and fees (including sales and use taxes, income taxes, personal and real property taxes, and similar taxes and fees) that arose prior to the Petition Date, including all Taxes and Fees (as defined below) subsequently determined by audit or otherwise to be owed for periods prior to the Petition Date; and (ii) that the Court authorize, but not direct, the Banks to receive, honor, process, and pay all checks issued or to be issued and electronic fund transfers requested or to be requested relating to the above.

142. The Debtors collect, incur, and pay sales and use taxes, personal and real property taxes, and/or various other taxes, fees, and assessments (collectively, the "Taxes and Fees") to various foreign, federal, state, and local Governmental Authorities. The Debtors also pay various Taxes and Fees, including return, MTA surcharges, sales, oil, and VIP room taxes in various jurisdictions in the U.S.—including, but not limited to the federal government, California, the District of Columbia, Massachusetts, New Jersey, New York, Florida, and Virginia. In addition, as an international carrier with operations across the globe, the Debtors pay gross receipts, withholding, VAT, municipal, and other Taxes and Fees to foreign Governmental Authorities in Central America, South America, and Europe. The Debtors pay these U.S. and foreign Governmental Authorities directly.

143. Set forth below are descriptions of the Taxes and Fees, as well as the Debtors' estimate of amounts accrued but unpaid as of the Petition Date for each category of Taxes and Fees:

<b>Category</b>	<b>Jurisdictions</b>	<b>Approximate Amount Outstanding as of Petition Date</b>
Revenue Tax Payable	Bolivia, Colombia.	\$2,078,107
Income Tax Payable	Barbados, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Puerto Rico, United States.	\$4,946,869
Municipal Fees, Withholding Tax & Other	Bolivia, Canada, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Uruguay.	\$1,009,804
VAT	Bolivia, Canada, Chile, Colombia, Dominican Republic, El Salvador, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay.	\$15,713,634
Withholding Tax	Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, United States.	\$19,959,996
Airline Taxes & Fees (as defined below)	Algeria, Argentina, Aruba, Bahrein, Barbados, Belgium, Belize, Bolivia, Brazil, Canada, Cape Verde, Chile, Colombia, Costa Rica, Cuba, Curacao, Dominican Republic, Ecuador, Egypt, El Salvador, Germany, Guatemala, Guyana, Haiti, Honduras, Jamaica, Jordan, Malta, Mexico, Morocco, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Russia, Senegal, South Korea, Spain, Surinam, Trinidad and Tobago, United Kingdom, United States, Uruguay, Venezuela.	\$112,839,593
<b>Total:</b>		<b>\$156,548,003</b>

1. In addition to more generally applicable categories of Taxes and Fees, the Debtors are also required to pay certain Taxes and Fees that are specifically attendant to their operations as

an international airline (the “Airline Taxes and Fees”). The Airline Taxes and Fees include: (i) ticket and transportation taxes related to passenger flights; (ii) fees arising from the Debtors’ and their passengers’ utilization of publicly owned airport facilities, including terminals, gates, ticketing counters and other common areas; (iii) customs, immigration and security fees; (iv) taxes and fees assessed for flying over, or landing in, a particular jurisdiction; (v) national tourism taxes related to education and social welfare initiatives; and (vi) taxes and fees directly attributable to the Debtors’ cargo operations and shipment of goods internationally. The following table lists these major categories of Airline Taxes and Fees, and details the Debtors’ estimate of amounts accrued but unpaid as of the Petition Date for each such category:

<b>Category</b>	<b>Jurisdictions</b>	<b>Approximate Amount Outstanding as of Petition Date</b>
Airport Facility Tax	Argentina, Aruba, Barbados, Belize, Bolivia, Chile, Colombia, Costa Rica, Cuba, Curacao, Dominican Republic, Ecuador, Germany, Honduras, Nicaragua, Panama, United Kingdom, United States.	\$11,702,237
Customs, Immigration and Security Tax	Argentina, Aruba, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Germany, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Spain, United Kingdom, United States, Uruguay.	\$63,590,769
Navigation and Landing Fees	Algeria, Argentina, Bahrein, Barbados, Belgium, Bolivia, Brazil, Canada, Cape Verde, Chile, Colombia, Costa Rica, Cuba, Curacao, Dominican Republic, Ecuador, Egypt, El Salvador, Germany, Guatemala, Guyana, Haiti, Honduras, Jamaica, Jordan, Malta, Mexico, Morocco, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Russia, Senegal, South Korea, Spain, Surinam, Trinidad and	\$17,669,518



Category	Jurisdictions	Approximate Amount Outstanding as of Petition Date
	Tobago, United Kingdom, United States, Uruguay, Venezuela	
Ticket and Transportation Tax Related to Passenger Flights	Argentina, Belize, Canada, Colombia, Costa Rica, Ecuador, El Salvador, Dominican Republic, Uruguay.	\$10,031,230
Tourism Tax	Argentina, Aruba, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Nicaragua, Panama, Peru.	\$49,256,318
Cargo Operations Tax	Colombia, Dominican Republic, Ecuador, Germany, Panama, United States.	\$589,521
<b>Total:</b>		<b>\$112,839,593</b>

144. The Debtors seek authority, but not direction, to pay the Taxes and Fees in the ordinary course of business consistent with historic practice as set forth more fully in the Taxes Motion. The Debtors believe that failure to pay the Taxes and Fees could materially disrupt the Debtors' business operations in several ways. First, failing to pay certain of the Taxes and Fees likely would cause the Debtors to lose their ability to conduct business in the applicable jurisdictions. Second, the Governmental Authorities could initiate audits, suspend operations, file liens, or seek to lift the automatic stay, and any of these actions would unnecessarily divert the Debtors' attention from the reorganization process. Third, failing to pay Taxes and Fees could potentially subject certain of the Debtors' directors and officers to personal liability, which likely would distract those key persons from their duties related to the Debtors' restructuring. Fourth, unpaid Taxes and Fees may result in penalties, the accrual of interest, or both, which could negatively impact the Debtors' reorganization.

**E. Lien Claimants' Motion**

145. By the Lien Claimants' Motion, the Debtors seek entry of an order for authority, in their discretion, to pay prepetition, ordinary course obligations to Outside Maintenance & Service Providers, Shippers and Contractors in satisfaction of perfected or potential mechanics', materialmen's or similar liens or interests, whether possessory or otherwise. It is vital that the Debtors be permitted to pay prepetition claims of such parties to ensure that the Debtors' fleet is maintained and serviced in a timely fashion and to ensure that there is no disruption in the Debtors' ability to provide their customers with safe, dependable air travel.

146. The Debtors rely on outside mechanics and repairmen to perform maintenance and repair work, mandated by law and regulation, on the Debtors' aircraft, engines, and equipment, as well as other non-aircraft related services. As part of their maintenance and repair work, the Outside Maintenance & Service Providers also supply and/or sell to the Debtors certain aircraft component parts, most of which constitute replacement parts.

147. The Debtors have developed strong, long-standing relationships with their Outside Maintenance & Service Providers, which have allowed the Debtors to negotiate favorable pricing and trade terms in the Latin American market in which they predominantly operate where the universe of qualified Outside Maintenance & Service Providers with the size and expertise to service the Debtors is very limited. In addition, many of the Outside Maintenance & Service Providers are currently in possession of aircraft, engines, and other equipment that are vital to the Debtors' operations.

148. Another integral part of the Debtors' operations is the use of Shippers to ship, transport, store, move through customs and deliver goods through established national and international distribution networks. Certain Shippers are currently in possession of equipment or other items that may be vital to the Debtors' operations.

149. The Debtors estimate that the amount of outstanding obligations owed, as of the Petition Date, to (i) the Outside Maintenance & Service Providers is approximately \$30 million; (ii) the Shippers is approximately \$3 million; and (iii) the Contractors is approximately \$2 million.

150. Absent the authority requested in the Lien Claimants' Motion, and unless these Outside Maintenance & Service Providers, Shippers, and Contractors are paid promptly, these parties may refuse to redeliver the Debtors' aircraft, engines, and other equipment that are vital to the Debtors' operations and/or may refuse to continue to perform construction, maintenance, and repairs at the Debtors' facilities. Therefore, the Debtors believe, in the exercise of their business judgment, that it is in the best interests of the estates if the Debtors are authorized (but not directed) to pay prepetition amounts owed to Lien Claimants.

**F. Interline and Clearinghouse Motion**

151. By the Interline and Clearinghouse Motion, the Debtors request authority to (i) assume certain agreements, and (ii) satisfy (a) certain prepetition obligations pending assumption, (b) certain frequent flyer programs obligations, and (c) certain obligations to other airlines settled through clearinghouses.

152. Certain of the Debtors are parties to (i) multilateral agreements with, or administered by, the International Air Transport Association, including the IATA Membership Agreement, the Interline Participation Agreement, and the IATA Multilateral Interline Traffic Agreement—Passenger; (ii) the Air Transport Association of America Membership Agreement; (iii) over 80 bilateral agreements with other airlines.

153. These agreements facilitate cooperation among airlines with respect to such critical activities as making reservations and transferring passengers, freight, baggage, and mail between airlines. Most major airlines participate in some form of interline agreements because of

the operating efficiencies obtained through their usage. Pursuant to interline agreements, airlines agree to accept each other's tickets for transportation over the other airlines' systems. If an interline agreement is not in place, a traveler buying a ticket directly from an airline will be issued a ticket only for those segments of the itinerary that involve that airline, even though the desired itinerary might necessitate the use of a second airline. In addition, certain of the Debtors are party to industry-standard agreements, such as agreements with the Agent Reporting Corporation, with the Airline Tariff Publishing Company, Billing and Settlement Plan Agreements, and certain IATA agreements that facilitate transactions under the interline agreements and also provide for fare publication, appointment of travel agencies, and foreign currency clearing procedures.

154. The participating airlines settle their mutual payment obligations arising under interline agreements through the IATA Clearinghouse (the "ICH") and the Airlines Clearing House, Inc. (the "ACH," and together with ICH, the "Clearinghouses"). The settlements through the Clearinghouses include passenger, airfreight, UATP (Universal Air Travel Plan), and non-transportation billings. The ACH conducts settlements primarily for participating airlines based in the United States and other countries in North America and the Caribbean. The ICH conducts settlements primarily for airlines in other countries. As a participant in both clearinghouses, the Debtors settle interline obligations with other ACH participants through ACH and interline obligations with other ICH participants through ICH.

155. The Debtors have a number of relationships with other airlines under which obligations are settled through the ACH and ICH, including (i) Star Alliance, one of the world's largest global airline alliances with 26 full members; (ii) numerous other agreements and bilateral agreements with airlines (including United Airlines) that may or may not be members of Star Alliance, relating to code sharing, alliance, lounge access, maintenance, de-icing, ground handling,

and other services; and (iii) frequent flyer agreements with various airlines that are settled through the Clearinghouses or directly with the counterparty airline, pursuant to which each airline agrees to offer the members of its frequent flyer program the opportunity to accrue benefits and utilize program awards for travel on the other airlines' flights.

156. The Debtors are also party to a number of agreements (the "LifeMiles Program Agreements") relating to the management, operation, and financing of their frequent flyer program, LifeMiles<sup>TM</sup>.<sup>14</sup> The LifeMiles program is a coalition loyalty program owned and operated by non-debtor LifeMiles Ltd., a limited liability company organized and existing under the laws of Bermuda ("LifeMiles Ltd."). LifeMiles Ltd. is a majority-owned indirect subsidiary of the Debtors' ultimate parent company, Avianca Holdings, S.A. Under the LifeMiles program, customers earn mileage credits by flying on Avianca or its alliance partners and by using the services of participating bank credit cards, hotels, car rental firms, and other non-airline commercial partners.

157. In the Customer Programs Motion, which is addressed below, the Debtors have sought authority to (i) honor the LifeMiles program insofar as it involves providing travel miles to passengers and entitling LifeMiles members to receive other goods and services from

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<sup>14</sup> The LifeMiles Program Agreements include (i) Card Services Agreement dated as of August 14, 2015 between Avianca and LifeMiles; (ii) Card Services Agreement dated as of August 14, 2015 between certain Avianca affiliates and LifeMiles; (iii) Miles and Seats Purchase and Sale Agreement dated as of August 14, 2015 by and among Avianca Holdings S.A., and certain of its affiliates and LifeMiles; (iv) Contrato de Fiducia Mercantil Irrevocable de Administracion, Garantia y Fuente de Pago - Fideicomiso LifeMiles (Irrevocable Management, Security, Source of Payment Commercial Trust Agreement - LifeMiles Trust), dated as of September 7, 2015 by and among Avianca, LifeMiles, and Alianza Fiduciara, S.A. as amended and restated by the Modificacion Integral al Contrato de Fiducia Mercantil Irrevocable de Administracion Garantia y Fuente de Pago Fideicomiso LifeMiles (Integral Modification to the Irrevocable Management, Security, Source of Payment Commercial Trust Agreement - LifeMiles Trust); and (v) Letter Agreement on Credit Card Collections dated October 19, 2019, between LifeMiles and Avianca and certain of its affiliates. The Debtors may be party to other agreements with LifeMiles; by the Interline/Clearinghou Motion, the Debtors seek authority, but not direction, to continue to perform under both the agreements enumerated above and any other agreements with LifeMiles deemed necessary by the Debtors to the continued operation of the LifeMiles loyalty program.

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LifeMiles partners by redeeming miles earned in the LifeMiles program; and (ii) continue to perform with respect to obligations owed to other LifeMiles partners with respect to air mileage credits issued under the LifeMiles program. By the Interline and Clearinghouse Motion, the Debtors seek authority to continue to perform under the LifeMiles Program Agreements, with LifeMiles itself, which make possible the broader LifeMiles relationship with its members and its partners.

158. For March 2020, the Debtors made cumulative net settlement payments of approximately \$7 million through the Clearinghouses. The Debtors are typically net creditors under the Clearinghouse agreements because the Debtors and their agents issue fewer tickets for transportation on other airlines than other participating airlines and their agents issue for transportation on the Debtors' flights and, thus, owe nothing to the Clearinghouses as of the Petition Date.

159. The Debtors estimate that, as of the Petition Date, they owe approximately (i) \$200,000 on a net basis under the Star Alliance agreements; (ii) \$300,000 on a net basis under frequent flyer agreements; and (iii) \$1 million on a net basis under other agreements that are settled through the Clearinghouses.

160. The worldwide airline business is an interdependent industry based upon a vast global network of agreements that govern virtually all aspects of air travel and airline operations. Without agreements for coordination between airlines and airline services, efficient service by the domestic and international airlines would be virtually impossible. Any interruption or cessation of the Debtors' ability to perform under the interline agreements as to which assumption is requested or authority to continue to perform is sought in the Interline and Clearinghouse Motion would precipitate a disruption in performance and thus could have a

material adverse effect on the Debtors' businesses and their prospects for successful reorganization.

**G. Customer Programs Motion**

161. By the Customer Program Motion, the Debtors seek entry of interim and final orders, (i) authorizing (but not directing) the Debtors to pay or honor prepetition obligations to customers, travel agencies, charter and tour operators and other ordinary course counterparties, (ii) modifying the automatic stay to the extent necessary to effectuate ordinary course setoffs with such counterparties, and (iii) granting certain related relief.

162. The Debtors have obligations to their customers where the customers paid for the Debtors' services but did not utilize such services prior to the Petition Date. These include obligations for tickets, airbills, and cargo transportation. The Debtors also have obligations related to vouchers issued by the Debtors for free or discounted travel, including as compensation to passengers for late, canceled, or overbooked flights, or as part of promotional programs. These vouchers form just as much of a basis for reasonable travel expectations as regularly issued tickets.

163. Most significant among the Debtors' Customer Programs is the *LifeMiles* program, a coalition loyalty program owned and operated by non-debtor LifeMiles Ltd.<sup>15</sup> Frequent flyer programs such as the *LifeMiles* program build and maintain a loyal customer base, especially among business travelers who pay higher fares than do leisure travelers. Approximately 32% of the Debtors' total passenger revenues are generated from passengers who are members of the *LifeMiles* program, which generated revenues in excess of \$337 million in 2019. Certain of the Debtors are parties to frequent flyer agreements with other airlines whereby the Debtors agree to

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<sup>15</sup> LifeMiles Ltd. is a limited liability company organized and existing under the laws of Bermuda and a majority-owned indirect subsidiary of Avianca Holdings, the Debtors' ultimate parent company.

offer *LifeMiles* members the opportunity to accrue benefits and utilize program awards for travel on other airlines' flights and vice versa. Under those agreements, for example, when a passenger holding another airline's miles redeems such miles for travel on Avianca, that airline must pay Avianca, and when a passenger holding *LifeMiles* redeems such miles for travel on another airline, Avianca must pay that airline. The *LifeMiles* program is an important source of revenues for the Debtors, enhances the loyalty of the Debtors' most valued customers, and ensures that the Debtors can effectively compete with other major airlines that offer their own loyalty programs.

164. In accordance with International Financial Reporting Standards, the Debtors account for frequent flyer obligations by deferring the aggregate cost of the rewards miles until they are redeemed. As of May 10, 2020, the Debtors had booked approximately \$7,333,642 as a liability for the *LifeMiles* program, representing approximately 2,771,256,909 unredeemed reward miles.

165. The Debtors' customers have access to more than 30 of Avianca's private airport lounges and its affiliated partner lounge locations worldwide (collectively, the "VIP Lounges"). Each Debtor-operated location provides a variety of services and amenities to help customers make the most of their travel experience. The VIP Lounges represent an important part of the Debtors' customer experience and loyalty program.

166. The Debtors generally allow ticketholders to obtain refunds in accordance with the terms of their tickets (in the form of "chargebacks," as discussed below and/or refunds paid directly to ticketholders). Historically, the Debtors' normal ticket refund rate has been 2% of total ticket sales, though this number may increase due to COVID-19 and laws and regulations in various countries requiring refunds.



167. The Debtors use branded gift cards sold in various denominations via their website ([www.avianca.com](http://www.avianca.com)) and by third-party vendors. The Debtors' customers may use the gift cards towards the purchase of eligible services. The Debtors estimate that the face amount of gift cards issued by the Debtors and currently outstanding is approximately \$7,550.

168. The Debtors' travel coupon programs, the Certificate Programs, provide travelers with a wide variety of benefits, including upgrades, coupons for discounts, free travel, companion passes, discount fares, and similar benefits. Maintaining the Certificate Programs does not require significant cash outlays by the Debtors, and the associated cost is insignificant compared to the benefits the Debtors will derive from honoring the Certificate Programs.

169. As of the Petition Date, certain Debtors were parties to agreements with large corporate clients, pursuant to which the Debtors provide discounts and special fares at the time of purchase in return for purchase commitments. In addition, upon attainment of the purchase commitments by these corporate clients, the Debtors may grant them rebates of cash, upgrade certificates, free tickets, and VIP Lounge passes. This practice is standard in the airline industry and without such agreements the Debtors would be at a competitive disadvantage. The Debtors estimate the costs attendant to these payments to be *de minimis* in comparison to the revenues generated by such sales agreements.

170. The Debtors also have a travel loyalty program designed to reward small to medium-sized companies for maintaining travel policies that encourage their employees to fly on Avianca or its alliance partners. Under these loyalty programs, employees of participating companies earn credits for their companies by flying on Avianca or its alliance partners. These credits are later redeemable for travel on Avianca or for upgrades or VIP Lounge passes.

171. The Debtors have contracts with global, national, and regional travel agencies, including Despegar.com, Price Travel, Aviator S.A., BCD Colombia, BCD Travelti Colombia, and Carlson Wagonlit Travel. As of March 15, 2020, the Debtors generated 44.3% of their year-to-date passenger sales through travel agencies. Approximately 21% of the Debtors' travel agency business involves the Debtors' corporate clients. The Debtors use multiple "pay-for-performance" incentive structures to reward travel agencies for selling Avianca tickets rather than tickets of other airlines. If the individual agency meets or exceeds certain contractual levels, the Debtors pay such agency commissions in cash after the quarter in which the travel was sold.<sup>16</sup> The Debtors estimate that accrued but unpaid travel agency commissions (including commissions to general sales agents and third-party travel websites) for prepetition passenger ticket sales as of May 10, 2020 total approximately \$6.1 million.

172. The Debtors also provide air transportation that is sold together with ground arrangements, such as hotel accommodations or car rentals, as a total package to consumers through various independent tour operators. The tour operators sell these packages directly to consumers or through travel agents. The use of tour operators as distributors of the Debtors' seats is particularly widespread in international sales. The tour operators sell these packages directly to consumers or through travel agents. These tour operators are an important part of the distribution chain of the Debtors' services.

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<sup>16</sup> The industry utilizes one of two clearinghouses (Airline Reporting Corporation for domestic travel agents and via bank settlement plans for foreign travel agents) that remits monies owed to an airline from travel agencies and offsets such monies against the commissions owed to each travel agency. Neither ARC nor BSPs implement such setoff procedures in the case of an airline's bankruptcy. Instead, they may suspend setoffs that have not been processed as of the filing date. For the fourth quarter of 2019, refunds processed through ARC and the BSPs were approximately 4% of total ticket sales. In the absence of setoffs, travel agencies (even those to whom the Debtors do not owe refunds as of the Petition Date) might not remit the full amount (or, in some case, any) of their receipts from postpetition sales.

173. Generally, the applicable travel agency creates a miscellaneous charge order (“MCO”), which is sent to the tour operator. The tour operator then bills the Debtors for the full amount of the MCO and pays the underlying service providers (*e.g.*, hotels, cruise lines, and car rental companies). This package tour process will break down if the Debtors are unable to honor prepetition MCOs presented for payment in the postpetition period. Travelers who are already on tours might be stranded, some in remote destinations. Those travelers who have not yet embarked on their tours may be forced to cancel their trips, with concomitant inconvenience to the traveler, financial loss to the tour operators, and loss of confidence in the Debtors.

174. The Debtors are party to many contracts to charter certain of their aircraft. These charter operations primarily cater to hotel chains and cruise ship companies. Additionally, the Debtors provide *ad hoc* charter services to travel agencies, sports teams, and corporate clients. The Debtors intend to continue these charter operations and seek authorization to honor any prepetition obligations with respect thereto. As of May 10, 2020, the approximate amount outstanding as to charter obligations was \$1.3 million.

175. Certain of the Debtors provide air cargo services under agreements with cargo sales agencies. Charges for these services are either (i) invoiced directly to the cargo sales agencies, or (ii) cleared and settled through the Cargo Agency Settlement System (“CASS”). The cargo business is an important revenue source to the Debtors. In 2019, cargo sales accounted for almost 11.4% of the Debtors’ operating revenues.

176. The Debtors’ cargo sales are reported to the CASS in the relevant country, such as the Colombia and Ecuador CASS or the United States CASS. The Debtors are parties to agreements with the International Air Transport Association that facilitate their participation in CASS (collectively, the “Cargo Settlement Agreements”). The Cargo Settlement Agreements are

part of the industry mechanism for settling charges relating to cargo shipments by and between carriers and cargo agencies. Cargo sales agencies may have claims against the Debtors for refunds or overpayments. These claims are processed and cleared by CASS upon submission and approval of a “Cargo Correction Advice.” CASS then remits monies owed to the Debtors from each cargo sales agency or offsets the cargo sales agencies’ refund claims against monies owed to the Debtors. Historically, refund and overpayment claims have been very low, constituting less than 0.2% of total air cargo sales. The Debtors expect the rate of refunds or overpayment claims in the postpetition period to remain substantially the same.

177. The Debtors have instituted a loyalty program known as Avianca Cargo Rewards Miles for the benefit of their largest corporate cargo customers (the “Cargo Program”). The Cargo Program provides these higher volume customers with rewards miles for each kilogram transported. The Debtors have more than 77 customers in the Cargo Program who account for approximately 58% of the sales revenue generated by the Debtors’ cargo services. Customers in the Cargo Loyalty Program receive a monthly account status from the Debtors and can transfer some or all of the earned cargo rewards miles to a *LifeMiles* account.

178. The Debtors maintain certain barter arrangements with a number of organizations that provide a wide range of services and support to the Debtors’ operations in return for the Debtors providing air transportation. Such barter arrangements include arrangements between the Debtors and vendors whereby the vendors are paid with vouchers for air travel in lieu of cash payments for goods and services provided to the Debtors.

179. The barter arrangements involve no significant cash outlays, and the amount of unredeemed air transportation obligations incurred pursuant to barter arrangements as of the Petition Date is not substantial. The Debtors estimate that as of April 30, 2020, the value of

outstanding unredeemed air transportation obligations incurred pursuant to barter arrangements was approximately \$1.2 million.

180. Finally, certain of the Debtors are parties to agreements (the “Credit Card Agreements”) with credit card companies and processors (the “Credit Card Parties”), pursuant to which the Debtors accept credit card payments, subject to certain adjustments, returns, promotional and other fees, and refunds. A significant portion of the Debtors’ revenue is generated through credit card purchases and charges. The Debtors are required to pay the Credit Card Parties fees for their services, certain of which may have accrued but remain unpaid as of the Petition Date.

181. Under the Credit Card Agreements, when a credit card customer is owed a refund or is dissatisfied with the goods and services and refuses to pay, or in the case of fraud or unrecognized charges, the Debtors must return, or “chargeback,” to the credit card processor any funds received for these payments (the “Chargebacks”). Chargebacks are typically satisfied by a reduction of payments owing to the Debtors under the processing agreements. It is possible that certain Chargebacks incurred by the Debtors prior to the Petition Date may not have been fully netted out against credit card payments the Debtors received prior to the Petition Date.

182. Maintaining public confidence in the Debtors’ ability to provide reliable transportation services is crucial to their reorganization efforts. Because of the filing of these Chapter 11 Cases, the Debtors must take immediate, active steps to preserve their loyal customer base world-wide and their essential business relationships with tour operators, cargo agencies, and travel agencies. Counterparties to these business relationships (whether or not governed by written contracts) have discretion to direct or refrain from directing future business to the Debtors. The loss of such future business would vastly outweigh the amounts for the payment of which the Debtors are seeking authority by the Customer Programs Motion.

**H. Fuel Supplier Motion**

183. By the Fuel Supplier Motion, the Debtors seek entry of an Order, (i) authorizing (but not directing) the Debtors to pay prepetition amounts owing to the Fuel Relationship Parties and to continue performing under the related contracts, and (ii) authorizing (but not directing) the Fuel Relationship Parties, to the limited extent required, and subject to the prior written permission of the Debtors, to exercise their setoff and recoupment rights.

184. On average, in a typical global economic environment, the Debtors spend \$22 to \$24 million per week on jet fuel. Prior to the COVID-19 shutdown, approximately 6% of the Debtors' fuel purchases had been effectuated by advance payment, and approximately 94% had been paid in arrears; since the pandemic shutdown, the numbers have flipped, and now 86% of fuel purchases are being effectuated by advance payment and 14% are being paid for in arrears.<sup>17</sup> The Debtors estimate that as of the Petition Date, they owe, in the aggregate, approximately \$16.8 million to the Fuel Suppliers

185. In addition, the Debtors rely on third parties to store and transport fuel to their aircraft. The Debtors are party to certain Into-Wing Service Contracts, pursuant to which Into-Wing Service Providers either (i) arrange for the delivery of fuel to the Debtors' aircraft without any participation or involvement by the Debtors; or (ii) transport "airport fuel" from storage facilities located at or near airport terminals (by pipeline or vehicle) into the Debtors' aircraft. On average, the Debtors spend approximately \$30,000 per week pursuant to the Into-

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<sup>17</sup> The amounts owed to the Fuel Suppliers by the Debtors as of the Petition Date include amounts owed by the Debtors pursuant to certain deferred payment agreements. After the shutdown of most of the Debtors' flight operations on March 25, 2020, the Debtors agreed to pay the Fuel Suppliers on a current/advance payment basis for the fuel needed for their limited go-forward operations post-shutdown, and entered into deferred payment plans for any amounts owed as of that date, with some of such payments having already been made and others to be made after the Petition Date. During the period between April 27, 2020 and May 6, 2020, Avianca has paid \$13.1 million, in advance, for fuel, fuel services and fuel deposits. Of that amount, as of the Petition Date, approximately \$6.3 million in fuel deposits remain unused and available for Avianca's future use

Wing Service Contracts. The Debtors estimate that as of the Petition Date, they owe approximately \$190,000 to the Into-Wing Service Providers on account of prepetition services provided pursuant to the Into-Wing Service Contracts.

186. The Debtors also have ownership interests in approximately five (5) Fuel Consortia, which lease, operate, and manage fuel storage facilities located at or near airports in which carriers and fuel suppliers store their fuel in one or more commingled fuel tanks. The Fuel Consortia are established by groups of airlines to minimize and share the costs of local fuel storage. The Fuel Consortia are run by third-party service providers (the “Fuel Consortia Service Providers”) that are responsible for fuel system operations and maintenance, including all necessary accounting functions required to allocate costs to individual users. The Debtors and the other Fuel Consortia owners pay a fee to the Fuel Consortia Service Providers for their services. The Debtors estimate that as of the Petition Date, they owe, in the aggregate, approximately \$80,000 to the Fuel Consortia Service Providers.<sup>18</sup>

187. It is essential that the Debtors continue to have access to a ready supply of fuel and related services required to deliver fuel to their aircraft. The Debtors cannot readily replace the fuel supplied by the Fuel Suppliers from other suppliers on similar terms and conditions, because there are generally only one or two suppliers in substantially all South and Latin American airports—the Debtors’ primary markets. Any disruption of such access would seriously undermine the Debtors’ operations and their ability to reorganize. To that end, the Debtors request authority (i) for the Debtors to pay all prepetition amounts owed to the Fuel

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<sup>18</sup> The Debtors are also party to certain Other Fuel Service Arrangements by which numerous third parties provide a variety of services to the Debtors in connection with the storage, purchase, sale, and delivery of fuel, including airport authority and facility-related, transportation, and brokerage services. These services are all necessary for the Debtors to continue to buy, sell, transport, and store fuel, all of which are critically integral to numerous aspects of the Debtors’ operations. In any operating environment, it is imperative that the Debtors be able to maintain these arrangements with the Fuel Relationship Parties.

Relationship Parties; and (ii) for the Fuel Relationship Parties to effectuate setoffs of any amounts owed to them in connection with prepetition services against the Debtors' claims (both prepetition and postpetition).

**I. Derivatives Contract Motion**

188. By the Derivatives Contract Motion, the Debtors seek entry of an Order authorizing, but not directing, the Debtors to (i) continue entering into, terminating, and/or performing under instruments designed to hedge against fluctuations in jet fuel, interest rates, and currency rates (collectively, the "Derivative Contracts") in accordance with their ordinary business practices; and (ii) perform such ancillary transactions as may be necessary to implement or terminate such contracts, including providing credit support.

189. The Debtors' business is sensitive to fluctuations in jet fuel prices, interest rates, and foreign currency exchange rates. Consequently, the Debtors are, and have historically been, parties to numerous Derivative Contracts to reduce the risks associated with these fluctuations. The Derivative Contracts include options, swaps or forward contracts related to (i) the price of jet fuel, (ii) interest rates, and (iii) currencies.

190. ***Jet Fuel Hedges.*** The Debtors' fuel-hedging program is based on both fixed swaps and options on jet fuel. The Debtors historically have entered into Derivative Contracts for approximately 10 to 50 percent of their annual jet fuel consumption requirements; and in recent years, the Debtors have sought to hedge for approximately 10 to 30 percent of their annual jet fuel consumption requirements. During the first quarter of 2020, the Debtors hedged approximately 35% of their fuel consumption requirements. The terms of the jet fuel hedges usually have a maximum of 12 months (in very limited circumstances, the term could be increased beyond a year, but only with prior authorization from the Debtors' Board of Directors). The



Debtors do not post collateral for their jet fuel Derivative Contracts, but they do pay a premium upfront for the purchased options.

191. ***Interest Rate Swaps.*** The Debtors are currently party to eleven (11) interest rate swaps with two financial institutions. In connection with these swaps, the Debtors maintain a balance account with each counterparty, as well as a credit line to enter into swaps. The swaps are settled on a monthly basis, and, if necessary, the Debtors are required to post additional funds in the balance accounts. As of the Petition Date, the Debtors have approximately \$1.8 million in exposure under these swaps.

192. ***Currency Forward Contracts.*** As of the Petition Date, the Debtors are *not* party to any Derivative Contracts for foreign currencies because the Debtors determined in their business judgment that such Derivative Contracts were not necessary at the time in light of, among other things, the costs of entering into such contracts. However, the Debtors may elect to enter into such forward contracts again in the future.

193. In certain circumstances, in the ordinary course of the Debtors' business operations, the counterparties to their Derivative Contracts require that the Debtors' obligations thereunder be secured by various forms of credit support. Industry practice requires "out of the money" parties to Derivative Contracts to provide credit support in the ordinary course of business based upon net mark-to-market valuations.

194. A reasonable hedging and derivative contract strategy is necessary to manage responsibly the risks attendant to the operation of an airline. The Debtors believe that entering into and performing under the Derivative Contracts falls within the ordinary course of their business and thus does not require authorization from the Court. However, to make clear to the potential counterparties that the Debtors do in fact have such authority, the Debtors seek an

order of the Court confirming such authority. In addition, to the extent the Debtors will need to provide collateral to secure their obligation under the Derivative Contracts, the Debtors request this Court's permission to post such collateral or provide other credit support.

**J. Foreign Creditors Motion**

195. By the Foreign Creditors Motion, the Debtors seek authority to satisfy certain pre-petition obligations owed to various foreign vendors, services providers, and governments.

196. Given the global nature of their services, the Debtors must necessarily procure a significant amount of goods and services from vendors with little to no connection with the United States, and for which they may incur fees from foreign governmental and licensing authorities outside the United States. Indeed, as the second-largest airline in Latin America, the majority of the Debtors' operations is conducted outside of the United States. Thus, the Debtors' viability as a going concern is disproportionately dependent upon the maintenance of their foreign operations.

197. In the ordinary course of their businesses, and to maintain their foreign operations, the Debtors make payments to various foreign creditors including vendors, service providers, governments, customers, travel agencies, and distributors, among others (collectively, the "Foreign Creditors"). Some of the Debtors' obligations to the Foreign Creditors—approximately \$19 million—has accrued but remains unpaid as of the Petition Date.

198. Many of the Foreign Creditors, who are located in foreign countries with little to no contacts in the United States, may not be willing to do business with a "Chapter 11 Debtor" absent payment of their prepetition claims. Despite the global reach of the automatic stay, it is also possible (if not likely) that certain Foreign Creditors could seek to enforce their claims against the Debtors in foreign jurisdictions or otherwise interfere with the Debtors' business

outside the United States. Such actions would have both an immediate impact on the Debtors' ability to operate and would have long-term effects on the Debtors' ability to attract new business. Simply put, the Debtors' clients and customers will be wary (at best) of entrusting their assets and investments to the Debtors if they perceive a risk that such assets and investments might be subject to liens or other enforcement actions by the Debtors' creditors in jurisdictions outside of the United States.

199. Additionally, many of the Foreign Creditors are vendors and service providers from whom the Debtors purchase goods and services (collectively, the "Foreign Vendors") in the ordinary course of their operations in foreign jurisdictions. If the Foreign Vendors are not paid, they could withhold vital goods and services from the Debtors and thereby cause an interruption of service on the Debtors' foreign routes. Such service interruption could have drastic consequences to the operations of the Debtors' business due to the Debtors' dependence on their foreign operations, the lack of alternative foreign suppliers or service providers in many situations, and the amount of time needed to locate and convert to alternative supply or service sources in foreign countries. The successful operation of the Debtors' business depends on providing these clients and customers the high-quality flight services and travel experience that they have come to expect from the Debtors. Any interruption in the provision of these services, or any negative impact on the Debtors' ability to provide these services in the future, could be disastrous to the Debtors' business. Therefore, maintaining the Debtors' operational capability to provide these products and services depends on their ability to obtain essential goods and services from select and often irreplaceable vendors, and their ability to preserve key relationships with certain creditors in the Debtors' key markets.

200. Despite the existence of the automatic stay, the Debtors believe that if they do not pay prepetition obligations to Foreign Vendors, there is a significant risk that Foreign Vendors will commence actions against one or more of the Debtors in foreign courts or exercise other self-help remedies in an effort to recover such prepetition amounts. Such actions could disrupt service, undermine customer confidence in the Debtors' business, and could require the attention and resources of the Debtors' management team at a time when the Debtors are keenly focused on their restructuring. There may be no effective sanctions against such Foreign Vendors' actions.

201. The global nature of the Debtors' business is a key source of revenue and a major factor in the overall reputation of the Debtors and the loyalty of their customers. To preserve the value of the Debtors' assets, the Debtors therefore must have the ability to continue to fund and maintain their international operations on an uninterrupted basis through the payment of the Foreign Creditor Claims.

**K. Section 503(b) Motion**

202. By the Section 503(b) Motion, the Debtors seek entry of an order, pursuant to sections 105(a), 363(b)(1), 503(b)(1) and 503(b)(9) of the Bankruptcy Code authorizing, but not directing, the Debtors to pay undisputed prepetition claims on account of goods (i) received by the Debtors within 20 days before the Petition Date (the "503(b)(9) Claims"); and (ii) ordered by the Debtors prior to the Petition Date but which were, or will be, delivered after the Petition Date (the "Prepetition Order Claims"). In each case, the Debtors request authority to make such payments only as they come due in the ordinary course of business. I understand that Section 503(b)(9) of the Bankruptcy Code provides for the allowance, as an administrative expense, of claims for the value of any goods sold to a debtor in the ordinary course of business and received by a debtor within twenty (20) days before the petition date. I also understand Section 503(b)(1) of the

Bankruptcy Code provides for the allowance, as an administrative expense, of claims for the value of any goods ordered prior to the Petition Date that have been or will be delivered after the Petition Date.

203. In the normal course of business, the Debtors rely on an extensive network of vendors and suppliers that provide the Debtors with various aircraft parts, supplies, consumables and other goods (the “Goods”) on an ongoing or order-by-order basis. Due to the international nature of the Debtors’ operations, the shipment of Goods must be precisely coordinated across a globally-dispersed collection of hubs and other facilities to accord with changing flight and maintenance schedules.

204. While the Debtors benefit from an established course of dealing with many of the 503(b) Claimants, certain arrangements between the parties are not governed by long-term contracts or master agreements. Instead, the Goods are often supplied on an order-by-order basis. Without the assurance of prompt payment in the ordinary course, the 503(b) Claimants may, on a go-forward basis, demand substantial concessions, refuse to ship previously ordered goods, recall existing shipments, or entirely cease doing business with the Debtors. Each of these contingencies poses a significant risk to the Debtors’ ongoing operations and liquidity position as they work to implement a global restructuring.

205. My understanding is that both the 503(b)(9) Claims and Prepetition Order Claims may be afforded administrative priority status under Section 503(b) of the Bankruptcy Code. Therefore, the relief requested herein most likely implicates only timing concerns, rather than substance or relative priorities. In this respect, none of the Debtors’ creditors will be negatively impacted by such payments and, instead, will benefit from the continued support of the 503(b) Claimants.

**L. Reclamation Procedures Motion**

206. By the Reclamation Procedures Motion, the Debtors request entry of an order, pursuant to sections 546(c) and 105(a) of the Bankruptcy Code, (i) establishing exclusive Reclamation Procedures for the assertion and resolution of all unpaid 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.

207. 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. 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 Sellers may seek to reclaim, or take other remedial action with respect to, the Goods.

208. 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.

**Conclusion**

209. The foregoing account describes the Debtors' businesses and capital structure, the factors that precipitated the commencement of these Chapter 11 Cases, and the critical need for the Debtors to restructure their financial affairs and operations. The provisions of the Bankruptcy Code will assist the Debtors in achieving their financial reorganization, help stabilize their operations, strengthen their balance sheet and position them as a healthy economic

enterprise able to effectively compete in the airline industry for the benefit of their economic stakeholders and employees.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: May 10, 2020

/s/ Adrian Neuhauser

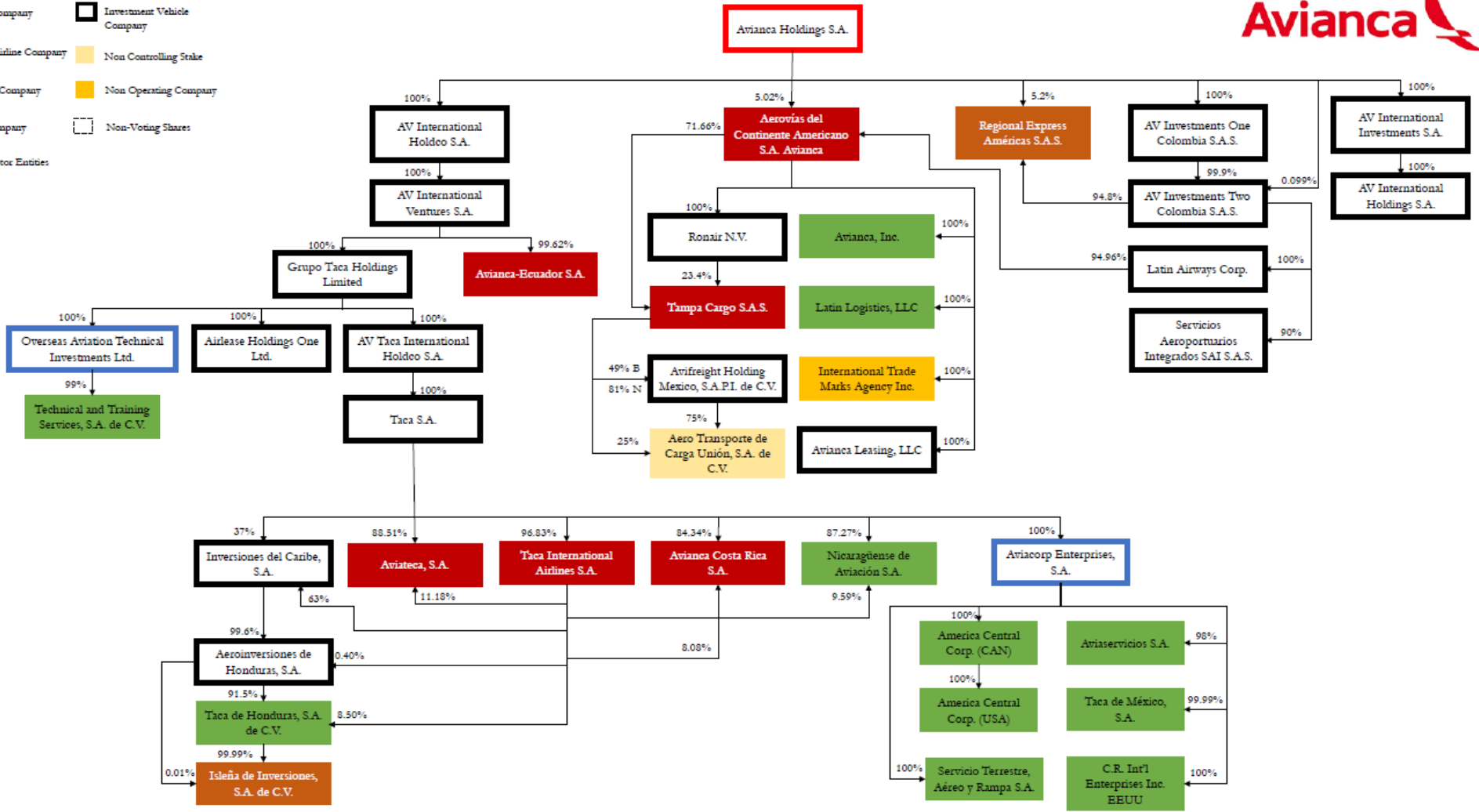
Adrian Neuhauser



**Organizational Chart**



- Holding Company
- Investment Vehicle Company
- Regional Airline Company
- Non Controlling Stake
- Operating Company
- Non Operating Company
- Airline Company
- Non-Voting Shares
- Non-Debtor Entities



**Exhibit B**

**Committees Organized Prepetition**

Pursuant to Local Bankruptcy Rule 1007-2(a)(3), to the best of the Debtors' knowledge there were, prior to the Petition Date, no committees formed to participate in the Debtors' ongoing restructuring efforts.

**Exhibit C**

**Consolidated List of 20 Largest Unsecured Creditors (Excluding Insiders)**

#	Name of creditor and complete mailing address, including zip code (to the extent available)	Indicate if claim is contingent, unliquidated, disputed, or partially secured	Amount of unsecured claim as of the Petition Date (USD)
1	WILMINGTON SAVINGS FUND SOCIETY, 500 DELAWARE AVENUE WILMINGTON, DE 19801	Unliquidated	N/A
2	CITIBANK N.A. CARRERA 9A NO. 99-02 3RD FLOOR, BOGOTA, COLOMBIA	Unliquidated	N/A
3	BANCO DE BOGATA CALLE 36 # 7-47 PISO 12 BOGOTÁ, COLOMBIA	Unliquidated	N/A
4	WILMINGTON SAVINGS FUND SOCIETY, 500 DELAWARE AVENUE WILMINGTON, DE 19801	N/A	\$65,581,000
5	IAE INTERNATIONAL AERO ENGINES AG 400 MAIN STREET MS 121-10 EAST HARTFORD, CT 06118	N/A	\$36,088,520
6	BANCO DAVIVIENDA AV EL DORADO NO. 68C-61 BOGOTÁ, COLOMBIA	N/A	\$33,433,678
7	GENERAL ELECTRIC & CFM INT'L 1 NEUMANN WAY CINCINNATI, OH 45215	N/A	\$33,427,319
8	ROLLS ROYCE PLC GRATTON WAY ROUNDSWELL BUSINESS PARK LONDON, UNITED KINGDOM	N/A	\$28,301,046
9	SMBC AVIATION CAPITAL IFSC HOUSE DUBLIN, IRELAND D01R2P9	N/A	\$10,989,992
10	SAP COLOMBIA SAS EDIFICIO TIERRA FIRME PISO 24 AK 9 N 115 06 BOGOTÁ, COLOMBIA	N/A	\$7,214,817
11	AVOLON NUMBER ONE BALLSBRIDGE, BUILDING, 1 SHELBOURNE RD, BALLSBRIDGE, CO. DUBLIN, D04 K2R2, IRELAND	N/A	\$6,680,749
12	WORLD FUEL SERVICES 9800 NW 41ST STREET MIAMI, FL 33178	N/A	\$5,591,949
13	BANCO AGRICOLA EDIFICIO SAN JOSE DE LA MONTANA 67 AVENIDA NORTE Y 1 CALLE PONIENTE SAN SALVADOR, EL SALVADOR	N/A	\$5,000,000
14	LAFISE PANAMA URBANIZACION SANTA MARIA BUSINESS DISTRICT PANAMA CITY, PANAMA	N/A	\$5,000,000

#	Name of creditor and complete mailing address, including zip code (to the extent available)	Indicate if claim is contingent, unliquidated, disputed, or partially secured	Amount of unsecured claim as of the Petition Date (USD)
15	TERPEL CARRERA 7 NO. 75 - 51 BOGOTÁ, COLOMBIA	N/A	\$4,907,654
16	GETCOM DG 55 37 41 OFIC 601 BELLO, ANTIOQUIA, COLOMBIA	N/A	\$4,882,420
17	KGAL TÖLZER STR. 15, 82031 GRÜN WALD, GERMANY	N/A	\$4,878,420
18	LUFTHANSA GROUP (LUFTHANSA TECHNIK AG) CARRERA 7 NO 71 52 TORRE A PISO 10 BOGOTÁ, COLOMBIA	N/A	\$4,442,344
19	ORIX BOOTERSTOWN HALL, BOOTERSTOWN AVENUE, CO. DUBLIN, IRELAND	N/A	\$3,931,656
20	BOEING GROUP 100 N RIVERSIDE PLAZA CHICAGO, IL 60606	N/A	\$3,661,913

**Exhibit D**

**Consolidated List of the Five (5) Largest Secured Creditors**

	<b>Creditor / Address</b>	<b>Claim Amount</b>	<b>Debt Type</b>	<b>Description of Collateral</b>
1	Wilmington Savings Fund Society, FSB 500 Delaware Avenue Wilmington, DE 19801 Tel: 302-888-7240 Email: phealy@wsfsbank.com	\$484,419,000.00	Bonds	Aircraft residual value and certain intellectual property
2	UMB Bank, N.A. Marilee Sobieski 6550 S. Millrock Drive, Suite 150 Salt Lake City, UT 84121 Tel: 385-715-3013 Email: corptrustutah@umb.com Marilee.Sobieski@umb.com	\$325,000,000.00	Long Term Debt	Credit card receivables collections Fiduciary agreement
3	Wells Fargo Bank Northwest N.A. (in its capacity as Owner Trustee) 299 South Main Street, 5th Floor Salt Lake City, UT 84111 Tel: 801-246-7142	\$271,117,294.00	Aircraft Loan Agreement	(1) A319, (3) A320, (2) A321, (2) B787 aircraft
4	ING Capital LLC US David Jaquet 1133 Avenue of the Americas, 8 Fl New York, NY 10036 Tel: 646-424-6000 Email: David.Jaquet@ing.com	\$123,559,193.00	ECA Aircraft Loan Agreement	One Boeing 787-900 MSN 65315
5	Banco De Bogota New York Agency (in its capacity as Agent) Attn: Gladys Gonzalez Cortes Calle 36 # 7-47 Piso 12 Bogota, Colombia Email: gonzal@bancodebogota.com	\$107,250,000.00	Long Term Debt	Credit card receivables

**Exhibit E**

**Summary of Assets and Liabilities of the Debtor  
as of March 31, 2020**

Pursuant to Local Bankruptcy Rule 1007-2(a)(6), the following are estimates of the Debtors' total assets and liabilities on a consolidated basis. The following financial data is the latest available information and reflects the Debtors' financial condition, as consolidated among affiliated Debtors and non-Debtors as of the Petition Date.

The information contained herein shall not constitute an admission of liability by, nor is it binding on, the Debtors. The Debtors reserve all rights to assert that any debt or claim included herein is a disputed claim or debt, and to challenge the priority, nature, amount, or status of any such claim or debt.

On a consolidated basis, the total value of the Debtors' assets is approximately \$7.27 billion and the total amount of the Debtors' liabilities is approximately \$7.26 billion.

## **Exhibit F**

### **Debtors' Publicly Held Securities**

Pursuant to Local Rule 1007-2(a)(7), the Debtors have the following publicly held classes of shares of stock, debentures or other securities.

Avianca Holdings is a public reporting company under section 12(b) of the Securities Exchange Act of 1934. Avianca's shares of non-voting common stock with a liquidation and dividend preference (referred to in Colombia as "preferred stock") are traded under the symbol "PFAVH" on the Colombian Stock Exchange.

Effective November 13, 2013, Avianca also issued American Depository Receipts ("ADRs")<sup>1</sup> in the United States through The Bank of New York Mellon, as depositary bank. The ADRs are traded under the symbol "AVH" on the New York Stock Exchange.

As of December 31, 2019, and including the ADRs, Avianca had 660,800,003 shares of common stock outstanding and 340,507,917 shares of non-voting common stock outstanding (including 4,320,632 non-voting common stock shares held by Fiduciaria Bogotá on behalf of Avianca).

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<sup>1</sup> Each ADR represents eight (8) preferred shares with a par value of \$0.125 per share.

**Exhibit G**

**Debtors' Property Not in the Debtors' Possession<sup>1</sup>**

Pursuant to Local Bankruptcy Rule 1007-2(a)(8), the following lists the Debtors' property, as of the Petition Date, that is in the possession or custody of any custodian, public officer, mortgagee, pledge, assignee of rents, secured creditor, or agent for any such entity.

Certain property of the Debtors is likely to be in the possession of various other persons, including maintenance providers, shippers, common carriers, materialmen, custodians, public officers, mortgagees, pledges, assignees of rents, joint venturers, secured creditors, or agents. Through these arrangements, the Debtors' ownership interest is not affected. In light of the movement of this property, providing a comprehensive list of the persons or entities in possession of the property, their addresses and telephone numbers, and the location of any court proceeding affecting such property would be impractical.

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<sup>1</sup> The Debtors reserve the right to supplement this exhibit if additional property is identified.



**Exhibit H**

**Premises from Which the Debtors Operate Their Business**

Pursuant to Local Bankruptcy Rule 1007-2(a)(9), the following lists the premises location of real property owned or leased from which the Debtors and non-Debtor subsidiaries operate, or have operated, their businesses. Certain of the leased premises may have been vacated and/or surrendered as of the Petition Date. The Debtors operate their business primarily at Avenida Calle 26 # 59 – 15 Bogotá, Colombia, and, to the extent there are additional real properties that the Debtors own or lease, such information will be provided during these Chapter 11 Cases.

## **Exhibit I**

### **Location of the Debtors' Substantial Assets, Books and Records, and Nature and Location of Debtors' Assets Outside the United States**

Pursuant to Local Bankruptcy Rule 1007-2(a)(10), the following provides the location of the Debtors' substantial assets, books and records, and the nature, location, and value of any assets held by the Debtors outside the territorial limits of the United States as of the Petition Date.

#### **Location of Debtors' Substantial Assets**

The vast majority of the Debtors' assets are located outside of the United States. Within the United States, the Debtors have assets valued at approximately \$187.8 million, with substantial assets in California, Florida, Georgia, Illinois, New York and Texas.

#### **Books and Records**

The Debtors' books and records are primarily located at Avianca Holdings S.A., Avenida Calle 26 # 59 – 15 P5, Bogotá, Colombia.

#### **Debtors' Assets Outside the United States**

The Debtors, together with their non-Debtor affiliates, have significant assets worldwide of more than \$4.95 billion, chiefly in the form of aircraft and equipment, including significant assets held outside the United States through the direct and indirect subsidiaries, with significant assets in South America, Central America, and Europe.

**Exhibit J<sup>1</sup>**

**Nature and Status of Actions or Proceedings Against the Debtors  
Where a Judgment or Seizure of Their Property May be Imminent**

Pursuant to Local Rule 1007-2(a)(11), the Debtors do not believe that there are actions or proceedings, pending or threatened, in which a judgment against the Debtors or a seizure of their property is imminent. Any creditor that asserts a claim against any Debtor in respect of a pending action will be included in the Debtors' list of creditors.

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<sup>1</sup> The Debtors reserve the right to supplement this exhibit if additional property is identified.

**Exhibit K**

**Debtors' Senior Management**

Pursuant to Local Bankruptcy Rule 1007-2(a)(12), the following provides the names of the individuals who constitute the Debtors' existing senior management, their tenure with the Debtors, and a brief summary of their responsibilities and relevant experience as of the Petition Date.

Name	Position	Responsibilities and Experience
<b>Anko van der Werff</b>	Chief Executive Officer	<p>Mr. van der Werf joined Avianca as CEO in July 2019 had an outstanding global trajectory in the airline industry. His last position was in Aeromexico where he served for five years as Executive Vice President and Commercial Vice President, where he was responsible for Corporate Strategy, Network Planning and Itineraries, Alliances, Pricing &amp; Revenue Management, Sales, Distribution, E-Commerce and Marketing. Before joining Aeromexico, Anko van der Werff was Senior Vice President of Pricing &amp; Revenue Management and Global Sales &amp; Distribution of Qatar Airways. He also led KLM Commercial Strategy in the United Kingdom and Ireland, as well as in the Nordic countries. He was also affiliated to Northwest Airlines and Air France at the beginning of his professional career.</p> <p>Van der Werff holds a degree in Law from the University of Leiden, The Netherlands. He also holds an MBA from Harvard Business School. He speaks English, Dutch and Spanish fluently. In addition, he has been a visiting professor at different international university institutions such as Cranfield, in the United Kingdom, Bad Honnef, in Germany and the University of Texas A&amp;M, in Qatar.</p>
<b>Adrian Neuhauser</b>	Chief Financial Officer	<p><b>Mr. Neuhauser</b> has served as Chief Financial Officer since August 2019, Mr. Neuhauser has more than 20 years of experience in the financial sector, focused on investment banking, with a strong focus on global aviation. Mr. Neuhauser was a Managing Director at Credit Suisse covering airlines throughout the Latin America from 2016 to 2019. Previously, he held senior positions at Deutsche Bank, Bank of America and Merrill Lynch.</p>

		Mr. Neuhauser holds dual degrees in Business and Economics from the Universidad Catolica in Santiago, Chile.
<b>Renato Covelo</b>	Chief People and Legal Officer and Secretary	<b>Renato Covelo.</b> has served as Chief People and Legal Officer and Secretary since October 2019, previously he served as our Senior Vice-President General Counsel and Secretary for three years. He holds a law degree from the law school of <i>Faculdades Metropolitanas Unidas</i> in São Paulo, a post-graduate degree in corporate and economics law from the <i>Getúlio Vargas Foundation</i> , and a master's degree in international law from the University of São Paulo. Prior to joining the Company, he served as General Counsel of <i>Azul Linhas Aéreas Brasileiras S.A.</i> and worked in several law firms, including the prestigious <i>Machado, Meyer, Sendacz e Opice Advogados</i> in São Paulo, Bohmart & Sacks in New York and <i>Fialdini &amp; Graber</i> in São Paulo. Mr. Covelo has also worked in the legal departments of various organizations in Brazil.
<b>Eduardo Mendoza</b>	Chief Operating Officer	<b>Mr. Mendoza</b> has served as Chief Operating Officer (E) since October 2019, previously Mr. Mendoza served as Senior Vice-President of Operations since June 2018, and as a pilot for more than thirteen years. He holds a law degree from <i>Universidad de los Andes</i> in Colombia, an LLM from New York University and a Masters in International Relations from Yale University.
<b>Michael Swiatek</b>	Chief Planning Officer	<b>Mr. Swiatek</b> has served as Chief Planning Officer since November 2019. He holds an International Studies Degree at Iona College from New York, and an MBA degree from Chicago Booth School of Business. Mr. Swiatek has more than 25 years of experience in the airline industry. He served in many leadership positions in Air New Zealand, as Chief Planning Officer in Qatar Airways and IndiGo, as well as VP Network Planning in LATAM Airlines for three years.
<b>Silvia Mosquera</b>	Chief Commercial Officer	<b>Ms. Mosquera</b> has served as Chief Commercial Officer since November 2016. She holds a degree in chemical engineering from <i>Universidad de Santiago de Compostela</i> in Spain, and a post-graduate degree in general management ( <i>Programa Dirección General</i> ) from <i>IESE Business School</i> . Before working with us, Ms. Mosquera served as Chief Commercial Officer at Iberia Express, Iberia Group's

		low-cost airline, and occupied the position of Director of Strategy, Routes and Revenue Management at Vueling, a post which she had previously held at Clickair.
<b>María Paula Duque</b>	Chief Customer Experience Officer	<b>Ms. Duque</b> has served as Chief Customer Experience Officer since January 2018. She holds a Communications Management MSc from Strathclyde University in England. Throughout her career she has held key positions in the Telecommunications industry with Colombian companies including the ETB (Empresa de Telecomunicaciones de Bogotá) “ETB:CB” and EPM (Empresas Públicas de Medellín). Between 2002 and 2005, Ms. Duque was Colombia’s Vice-Minister of Communications, after this position she served as Public Sector Manager and Director of Andean Business Segments with Microsoft.
<b>Michael Ruplitsch</b>	Chief Information Officer	<b>Mr. Ruplitsch</b> is an executive with vast experience in technology in the airline industry. He previously served as Chief Information Officer at Austrian Airlines and was a key player in its merger into the Lufthansa group. He was then Chief Information Officer at Air Berlin, and more recently led the IT team at Emirates’ Chief Operating Office. Michael was born and raised in Austria.

**Board of Directors**

<b><u>Name</u></b>	<b><u>Position</u></b>
Óscar Darío Morales	Independent
Richard Schifter	Independent
Sergio Michelsen	Independent
Jairo Burgos	Independent
Fabio Villegas	Independent
Roberto Zamora	Independent
James Leshaw	Independent
Álvaro Jaramillo	Independent
Rodrigo Salcedo	Independent
José Ofilio Gurdían	Non-independent
Roberto Kriete	Non-independent

**Exhibit L**

**Estimated Payroll for the 30-day Period Following the Petition Date**

Pursuant to Local Bankruptcy Rules 1007-2(b)(1)-(2)(A) and (C), the following provides, for the 30-day period following the Petition Date, the estimated amount of weekly payroll to the Debtors' employees (exclusive of officers, directors, and stockholders), the estimated amount paid and proposed to be paid to officers, stockholders, and directors, and the estimate amount paid or proposed to be paid to financial and business consultants retained by Debtors.

<b>Payments to Employees</b>	<b>\$15.3 million</b>
<b>Payments to Officers, Directors, and Equityholders (Non-Employees)</b>	<b>\$30,000</b>
<b>Payments to Financial and Business Consultants</b>	<b>\$2.5 million</b>

**Exhibit M**

**Cash Receipts and Disbursements, Net Cash Gain or  
Loss, Unpaid Obligations and Receivables**

Pursuant to Local Bankruptcy Rule 1007-2(b)(3), the following schedule provides an estimate of, for the 30-day period following the Petition Date, cash receipts and disbursements, net gain or loss, and obligations and receivables expected to accrue but remain unpaid, other than professional fees.

<b>Cash Receipts</b>	\$111.9 million
<b>Cash Disbursements</b>	\$117.0 million
<b>Net Cash (Gain or Loss)</b>	\$5.1 million (loss)
<b>Unpaid Obligations</b>	\$3.0 million
<b>Uncollected Receivables</b>	\$5.0 million



**Exhibit N**

**Employee Benefits**

**A. Primary Health Coverage**

- The Debtors provide primary health care coverage for their Employees, including coverage for medical and (for certain Employees) dental expenses. The Debtors' health-related Employee Benefits may be divided into three tiers, as follows:

***Tier 1 – Social Security Health***

- Outside of the U.S., the Debtors are required to contribute a percentage of each Employee's salary to the Employee's basic health coverage in accordance with local law. In Colombia, for example, the Debtors contribute 8.5% of an Employee's salary (if the salary is more than 10 times the minimum monthly legal wage), while the Employee is responsible for making a 4% contribution. This 12.5% contribution allows Employees to affiliate with one of a number of health promotion agencies, or EPSs (*Entidades Promotoras de Salud* - Health Promotion Agencies) of their choice, and access basic health coverage. This affiliation is mandatory by the law.
- The 8.5% contribution by the Debtors for EPS affiliations amount, on an aggregate basis, to a monthly expense of approximately \$1.3 million.

***Tier II -- Other Benefits: Medical Agreements with  
Prepaid Medical Services and Health Insurers***

- The Debtors have established various health care plans designed to provide the greatest coverage to their Employees while at the same time minimizing the high cost of providing healthcare, in addition to the basic coverage provided by the EPSs. The Debtors offer a variety of medical programs (the "Group Medical Plan") to their Employees.
- ***Colombia Health Benefits Providers.*** In Colombia, Employees can affiliate with a number of health benefits plans through various insurers for themselves and their families. Several of these benefits providers (each, a "Colombia Health Benefits Provider") are preferred provider organizations under which improved benefits are available when using a doctor, dentist, or other healthcare provider who is within the network of preferred providers. The Debtors are required to pay a monthly premium in exchange for the benefits provided to Employees who subscribe to the Columbia Health Benefits Provider.
- Such premiums for Colombia Health Benefits Provider coverage are funded by Employee contributions withheld from paychecks. Additionally, based on the Employee's performance, such person may be eligible for a Pre-Paid Health Care aid paid in the payroll. In the ordinary course of business, each Colombia Health

Benefits Provider premium may vary as the number of Employees enrolled in the Colombia Health Benefits Provider plans changes and as the Colombia Health Benefits Provider administrators change their prices.

- To participate in plans with the Colombia Health Benefits Providers, the Debtors are required to pay in Colombia annual premiums of approximately \$4 million in the aggregate, but this amount is recovered from the Employees directly from their paychecks. All premiums to the Colombia Health Benefits Providers are paid in advance. Because the obligations to the Colombia Health Benefit Providers are current, the Debtors estimate that, as of the Petition Date, they owe they owe approximately \$402,249 on account of Colombia Health Benefits Provider premiums.
- ***Non-Colombia Health Benefits Providers.*** Outside of Colombia, the Debtors have also negotiated various health care plans designed to provide the greatest coverage to their Employees while at the same time minimizing the high cost of providing healthcare. Employees can affiliate with certain health benefits plan through various insurers for themselves and their families.
- Several of the available benefits providers (each, a “Non-Colombia Health Benefits Provider”) are preferred provider organizations under which improved benefits are available when using a doctor, dentist, or other healthcare provider who is within the network of preferred providers. The Debtors are required to pay a monthly premium in exchange for the benefits provided to Employees who subscribe to the Non-Colombia Health Benefits Providers.
- Such premiums for Non-Colombia Employee Health Benefits Provider coverage are 30% funded by Employee contributions withheld from paychecks, and the additional 70% is funded by the Debtors, for the Employee’s affiliation. For Employee’s beneficiaries covered under the policy, the Debtors fund 30% of the premium, and the remaining cost (70%) is withheld from the employee’s paycheck. In the ordinary course of business, each Non-Colombia Health Benefits Provider premium may vary as the number of Employees enrolled in the Non-Colombia Health Benefits Provider plans changes and as the Non-Colombia Health Benefits Provider administrators change their prices.
- To participate in plans with the Non-Colombia Health Benefits Providers, the Debtors are required to pay annual premiums of approximately \$5.4 million in the aggregate (excluding the 30% cost paid by each Employee for its own affiliation, and the 70% cost paid by each Employee for his or her beneficiaries’ affiliation). All premiums to Non-Colombia Health Benefit Providers are paid in advance. Because the obligations to the Non-Colombia Health Benefit Providers are current, the Debtors estimate that, as of the Petition Date, they owe approximately \$733,318 on account of Non-Colombia Health Benefits Provider Premiums.

***Tier III- Additional Medical Benefits borne by Debtors***

- Additionally, the Debtors provide other health care coverage for some of their Employees and some Retired Employees, including coverage for medical and dental expenses. The Debtors have established various health care plans designed to provide the best coverage to some Employees. The Debtors offer a variety of medical and dental programs (the “Group Medical Plan”) to some of their Employees.
- ***Additional Health Benefits Providers.*** The Debtors administer certain health benefits plan through various insurers to eligible Employees and their families.
- Several of these benefits providers (each, an “Additional Health Benefits Provider”) are preferred provider organizations under which improved benefits are available when using a doctor, dentist, or other healthcare provider who is within the network of preferred providers. Under most contracts between the Debtors and the Additional Health Benefits Providers, the Debtors are required to pay an annual premium in exchange for the benefits provided to the Employees who subscribe to the Additional Health Benefits Provider. Such premiums for Additional Health Benefits Provider coverage are entirely funded by the Debtors.
- To participate in plans with the Additional Health Benefits Providers, the Debtors are required to pay annual premiums of approximately \$2.2 million in the aggregate. All premiums to Additional Health Benefits Providers are paid in advance. Because the obligations to their Additional Health Benefit Providers are current, the Debtors estimate that, as of the Petition Date, they owe approximately \$67,460 on account of Additional Health Benefits Provider premiums.
- ***Retired Employee Medical Benefits.*** The Debtors also maintain medical plans for approximately 301 Retired Employees as a mandatory union benefit available to the Debtors’ retired pilots conditioned on participants reaching 20 years of seniority with the Debtors. The benefits provided to the Retired Employees cost the Debtors approximately \$45,333 on a monthly basis.

**B. Life and Disability Insurance**

- The Debtors provide basic life insurance in varying amounts to their Employees. The entire cost of such insurance is borne by the Debtors. The Debtors pay premiums for this coverage monthly in arrears. The premiums for such insurance vary, based upon the Debtors’ accident rate for the preceding year. The Debtors estimate that, as of the Petition Date, they owed no amounts to insurance companies for basic life insurance for the prior month. In Colombia, the Debtors maintain an additional life insurance plan in which Employees may elect to participate. Approximately 3% of the Employees in Colombia have elected this coverage for themselves and/or their dependents. The Debtors estimate that, as of the Petition

Date, there are no outstanding amounts representing contributions for additional life insurance coverage withheld from Employees' wages prior to the Petition Date pending transfer to the insurance carriers.

- The Debtors also maintain long-term and short-term disability insurance plans for certain U.S. Employees (the "Disability Plans"). A portion of the long-term disability benefits is funded by the Debtors, which is included in the premiums for the life insurance policies. The Debtors estimate that, as of the Petition Date, they do not hold any prepetition amounts withheld in respect of Employee contributions.

### C. Retirement Savings

- Outside of the U.S., the Debtors are required to contribute a percentage of Employees' salaries to pension and/or social security plans (collectively, the "International Savings Plans") in accordance with local law.
- For U.S. Employees, the Debtors maintain a retirement savings plan (the "Savings Plan") that meets the requirements of Section 401(k) of the Internal Revenue Code of 1986. The Savings Plan is administered by MassMutual. Employees may elect to defer up to 100% of their pay on a pre-tax basis, up to the maximum dollar limit amount set by federal law which can vary per calendar year. The Debtors match 25% of the first 6% of pay that Employees defer into the Savings Plan.
- In the aggregate, the Debtors contribute approximately \$2.3 million on a monthly basis to the Savings Plan and the International Savings Plans in the aggregate. The Debtors seek authority (but not direction) to pay all amounts collected or otherwise payable by the Debtors towards prepetition contributions to the Savings Plan and the International Savings Plan as and when due.
- In other countries, an additional savings plan applies to the Debtors' Directors and Vice Presidents. The Debtors contribute 25% of these Employees' savings, which range from 2% to 10% of the Employee's salary.

### D. U.S. and Foreign Pension Plans

- U.S. Pension Benefits. The Debtors' U.S. Employees do not receive pension benefits.
- Foreign Pension Benefits. In Colombia and Costa Rica approximately 1,094 of the Debtors' Employees participate in specific pension plans.
- The Debtors contribute to both defined benefit and defined contribution pension plans, and estimate that approximately \$3.3 million is or will be due and owing on account of unpaid prepetition contributions. The approximate annual cost for these defined benefit and defined contribution plans, is \$67.3 million.

- The Debtors and their pension-eligible Employees also contribute to a social security entity that covers pension liability in the applicable non-U.S. countries in which the Debtors operate. For example, in Colombia, the Debtors contribute 12% of an Employee's salary while the Employee is responsible for making a 4% contribution. The approximate annual cost for these pension plans and social security obligations, including employer contributions and related administrative fees, is \$52.1 million.

**E. Compensation Funds (Cajas de Compensación)**

- The Debtors are required to contribute to Employee Social Security, Health, Retirement Savings, Compensation Funds (*Caja de Compensación*) (the "Compensation Funds"). The Compensation Funds are private, non-profit, economic redistribution and solidarity nature entities. These were created to improve the quality of life of the families of Colombian workers, through the management and delivery of subsidies and services of part of the social security contributions made by employers. The Debtors' monthly payment for these Compensation Funds is approximately \$655,000.
- The Debtors seek authority (but not direction) to continue to pay/honor all of the foregoing benefits as they come due in the ordinary course of their businesses, including amounts in respect of prepetition periods that may be owed.