

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re

**WESCO AIRCRAFT HOLDINGS, INC.,
*et al.***¹

Debtors.

Case No. 23-90611 (DRJ)

Chapter 11

(Joint Administration Requested)

**DEBTORS' EMERGENCY
MOTION FOR ENTRY OF INTERIM
AND FINAL ORDERS (I) AUTHORIZING THE
DEBTORS TO MAINTAIN THEIR INSURANCE
POLICIES AND PROGRAMS AND HONOR
RELATED OBLIGATIONS, (II) AUTHORIZING THE
DEBTORS TO RENEW, SUPPLEMENT, MODIFY,
EXTEND, REDUCE OR PURCHASE INSURANCE
POLICIES, AND (III) MODIFYING THE AUTOMATIC
STAY WITH RESPECT TO WORKERS' COMPENSATION**

Emergency relief has been requested. Relief is requested not later than 1:00 p.m. (Central Time) on June 1, 2023.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must either appear at the hearing or file a written response prior to the hearing. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

¹ The Debtors operate under the trade name Incoira and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of the Debtors in these chapter 11 cases, with each one's federal tax identification number and the address of its principal office, is available on the website of the Debtors' noticing agent at <http://www.kccllc.net/incora/>. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137.



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A hearing will be conducted on this matter on June 1, 2023 at 1:00 p.m. (Central Time) in Courtroom 400 (Jones), 4th Floor, 515 Rusk, Houston, Texas 77002. Participation at the hearing will only be permitted by an audio and video connection.

Audio communication will be by use of the Court's dial-in facility. You may access the facility at 1 (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Jones's conference room number is 205691. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Jones's home page. The meeting code is "Judge Jones". Click the settings icon in the upper right corner and enter your name under the personal information setting.

Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Jones's home page. Select the case name, complete the required fields and click "Submit" to complete your appearance.

The above-captioned debtors and debtors in possession (the “*Debtors*” and, together with their non-Debtor subsidiaries, “*Incora*”) respectfully state as follows.

RELIEF REQUESTED

1. By this motion (the “*Motion*”), the Debtors seek entry of an interim order and a final order (respectively, the “*Interim Order*” and the “*Final Order*”) in the respective forms attached hereto as **Exhibit A-1** (the “*Proposed Interim Order*”) and **Exhibit A-2** (the “*Proposed Final Order*”):

- a) authorizing them to continue honoring obligations under their existing Insurance Programs (as defined below) (“*Insurance Obligations*”), including by paying prepetition obligations related to those Insurance Programs and by paying the Debtors’ insurance brokers;
- b) authorizing them to renew, supplement, modify, extend, reduce or purchase insurance coverage in the ordinary course of business;
- c) directing all financial institutions to honor, to the extent of available funds, all checks and other fund transfers authorized by the Interim Order or Final Order, as applicable;
- d) modifying the automatic stay to permit employees to proceed with workers’ compensation claims; and
- e) granting other related relief.

2. The Debtors also request that the Court schedule a final hearing within 21 days of the commencement of these chapter 11 cases, or as soon thereafter as is convenient for the Court, to consider entry of the Proposed Final Order.

3. The principal statutory bases for this Motion are sections 105(a), 362(d), 363(b), 365 and 1107(a) of title 11 of the U.S. Code (the “*Bankruptcy Code*”), Rules 4001, 6003, 6004 and 6006 of the Federal Rules of Bankruptcy Procedures (the “*Bankruptcy Rules*”), and Rule 9013-1(i) of the Bankruptcy Local Rules of the U.S. Bankruptcy Court for the Southern District of Texas (the “*Local Rules*”).

4. In support of this Motion, the Debtors rely upon the *Declaration of Raymond Carney in Support of Chapter 11 Petitions and First Day Motions*, filed concurrently with this Motion (the “*First Day Declaration*”).²

JURISDICTION AND VENUE

5. The U.S. Bankruptcy Court for the Southern District of Texas (the “*Court*”) has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. This Motion is a core proceeding under 28 U.S.C. § 157(b). Venue in the Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

I. GENERAL BACKGROUND

6. Incora is a provider of supply chain management services in several industries and the largest independent distribution and supply chain services provider in the global civilian and military aerospace industry. In its distribution business, Incora offers aerospace hardware and parts, electronic products, chemicals, and tooling products, which it procures, tracks and provides to customers from service centers around the world. In its service business, Incora manages all aspects of its customers’ supply chains, including procurement, warehouse management, and on-site customer services, offering both customized supply-chain management plans and ad hoc direct sales. In both lines, timely delivery of necessary hardware and chemicals is critical to the business operations of Incora and its civilian and military customers. In the ordinary course of business Incora acquires insurance coverage relating to its business operations.

7. On June 1, 2023 (the “*Petition Date*”), the Debtors each commenced a voluntary case under chapter 11 of the Bankruptcy Code in this Court. The Debtors have requested joint administration of their chapter 11 cases for procedural purposes. The Debtors are operating their

² Capitalized terms used but not defined in this Motion have the meanings ascribed to them in the First Day Declaration.

businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee, examiner or official committee has been appointed.

8. Additional information regarding the Debtors' businesses, assets, capital structure, and the circumstances leading to the filing of these chapter 11 cases is set forth in the First Day Declaration.

II. THE DEBTORS' INSURANCE POLICIES AND PAYMENT OBLIGATIONS

9. In connection with the operation of the Debtors' businesses and the management of their properties, the Debtors maintain a comprehensive insurance program. The Debtors maintain approximately twenty insurance policies (collectively, the "*Insurance Policies*") that are administered by approximately sixteen third-party insurance carriers (collectively, the "*Insurance Carriers*"). The Insurance Policies provide coverage for, among other things, property liability, cargo transport liability, products & premises liability, general liability, umbrella liability, cyber liability, automobile liability, workers' compensation, special risk, aviation products and airport premises, and directors' and officers' liability (the "*Insurance Programs*"). A comprehensive list of the Insurance Policies in effect as of the Petition Date is attached to this Motion as **Exhibit B**.³

10. Continuation and renewal of the Insurance Policies and potentially entry into new insurance policies is essential to preserving the value of the Debtors' businesses, properties, and assets. Moreover, coverage provided by the Insurance Policies is required by the regulations, laws, and contracts that govern the Debtors' commercial activities, including the Bankruptcy Code. The Debtors seek authorization to maintain the existing Insurance Policies, pay any related prepetition

³ **Exhibit B** is intended to include all of the Debtors' Insurance Policies. However, if the Debtors have inadvertently failed to list a particular Insurance Policy, that Insurance Policy is nevertheless intended to be within the scope of the defined terms "Insurance Programs" and "Insurance Policies" and within the scope of the relief requested by this Motion. The descriptions of the Policies set forth in this Motion, including on **Exhibit B**, constitute a summary only. The actual terms of the Insurance Policies and related agreements will govern in the event of any inconsistency with the description in this Motion. In addition to the Insurance Policies listed on **Exhibit B**, the Debtors maintain numerous insurance policies with respect to employee health, disability, and life insurance benefits. Those programs are described, and relief is requested with respect to them, in the Wages Motion.

obligations, and to renew, supplement, modify, or enter into new Insurance Policies in the ordinary course of business on a postpetition basis.

A. Insurance Premiums

11. The Debtors are required to pay premiums and associated taxes and fees under the Insurance Programs based on rates that are established and billed by each Insurance Carrier. Each of the Insurance Policies are one year in length and, except for the Workers' Compensation Insurance (as defined below) and the Debtors' D&O Insurance, each renews in December. The Debtors pay their general liability, umbrella liability, and U.S. workers' compensation premiums directly (the "*Direct Insurance Obligations*"). As discussed below, the Debtors' remaining Insurance Policies are financed. During the period from December 1, 2022 to November 30, 2023, the Debtors expect to pay approximately \$995,021.28 in Direct Insurance Obligations. No Direct Insurance Obligations were past due as of the Petition Date, however, the Debtors expect Direct Insurance Obligations totaling approximately \$95,804.47 to come due prior to determination of this Motion on a final basis (the "*Interim Period*"). Failure to pay Direct Insurance Obligations when due may harm the Debtors' estates in several ways, including the loss of insurance coverage and the subsequent need to obtain replacement insurance on an emergency basis, likely at a higher price.

B. Premium Financing Agreements

12. The seventeen remaining Insurance Policies are or were financed through premium financing agreements with IPFS Corporation (the "*IPFS Agreement*") and Premium Credit Limited (the "*PCL Agreement*") (collectively, the "*Premium Financing Agreements*" and the obligations thereunder, the "*Insurance Financing Obligations*"). Pursuant to the Premium Financing Agreements, the Debtors pay the financing premiums on an installment basis for the insurance coverage provided for the Debtors under the Premium Financing Agreements. The IPFS Agreement was executed by Wesco Aircraft Holdings, Inc., Arthur J. Gallagher Brokerage & Risk Management Services, LLC ("*Gallagher*") and IPFS Corporation on December 15, 2022. The PCL Agreement was executed by Wolverine UK Holdco Ltd., Gallagher, and Premium Credit Limited.

If the Debtors default in paying the Insurance Financing Obligations, the related policies could be canceled.

13. The aggregate annual amount of Insurance Financing Obligations, including taxes, fees, surcharges, and finance charges, is approximately \$2,079,013. The Debtors pay approximately \$39,340 in annual finance charges on account of the Premium Financing Agreements. No Insurance Financing Obligations were past due as of the Petition Date, however, the Debtors expect Insurance Financing Obligations totaling approximately \$161,895 to come due during the Interim Period.

C. Deductibles and Self-Insured Retention

14. Certain of the Insurance Policies require the Debtors to pay deductibles in the maximum amount of \$25,000 per incident (collectively, “*Deductibles*”). Generally, if a claim is made against the Insurance Policies, the Debtors’ applicable Insurance Carrier will administer the claim and make payments in connection therewith. The Debtors then pay the Deductible directly to their Insurance Carriers. The Debtors seek authority to continue the Deductibles under the Insurance Policies, including honoring any payment obligations under the Deductibles, in the ordinary course of business on a postpetition basis, to ensure uninterrupted coverage. However, with respect to the Debtors’ foreign Workers’ Compensation Insurance (as discussed below), the Debtors seek authority to pay Deductibles as they come due, whether arising from the prepetition or postpetition period, throughout these chapter 11 cases.

15. Alternatively, the Debtors’ professional liability errors and omissions policy uses a self-insured retention (the “*SIR*”). Under the SIR, the Debtors make payments to Chubb Custom Ins. Co. up to the \$1,000,000 per claim limit of the SIR, and once the claim value is above the SIR amount, the Insurance Carrier will cover remaining costs up to an excess liability limit of \$10 million. If a claim is made against such combined policies, the Insurance Carrier will administer the claim and make payments in connection therewith. The Debtors seek authority to continue the

SIR, including honoring any payment obligations under the SIR, in the ordinary course of business on a postpetition basis to ensure uninterrupted coverage thereunder.

D. Insurance Brokerage Fees

16. The Debtors employ Gallagher and Marsh Risk & Insurance Services (“*Marsh*”) to give advice on insurance and to assist with arranging their Insurance Programs. Gallagher assists the Debtors in obtaining comprehensive insurance coverage for their operations in the most cost-effective manner, negotiating policy terms, provisions, and premiums, assisting the Debtors with claims, providing data analytics and actuarial services, and providing ongoing support throughout the applicable policy periods. Likewise, Marsh provides similar services related to the Debtors’ D&O insurance. The Debtors believe that Gallagher’s and Marsh’s services are necessary to assure the Debtors’ ability to secure Insurance Programs on advantageous terms at competitive rates, to maintain the Debtors’ Insurance Policies in good order postpetition, and to ensure adequate protection of the Debtors’ property for the benefit of all parties in interest.

17. The Debtors pay Gallagher an aggregate amount of approximately \$275,000 per year in fees and pay Marsh an aggregate amount of \$151,009 per year in fees (collectively, the “*Agent Fees*”). Gallagher’s Agent Fees are earned and payable on September 30th of each calendar year. Marsh’s Agent Fees are earned and payable on April 21st of each calendar year. The Debtors believe that they do not currently owe any accrued and unpaid Agent Fees. However, for the avoidance of doubt, the Debtors request the authority to pay any Agent Fees that they may owe Gallagher and Marsh and to continue making payments to the same, all in the ordinary course of business throughout these chapter 11 cases.

III. WORKERS’ COMPENSATION

18. The Debtors’ workers’ compensation insurance (the “*Workers’ Compensation Insurance*”) deserves special mention. In many (if not all) of the jurisdictions where the Debtors operate, employers are required to maintain workers’ compensation coverage for their employees

for claims arising from their employment. If the Debtors fail to maintain the Workers' Compensation Insurance, the Debtors may be prohibited from operating in those jurisdictions.

19. The Debtors purchase their Workers' Compensation Insurance for U.S. employees from Starr Specialty Insurance Company ("***Starr***") and ACE American Insurance Company (as part of the Debtors' foreign liability package) for all foreign employees (the "***Workers' Compensation Carriers***"). As previously discussed, the Debtors pay the Workers' Compensation Insurance premiums owed to Starr directly. Additionally, the foreign Workers' Compensation Insurance includes a \$1,000 per incident Deductible. The Debtors believe they are current as of the Petition Date but seek authority to continue their Workers' Compensation Program, including paying any of the Debtors' costs and Deductibles owed thereunder, in the ordinary course and on a postpetition basis.

20. The Workers' Compensation Insurance policy with Starr renewed on March 1, 2023. The Debtors pay Starr for Workers' Compensation Insurance pursuant to a monthly installment schedule. The Debtors may receive dividends based on prioritizing workplace safety and successfully controlling their losses. Dividends are not guaranteed, and generally payable to qualifying policies after such policy has expired and the prescribed period has lapsed. As of the Petition Date, there are approximately \$10,000 in known, unresolved workers' compensation claims. Although the Debtors expect that all workers' compensation claims will be covered by insurance, the Debtors must be able to participate in the process of assessing, adjudicating and paying those claims without regard to whether the liabilities accrued before the Petition Date, in accordance with applicable laws and requirements.

BASIS FOR RELIEF

I. FAILURE TO MAINTAIN INSURANCE MAY VIOLATE APPLICABLE LAW OR CURRENT CONTRACTUAL REQUIREMENTS, PLACE ESTATE PROPERTY AT UNDUE RISK, AND PREVENT A SUCCESSFUL REORGANIZATION.

21. Under the Bankruptcy Code, "failure to maintain appropriate insurance that poses a risk to the estate or to the public" is "cause" for mandatory conversion or dismissal of a chapter 11

case. 11 U.S.C. § 1112(b)(4)(C). In addition, in many instances, the coverage provided by the Insurance Programs is required by the regulations, laws, and contracts that govern the Debtors' commercial activities, as well as part III of the U.S. Trustee's Region 7 Guidelines for Debtors-in-Possession (the "*U.S. Trustee Guidelines*").⁴ Against this backdrop, it is essential that the Debtors be permitted to maintain their Insurance Programs and continue making all payments required on account of those programs (including the Insurance Financing Obligations). It is similarly critical that the Debtors have the authority to renew, supplement, modify, extend, reduce or purchase insurance coverage in the ordinary course of business, without further order of the Court.

22. Likewise, certain of the jurisdictions in which the Debtors operate require employers to maintain workers' compensation insurance. If the Debtors fail to do so, local labor law may prohibit them from operating in those jurisdictions. Even where local law does not require workers' compensation insurance, the Debtors believe that workers' compensation coverage is essential to maintaining their workforce. Maintaining workers' compensation coverage is therefore crucial to the Debtors' continued operations and the success of the Debtors' chapter 11 process.

23. In addition, the Debtors are party to numerous contracts, many of which require them to maintain various forms of insurance coverage, such as general insurance, liability insurance, and workers' compensation insurance.

24. Even more fundamentally, a strong insurance program is an essential component of prudent management for any business. Insurance policies such as those maintained by the Debtors protect a business against unforeseen risks, which can strike as easily to a chapter 11 debtor as to a financially healthy company. The Debtors' Insurance Policies benefit all their stakeholders by ensuring that the estate will not be depleted if, for example, a warehouse burns down. The Debtors' directors and officers would be derelict in their fiduciary duties to the estates if they allowed the business to continue without adequate insurance.

⁴ The U.S. Trustee Guidelines are available at https://www.justice.gov/ust-regions-r07/file/r07_dip_guidelines.pdf/download.

II. AMPLE AUTHORITY EXISTS TO ALLOW THE DEBTORS TO PAY INSURANCE OBLIGATIONS.

25. Because the ability to pay Insurance Obligations is critical to the Debtors' continued operations and oftentimes required by law, the Debtors submit that this Motion may be granted under section 363 of the Bankruptcy Code, as well as section 105(a) and the doctrine of necessity, as courts in this jurisdiction have often done. *See, e.g., In re IEH Auto Parts Holding LLC*, Case No. 23-90054 (CML) (Bankr. S.D. Tex. Feb. 1, 2023) [ECF No. 51] (authorizing debtors to maintain insurance programs and to pay prepetition obligations in connection with such programs); *In re Serta Simmons Bedding, LLC*, Case No. 23-90020 (DRJ) (Bankr. S.D. Tex. Jan. 24, 2023) [ECF No. 93] (same); *In re Strike, LLC*, Case No. 21-90054 (DRJ) (Bankr. S.D. Tex. Dec. 6, 2021) [ECF No. 58] (same); *In re Wash. Prime Grp. Inc.*, Case No. 21-31948 (MI) (Bankr. S.D. Tex. June 14, 2021) [ECF No. 82] (same); *In re Basic Energy Servs., Inc.*, Case No. 21-90002 (DRJ) (Bankr. S.D. Tex. Sept. 13, 2021) [ECF No. 341] (same); *In re Weatherford Int'l plc*, No. 19-33694 (DRJ) (Bankr. S.D. Tex. July 2, 2019) [ECF No. 83] (same).

A. The Court Should Authorize Payments Under Section 363.

26. As an initial matter, the Debtors believe that payments made to maintain the Insurance Programs fall within the ordinary course of business and are therefore permitted by section 363(c)(1) of the Bankruptcy Code, which authorizes a debtor in possession to "use property of the estate in the ordinary course of business without notice or a hearing." The Debtors believe that an action to renew, supplement, modify, extend, reduce or purchase insurance coverage constitutes a "transaction[] . . . in the ordinary course of business" that is likewise permitted by section 363(c)(1). *Ga. Pac. Corp. v. Sigma Serv. Corp.*, 712 F.2d 962, 966 (5th Cir. 1983); *accord In re Casbeer*, 793 F.2d 1436, 1441 n.12 (5th Cir. 1986); *cf. Phelps v. U.S. Bank N.A.*, No. 2:13-CV-361, 2014 WL 991803, at *3 (S.D. Tex. Mar. 13, 2014) (holding that an assignment made in the ordinary course of business does not require court approval or a lifting of the automatic stay under section 363(c)(1)); *Mestna, Inc. v. Atravasada Land and Cattle Co., Inc. (In re Atravasada Land & Cattle Inc.)*, 308 B.R. 255, 269 (Bankr. S.D. Tex. 2008) (holding that sales in the ordinary course of business do not require notice or hearing under section 363(c)(1)).

27. To the extent that any payments of Insurance Obligations lie outside the ordinary course of business, the Court can and should authorize those payments under section 363(b)(1) of the Bankruptcy Code, which provides, in relevant part, that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate” Consistent with a debtor’s fiduciary duties, where there is a sound business purpose for the payment of prepetition obligations courts have authorized debtors to make such payments under section 363(b) of the Bankruptcy Code. *See, e.g., Black v. Shor (In re BNP Petroleum Corp.)*, 642 F. App’x 429, 434 (5th Cir. 2016); *Institutional Creditors of Cont’l Air Lines, Inc. v. Cont’l Air Lines, Inc. (In re Cont’l Air Lines, Inc.)*, 780 F.2d 1223, 1226 (5th Cir. 1986) (“[F]or the debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business.”); *see also ASARCO, Inc. v. Elliott Mgmt. (In re ASARCO L.L.C.)*, 650 F.3d 593, 601 (5th Cir. 2011) (“Section 363 of the Bankruptcy Code addresses the debtor’s use of property of the estate and incorporates a business judgment standard. . . . The business judgment standard in section 363 is flexible and encourages discretion.”).

28. Once the debtor articulates a reasonable basis for its business decisions, “courts will generally not entertain objections to the debtor’s conduct.” *Comm. of Asbestos Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). There is a presumption that “in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” *Off. Comm. Of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)). Here, the Debtors submit that payment of the Insurance Obligations is critical to the Debtors’ continued operations, necessary to protect the estates, the Debtors’ employees, and third parties, and in many instances required by law. As such, payment of the Insurance Obligations is a sound exercise of the Debtors’ business judgment.

B. The Court Should Authorize Payments Under Section 105(a) and the Doctrine of Necessity.

29. Section 105(a) of the Bankruptcy Code authorizes the Court to issue “any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). This provision provides a statutory basis for a debtor-in-possession to pay prepetition claims when doing so is necessary to carry out fiduciary obligations. *See, e.g., In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (holding that section 105(a) provides a statutory basis for payments where necessary to fulfill the debtor’s fiduciary duties under section 1107(a)); *see also In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D. Del. 1999); *In re Scotia Dev.*, No. 07-20027, 2007 WL 2788840 at *1-2 (Bankr. S.D. Tex. Sept. 21, 2007); *In re CEI Roofing, Inc.*, 315 B.R. 50, 56 (Bankr. N.D. Tex. 2004); *In re Mirant Corp.*, 296 B.R. 427 (Bankr. N.D. Tex. 2003); *cf. Czyzewski v. Jevic Holding Corp.*, 580 U.S. 451, 468 (2017) (citing first-day orders for payments to employees and critical vendors as examples of “priority-violating distributions” that courts have allowed due to “significant Code-related objectives”).

30. This understanding of section 105(a) has its basis in the “doctrine of necessity” or the “necessity of payment” doctrine. Under that longstanding doctrine, first developed in railroad reorganizations, a bankruptcy court may exercise its equitable power to allow a debtor to pay critical prepetition claims that are not explicitly authorized by the Bankruptcy Code. *See In re CoServ, L.L.C.*, 273 B.R. at 492; *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that a court may authorize payment of prepetition claims if such payment is essential to continued operation of debtor); *Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945) (holding, in a hotel reorganization case, that court was not “helpless” to apply rule to supply creditors of non-railroad debtors where alternative was cessation of operations); *see also Miltenberger v. Logansport C. & S.W. Ry. Co.*, 106 U.S. 286, 313–14 (1882) (earliest case holding payment of pre-reorganization claim was permitted as it was necessary for continued operation of railroad).

31. Preservation of the estate is often most critical and extremely difficult early in reorganization cases. For that reason, where failure to make payments of certain essential

prepetition claims threatens to disrupt a debtor’s efforts to reorganize, bankruptcy courts routinely invoke their equitable powers to authorize a debtor to pay such claims under the doctrine of necessity, in light of the paramount goal of chapter 11: “facilitating the continued operation and rehabilitation of the debtor” *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989); *see also In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (authorizing payment of prepetition claims as “necessary to avert a serious threat to the [c]hapter 11 process”). In addition, many contracts impose on the debtors the requirement to maintain insurance during the course of the parties’ contractual relationship. The Debtors in operating their business seek to minimize potential risk of default or breach by maintaining the coverage.

32. Payment of Insurance Obligations is warranted under section 363, section 365, section 105 and the doctrine of necessity. As described above, maintenance of the Insurance Programs is necessary to preserve the value of the Debtors’ assets for the benefit of all parties in interest and to minimize risk to the Debtors’ ongoing business operations. In addition, applicable law mandates that the Debtors maintain appropriate insurance. In particular, failure to maintain workers’ compensation coverage could jeopardize the Debtors’ ability to maintain their operations.

III. THE AUTOMATIC STAY SHOULD BE MODIFIED AS TO WORKERS’ COMPENSATION CLAIMS.

33. Section 362(a) of the Bankruptcy Code provides that the filing of a voluntary petition operates as an automatic stay against, among other things, “the commencement or continuation . . . of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case . . . or to recover a claim against the debtor that arose before the commencement of the case” 11 U.S.C. § 362(a)(1). However, a debtor or other party in interest may request a modification of the automatic stay for “cause.” § 362(d)(1). The term “cause” is not defined in the Bankruptcy Code. Rather, whether “cause” exists is a fact-intensive inquiry that must be determined on a case-by-case basis. *In re Simpson*, No. 16-32612-H3-7, 2016 WL 4204026, at *2 (Bankr. S.D. Tex. Aug. 5,

2016); *Reitnauer v. Tex. Exotic Feline Found., Inc. (In re Reitnauer)*, 152 F.3d 341, 343 n.4 (5th Cir. 1998).

34. Here, the Debtors seek to modify the stay so that their current and former employees may submit workers' compensation claims and prosecute those claims in the ordinary course of business in the proper judicial or administrative forum. The Debtors believe that preventing workers from prosecuting their claims against the Workers' Compensation Carriers would have a detrimental effect on employees' financial wellbeing and morale and could lead to the departure of employees who are critical to the Debtors' business. Furthermore, the Debtors do not believe that claims resolution will unduly distract senior management from the Debtors' restructuring efforts, and the Debtors expect that, with the exception of *de minimis* Deductibles which may be owed on account of foreign Workers' Compensation Insurance, all prepetition claims for workers' compensation will be fully covered by insurance. Modifying the stay will benefit the estates without creating any significant downsides. Accordingly, the Court should modify the automatic stay to the extent necessary to permit the Debtors' current and former employees to proceed against the Workers' Compensation Carriers with respect to workers' compensation claims and to allow those Workers' Compensation Carriers to pay those claims.

35. Courts in this jurisdiction have routinely allowed workers' compensation claims to move forward against insurance carriers during chapter 11 cases. *See, e.g., In re Core Scientific, Inc.*, Case No. 22-90341 (DRJ) (Bankr. S.D. Tex., Dec. 22, 2022) [ECF No. 118] (modifying stay to allow workers' compensation claims to move forward during the pendency of the chapter 11 cases); *In re Talen Energy Supply, LLC*, Case No. 22-90054 (MI) (Bankr. S.D. Tex. June 8, 2022) [ECF No. 461] (same); *In re Basic Energy Servs., Inc.*, No. 21-90002 (DRJ) (Bankr. S.D. Tex. Sept. 13, 2021) [ECF No. 341] (same); *In re UTEX Indus., Inc.*, No. 20-34932 (DRJ) (Bankr. S.D. Tex. Oct. 9, 2020) [ECF No. 72] (same); *In re Fieldwood Energy LLC*, No. 20-33948 (MI) (Bankr. S.D. Tex. Sept. 14, 2020) [ECF No. 340] (same); *In re SpeedCast Int'l Ltd.*, No. 20-32243 (MI) (Bankr. S.D. Tex. May 18, 2020) [ECF No. 212] (same); *In re EP Energy Corp.*, No. 19-35654 (MI) (Bankr. S.D. Tex. Oct. 4, 2019) [ECF No. 61] (same). Similar relief is appropriate here.

IV. THE COURT SHOULD DIRECT FINANCIAL INSTITUTIONS TO HONOR AUTHORIZED PAYMENTS.

36. To facilitate implementation of the above-requested relief, the Debtors further request that the Court authorize and direct all applicable banks and financial institutions to receive, process, honor and pay any and all checks drawn or electronic fund transfers from its accounts whether such checks were presented prior to or after the Petition Date, to the extent such checks or electronic fund transfers are expressly identified by the Debtors as relating directly to the authorized payments on the Insurance Obligations. The Debtors also seek authority to issue new postpetition checks, or effect new electronic fund transfers, on account of such claims to replace any prepetition checks or other transfer requests that may be dishonored or rejected because of the commencement of the chapter 11 cases.

37. The Debtors believe that they have sufficient availability of funds to pay the amounts described herein in the ordinary course of business by virtue of cash reserves, expected cash flows from business operations and from the anticipated authorization to use the prepetition lenders' cash collateral. Through the Debtors' existing cash management system, the Debtors believe that checks or other transfer requests can be readily identified as an authorized payment on Insurance Obligations, and the Debtors are prepared to assist their banks by confirming whether particular transfers are authorized by an order granting this Motion. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that all applicable financial institutions should be authorized, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests in respect of the Insurance Obligations.

EMERGENCY CONSIDERATION

38. Bankruptcy Rule 6003 allows a bankruptcy court to grant relief within the first 21 days of a case "to the extent that relief is necessary to avoid immediate and irreparable harm," and paragraph 17 of the Procedures for Complex Cases in the Southern District of Texas (the "*Complex Case Procedures*") requires that all non-emergency motions be filed on at least 21 days'

notice. Pursuant to those rules and Local Rule 9013-1(i), the Debtors request emergency consideration of this Motion. An immediate and orderly transition into chapter 11 is critical to the viability of the Debtors' operations. As described in this Motion, the Debtors are under a legal obligation to maintain many of their Insurance Programs and the Workers' Compensation Insurance. In addition, the termination, suspension, or nonrenewal of any of the Insurance Policies, including the Workers' Compensation Insurance, as a result of nonpayment could subject the Debtors to substantial administrative liability as well as a potential cessation of operations, to the detriment of all parties in interest. Failure to receive the requested relief during the first 21 days of these chapter 11 cases would imperil the Debtors' restructuring and cause irreparable harm.

39. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 to support granting the interim relief requested in this Motion on an emergency basis. Likewise, to ensure that any necessary Insurance Obligations are paid when due, the Debtors request that the 14-day stay of Bankruptcy Rule 6004(h) be waived.

RESERVATION OF RIGHTS

40. Nothing in this Motion is intended or should be construed as (a) an implication, admission, or concession as to the validity, amount or priority of, or basis for, any claim against any Debtor; (b) a waiver of any Debtor's or any other party in interest's right to dispute any claim on any ground; (c) a promise or requirement to pay any claim; (d) a waiver of any claim or cause of action that any Debtor or other party in interest may have against any entity; (e) a ratification, adoption, rejection or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code; (f) a waiver or limitation of any Debtor's or other party in interest's rights under any agreement, the Bankruptcy Code or other applicable law; or (g) an implication, admission or concession (i) that any particular claim is of a type specified or defined in the Motion or (ii) any lien, security interest, other encumbrance on property of any Debtor or (ii) that any lien, security interest, other encumbrance on property of any Debtor or right of setoff is valid, enforceable or perfected (and the Debtors and all other parties in interest expressly reserve and preserve their

rights to contest or to seek avoidance of, the same). If the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

NOTICE

41. Notice of this Motion will be provided to (a) the Office of the U.S. Trustee for Region 7; (b) the creditors holding the thirty largest unsecured claims, according to the list filed by the Debtors with their petitions and their counsel; (c) the administrative agent for the ABL Facility and its counsel; (d) the indenture trustee for the 1L Notes and its counsel; (e) the indenture trustee for the 1.25L Notes and its counsel; (f) the indenture trustee for the Unsecured Notes and its counsel; (g) the indenture trustee for the PIK Notes and its counsel; (h) Davis Polk & Wardwell LLP and Porter Hedges LLP, as counsel to an ad hoc group of holders of 1L Notes (the "***First Lien Noteholder Group***"); (i) Carlyle Global Credit Investment Management, LLC, and its counsel; (j) Senator Investment Group LP and its counsel; (k) Kobre & Kim LLP as counsel to an ad hoc group of holders of Unsecured Notes; (l) Langur Maize, L.L.C. and its counsel; (m) Katsumi and its counsel; (n) Platinum and its counsel; (o) each of the Debtors' depositories and their respective counsel; (p) each of the Debtors' Insurance Carriers, insurance financiers, and insurance brokers; (q) each of the Debtors' depositories or their respective counsel; (r) the Internal Revenue Service; (s) the Office of the U.S. Attorney for the Southern District of Texas; and (t) any other party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors respectfully submit that no further notice is required under the circumstances.

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Upon the foregoing Motion, the Debtors respectfully request that the Court (a) at an initial hearing in these cases, (i) enter an order, substantially in the form attached as **Exhibit A-1**, granting this Motion on an interim basis, (ii) schedule a hearing for consideration of the Motion on a final basis, (b) at a subsequent hearing, enter an order, substantially in the form attached as **Exhibit A-2**, granting this Motion on a final basis, and (c) grant such other relief as is just and proper.

Dated: June 1, 2023

Respectfully submitted,

/s/ Kelli S. Norfleet

Kelli S. Norfleet (TX Bar No. 24070678)
Charles A. Beckham, Jr. (TX Bar No. 02016600)
Martha Wyrick (TX Bar No. 24101606)
HAYNES AND BOONE, LLP
1221 McKinney Street, Suite 4000
Houston, TX 77010
Telephone: 1 (713) 547-2000
Email: Kelli.Norfleet@HaynesBoone.com
Charles.Beckham@HaynesBoone.com
Martha.Wyrick@HaynesBoone.com

- and -

Dennis F. Dunne (*pro hac vice* pending)
Samuel A. Khalil (*pro hac vice* pending)
Benjamin M. Schak (*pro hac vice* pending)
MILBANK LLP
55 Hudson Yards
New York, NY 10001
Telephone: 1 (212) 530-5000
Email: DDunne@Milbank.com
SKhalil@Milbank.com
BSchak@Milbank.com

*Proposed Counsel to the
Debtors and Debtors in Possession*

CERTIFICATE OF ACCURACY

I certify, pursuant to Local Rule 9013-1(i), that the foregoing statements regarding the nature of the emergency set forth in the foregoing Motion are true and accurate to the best of my knowledge.

Dated: June 1, 2023

/s/ Kelli S. Norfleet
Kelli S. Norfleet

CERTIFICATE OF SERVICE

I certify that, on June 1, 2023, a true and correct copy of the foregoing document was served through the Court's Electronic Case Filing system of the United States Bankruptcy Court for the Southern District of Texas and will be served as set forth in the Affidavit of Service to be filed by the Debtors' proposed noticing agent.

Dated: June 1, 2023

/s/ Kelli S. Norfleet
Kelli S. Norfleet

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re

**WESCO AIRCRAFT HOLDINGS, INC.,
et al.,¹**

Debtors.

Case No. 23-90611 (DRJ)

Chapter 11

(Jointly Administered)

**INTERIM ORDER (I) AUTHORIZING THE
DEBTORS TO MAINTAIN THEIR INSURANCE
POLICIES AND PROGRAMS AND HONOR
RELATED OBLIGATIONS, (II) AUTHORIZING THE
DEBTORS TO RENEW, SUPPLEMENT, MODIFY,
EXTEND, REDUCE OR PURCHASE INSURANCE
POLICIES, AND (III) MODIFYING THE AUTOMATIC
STAY WITH RESPECT TO WORKERS' COMPENSATION**

¹ The Debtors operate under the trade name Incoira and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of the Debtors in these chapter 11 cases, with each one's federal tax identification number and the address of its principal office, is available on the website of the Debtors' noticing agent at <http://www.kccllc.net/incora/>. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137.

Upon the motion (the “*Motion*”),² of the above-captioned debtors (collectively, the “*Debtors*”), for entry of an order (this “*Interim Order*”) pursuant to sections 105(a), 362(d), 363(b) and 1107(a) of the Bankruptcy Code, Bankruptcy Rules 4001, 6003, and 6004, (i) authorizing the Debtors to (a) continue honoring Insurance Obligations, including by paying prepetition obligations related to Insurance Programs and by paying the Agent Fees; (b) renew, supplement, modify, extend, reduce or purchase new Insurance Policies in the ordinary course of business; and (c) direct all financial institutions to honor, to the extent of available funds, all checks and other fund transfers authorized by this Interim Order; and (ii) modifying the automatic stay to permit employees to proceed with workers’ compensation claims; and (iii) granting other related relief; and the Court having jurisdiction to decide the Motion and to enter this Interim Order pursuant to 28 U.S.C. § 1334; and consideration of the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, such notice being adequate and appropriate under the circumstances; and after notice and a hearing, as defined in section 102 of the Bankruptcy Code; and the Court having determined that the legal and factual bases set forth in the Motion and in the record establish just cause for entry of this Interim Order; and it appearing that entry of this Interim Order on an emergency basis is in the best interests of the Debtors’ estates and that interim relief is justified to avoid immediate and irreparable harm to the Debtors’ estates; it is hereby **ORDERED** that:

1. The Debtors are authorized, but not directed, to maintain and perform under their Insurance Programs in accordance with the practices and procedures that were in effect prior to commencement of these chapter 11 cases.

2. The Debtors are authorized, but not directed, to continue their Insurance Programs and to honor their Insurance Obligations, including by paying prepetition Insurance Obligations (including, for the avoidance of doubt, Agent Fees and Insurance Financing Obligations) in the

² Capitalized terms used but not defined in this Interim Order have the meanings ascribed to them in the Motion.

ordinary course of business and in accordance with the same practices and procedures as were in effect prior to the commencement of the chapter 11 cases. However, nothing in this Interim Order shall be understood to authorize the Debtors to accelerate any payments not otherwise due prior to the date of the hearing to consider the Motion on a final basis. Furthermore, payments of the Debtors' prepetition obligations under their Insurance Programs pursuant to this Interim Order shall not exceed \$257,699.47 in the aggregate (the "*Interim Cap*").

3. The Debtors are authorized, but not directed, to renew, supplement, modify, extend, reduce or purchase Insurance Policies in the ordinary course of business. The Debtors shall notify the U.S. Trustee, counsel to the First Lien Noteholder Group, and any official committee appointed in these cases if the Debtors renew, supplement, modify, extend, reduce or purchase increase or decrease existing insurance coverage, change carriers or obtain additional coverage in a manner that would be materially inconsistent with the Debtors' current insurance coverage; *provided that* the Debtors shall provide five (5) business days' notice to counsel to the First Lien Noteholder Group of any material change to any Insurance Policies.

4. Notwithstanding anything to the contrary in this Interim Order, and with the exception of Deductibles owed on account of Workers' Compensation Insurance, nothing in this Interim Order shall be deemed to authorize payment of Deductibles or SIRs with respect to prepetition claims or occurrences. The right of the Debtors to seek relief with respect to Deductibles or SIRs is reserved.

5. All banks and financial institutions are authorized and required to receive, process, honor and pay all checks and other transfer requests with respect to payments made by the Debtors pursuant to this Interim Order, whether presented before, on or after the Petition Date. However, a bank or other financial institution is not required to honor any such check or transfer request if insufficient funds are on deposit to cover the requested payment.

6. All banks and financial institutions are authorized to rely on the representations of the Debtors and their agents as to whether a particular payment is authorized to be paid pursuant to this Interim Order.

7. The Debtors are authorized, but not directed, in their sole discretion, to issue new postpetition checks, or effect new transfers, on account of the Prepetition Obligations, to replace any prepetition checks or transfer requests issued that are dishonored or rejected as a result of the commencement of these chapter 11 cases. The actions authorized by this paragraph shall not be subject to, and shall not increase, the Interim Cap

8. The banks and financial institutions subject to this Interim Order shall have no liability under the Bankruptcy Code for honoring any prepetition checks or funds transfer requests contemplated by this Interim Order.

9. Pursuant to section 362(d) of the Bankruptcy Code, (a) all current and former employees of the Debtors are authorized to proceed with workers' compensation claims in the appropriate judicial or administrative forum, *provided* that the recoveries on any such claims shall be limited to the proceeds of the Debtors' workers' compensation insurance; (b) the Debtors and their Workers' Compensation Carriers are authorized to take all steps necessary or appropriate with respect to the resolution of any such claims, including by settling any such claims without further notice or hearing; and (c) the Workers' Compensation Carriers are authorized to make payments on any such claims without further notice or hearing.

10. Notwithstanding the relief granted in this Interim Order, all authorizations herein and all payments and actions pursuant thereto shall be subject to each interim and final order entered by the Court in respect of the *Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors To (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* filed contemporaneously herewith (collectively, such interim and final orders, the "**DIP Order**"), including compliance with any budget or cash flow forecast in connection therewith and any other terms and conditions thereof. Nothing herein is intended to modify, alter, or waive, in any way, any terms, provisions, requirements, or restrictions of the DIP Order or the DIP Documents (as defined in the DIP Order). To the extent there is any inconsistency

between the terms of the DIP Order and the terms of this Interim Order, the terms of the DIP Order shall control.

11. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing contained in the Motion or this Interim Order (nor any actions or payments pursuant to the relief granted herein) shall constitute, nor is it intended to constitute: (a) an implication, admission, concession or finding as to the validity, priority, amount, basis for, or secured status of any particular claim against any Debtor; (b) a waiver of the Debtors' or other party in interest's right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) a waiver of any claim or cause of action that any Debtor or other party in interest may have against any entity; (e) a ratification, adoption, rejection or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code; (f) a waiver or limitation of any Debtor's or other party in interest's rights under any agreement, the Bankruptcy Code or other applicable law; or (g) an implication, admission, concession or finding (i) that any particular claim is of a type specified or defined in this Interim Order or the Motion or (ii) that any lien, security interest, other encumbrance on property of any Debtor or right of setoff is valid, enforceable or perfected (and the Debtors and all other parties in interest expressly reserve and preserve their rights to contest or to seek avoidance of the same). Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

12. The Debtors shall maintain a matrix of payments made pursuant to this Interim Order that includes the following information: (a) the names of the payee; (b) the nature, date and amount of the payment; (c) the category or type of payment; and (d) the Debtor or Debtors that made the payment. Commencing with the first full month after entry of this Interim Order, the Debtors shall provide a copy of that matrix on a confidential basis to the U.S. Trustee and on a confidential and professionals' eyes only basis (or on such other terms as mutually agreed) to

counsel to the First Lien Noteholder Group and counsel to any statutory committee appointed in these chapter 11 cases within 7 days after the end of each month.

13. Notwithstanding Bankruptcy Rules 4001(a)(3) and 6004(h) or any other provision of the Bankruptcy Rules or Local Bankruptcy Rules, the terms of this Interim Order shall be immediately effective and enforceable upon its entry.

14. The Debtors and their agents are authorized to take all steps necessary or appropriate to carry out this Interim Order.

15. The Court shall retain jurisdiction over all matters arising from or related to the implementation, interpretation or enforcement of this Interim Order.

16. Responses to the Motion or objections to entry of an order granting the Motion on a final basis must be filed by _____, 2023, at 4:00 p.m. (CDT) and be served upon (a) the Debtors' proposed lead counsel (Milbank LLP, 55 Hudson Yards, New York, NY 10001, Attn: Dennis F. Dunne (DDunne@Milbank.com), Samuel A. Khalil (SKhalil@Milbank.com), and Benjamin M. Schak (BSchak@Milbank.com)), (b) the Debtors' proposed local counsel (Haynes and Boone, LLP, 1221 McKinney Street, Suite 4000, Houston, Texas 77010, Attn: Charles A. Beckham, Jr. (Charles.Beckham@HaynesBoone.com), Kelli Norfleet (Kelli.Norfleet@HaynesBoone.com), and Martha Wyrick (Martha.Wyrick@HaynesBoone.com)), and (c) proposed counsel to any statutory committee that may be appointed in these cases, so as to be received by the same date and time.

17. A final hearing on the Motion, if required, will be held on _____, 2023, at __: __ .m. (CDT). If no responses or objections are timely filed and served, the Court may grant the Motion on a final basis without further notice or hearing.

Dated: _____
Houston, Texas

UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re

**WESCO AIRCRAFT HOLDINGS, INC.,
et al.,¹**

Debtors.

Case No. 23-90611 (DRJ)

Chapter 11

(Jointly Administered)

**FINAL ORDER (I) AUTHORIZING THE
DEBTORS TO MAINTAIN THEIR INSURANCE
POLICIES AND PROGRAMS AND HONOR
RELATED OBLIGATIONS, (II) AUTHORIZING THE
DEBTORS TO RENEW, SUPPLEMENT, MODIFY,
EXTEND, REDUCE OR PURCHASE INSURANCE
POLICIES, AND (III) MODIFYING THE AUTOMATIC
STAY WITH RESPECT TO WORKERS' COMPENSATION**

¹ The Debtors operate under the trade name Incora and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of the Debtors in these chapter 11 cases, with each one's federal tax identification number and the address of its principal office, is available on the website of the Debtors' noticing agent at <http://www.kccllc.net/incora/>. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137.

Upon the motion (the “*Motion*”),² of the above-captioned debtors (collectively, the “*Debtors*”), for entry of an order (this “*Final Order*”) pursuant to sections 105(a), 362(d), 363(b) and 1107(a) of the Bankruptcy Code, Bankruptcy Rules 4001, 6003, and 6004, (i) authorizing the Debtors to (a) continue honoring Insurance Obligations, including by paying prepetition obligations related to Insurance Programs and by paying the Agent Fees; (b) renew, supplement, modify, extend, reduce or purchase new Insurance Policies in the ordinary course of business; and (c) direct all financial institutions to honor, to the extent of available funds, all checks and other fund transfers authorized by this Final Order; and (ii) modifying the automatic stay to permit employees to proceed with workers’ compensation claims; and (iii) granting other related relief; and the Court having jurisdiction to decide the Motion and to enter this Final Order pursuant to 28 U.S.C. § 1334; and consideration of the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, such notice being adequate and appropriate under the circumstances; and after notice and a hearing, as defined in section 102 of the Bankruptcy Code; and the Court having determined that the legal and factual bases set forth in the Motion and in the record establish just cause for entry of this Final Order; and it appearing that entry of this Final Order is in the best interests of the Debtors’ estates; it is hereby **ORDERED** that:

1. The Debtors are authorized, but not directed, to maintain and perform under their Insurance Programs in accordance with the practices and procedures that were in effect prior to commencement of these chapter 11 cases.

2. The Debtors are authorized, but not directed, to continue their Insurance Programs and to honor their Insurance Obligations, including by paying prepetition Insurance Obligations (including, for the avoidance of doubt, Agent Fees and Insurance Financing Obligations) in the ordinary course of business and in accordance with the same practices and procedures as were in effect prior to the commencement of the chapter 11 cases.

² Capitalized terms used but not defined in this Final Order have the meanings ascribed to them in the Motion.

3. The Debtors are authorized, but not directed, to renew, supplement, modify, extend, reduce or purchase Insurance Policies in the ordinary course of business. The Debtors shall notify the U.S. Trustee, counsel to the First Lien Noteholder Group, and any official committee appointed in these cases if the Debtors renew, supplement, modify, extend, reduce or purchase increase or decrease existing insurance coverage, change carriers or obtain additional coverage in a manner that would be materially inconsistent with the Debtors' current insurance coverage; *provided that* the Debtors shall provide five (5) business days' notice to counsel to the First Lien Noteholder Group of any material change to any Insurance Policies.

4. Notwithstanding anything to the contrary in this Final Order, and with the exception of Deductibles owed on account of Workers' Compensation Insurance, nothing in this Final Order shall be deemed to authorize payment of Deductibles or SIRs with respect to prepetition claims or occurrences. The right of the Debtors to seek relief with respect to Deductibles or SIRs is reserved.

5. All banks and financial institutions are authorized and required to receive, process, honor and pay all checks and other transfer requests with respect to payments made by the Debtors pursuant to this Final Order, whether presented before, on or after the Petition Date. However, a bank or other financial institution is not required to honor any such check or transfer request if insufficient funds are on deposit to cover the requested payment.

6. All banks and financial institutions are authorized to rely on the representations of the Debtors and their agents as to whether a particular payment is authorized to be paid pursuant to this Final Order.

7. The Debtors are authorized, but not directed, in their sole discretion, to issue new postpetition checks, or effect new transfers, on account of the Prepetition Obligations, to replace any prepetition checks or transfer requests issued that are dishonored or rejected as a result of the commencement of these chapter 11 cases.

8. The banks and financial institutions subject to this Final Order shall have no liability under the Bankruptcy Code for honoring any prepetition checks or funds transfer requests contemplated by this Final Order.

9. Pursuant to section 362(d) of the Bankruptcy Code, (a) all current and former employees of the Debtors are authorized to proceed with workers' compensation claims in the appropriate judicial or administrative forum, *provided* that the recoveries on any such claims shall be limited to the proceeds of the Debtors' workers' compensation insurance; (b) the Debtors and their Workers' Compensation Carriers are authorized to take all steps necessary or appropriate with respect to the resolution of any such claims, including by settling any such claims without further notice or hearing; and (c) the Workers' Compensation Carriers are authorized to make payments on any such claims without further notice or hearing.

10. Notwithstanding the relief granted in this Final Order, all authorizations herein and all payments and actions pursuant thereto shall be subject to each interim and final order entered by the Court in respect of the *Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors To (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* filed contemporaneously herewith (collectively, such interim and final orders, the "**DIP Order**"), including compliance with any budget or cash flow forecast in connection therewith and any other terms and conditions thereof. Nothing herein is intended to modify, alter, or waive, in any way, any terms, provisions, requirements, or restrictions of the DIP Order or the DIP Documents (as defined in the DIP Order). To the extent there is any inconsistency between the terms of the DIP Order and the terms of this Final Order, the terms of the DIP Order shall control.

11. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing contained in the Motion or this Final Order (nor any actions or payments pursuant to the relief granted herein) shall constitute, nor is it intended to constitute: (a) an implication, admission, concession or finding as to the validity, priority, amount, basis for, or secured status of any particular claim against any Debtor; (b) a waiver of the Debtors' or other party in interest's right to dispute any particular claim on any grounds; (c) a promise or requirement

to pay any particular claim; (d) a waiver of any claim or cause of action that any Debtor or other party in interest may have against any entity; (e) a ratification, adoption, rejection or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code; (f) a waiver or limitation of any Debtor's or other party in interest's rights under any agreement, the Bankruptcy Code or other applicable law; or (g) an implication, admission, concession or finding (i) that any particular claim is of a type specified or defined in this Final Order or the Motion or (ii) that any lien, security interest, other encumbrance on property of any Debtor or right of setoff is valid, enforceable or perfected (and the Debtors and all other parties in interest expressly reserve and preserve their rights to contest or to seek avoidance of the same). Any payment made pursuant to this Final Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

12. The Debtors shall maintain a matrix of payments made pursuant to this Final Order that includes the following information: (a) the names of the payee; (b) the nature, date and amount of the payment; (c) the category or type of payment; and (d) the Debtor or Debtors that made the payment. Commencing with the first full month after entry of this Final Order, the Debtors shall provide a copy of that matrix on a confidential basis to the U.S. Trustee and on a confidential and professionals' eyes only basis (or on such other terms as mutually agreed) to counsel to the First Lien Noteholder Group and counsel to any statutory committee appointed in these chapter 11 cases within 7 days after the end of each month.

13. Notwithstanding Bankruptcy Rules 4001(a)(3) and 6004(h) or any other provision of the Bankruptcy Rules or Local Bankruptcy Rules, the terms of this Final Order shall be immediately effective and enforceable upon its entry.

14. The Debtors and their agents are authorized to take all steps necessary or appropriate to carry out this Final Order.

15. The Court shall retain jurisdiction over all matters arising from or related to the implementation, interpretation or enforcement of this Final Order.

Dated: _____
Houston, Texas

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B TO INSURANCE MOTION
SCHEDULE OF INSURANCE POLICIES

Type of Coverage	Insurer	Expiration Date	Policy Number(s)	Annual Premium (approx.)
Global Property	Zurich Am. Ins. Co.	12/1/2023	PPR6692568-12	\$800,590
Cargo	Zurich Am. Ins. Co.	12/1/2023	OC5846397	\$101,510
Aviation Products & Airport Premises	Starr Indemnity & Liability Co.	12/1/2023	1000189356-02	\$127,075
General & Pollution	Illinois Union Ins. Co. (ACE)	12/1/2023	APC G27268791 009	\$146,314
Foreign Liability Package <ul style="list-style-type: none"> • <i>General</i> • <i>Contingent Auto</i> • <i>Foreign Voluntary</i> • <i>Foreign Workers' Comp</i> 	ACE Am. Ins. Co.	12/1/2023	CXC D37958803 009	\$65,889
Automobile	Starr Indemnity & Liability Co.	12/1/2023	1000659942221	\$150,641
Umbrella	Illinois Union Ins. Co. (ACE)	12/1/2023	XOO G27268808 009	\$163,467
Professional / Errors & Omissions	Chubb Custom Ins. Co.	12/1/2023	D9662881A	\$236,496
Excess Professional	Endurance Am. Specialty Ins. Co.	12/1/2023	NRX30013862101	\$109,375
Excess Professional	Indian Harbor Ins. Co.	12/1/2023	MPE 9044438 01	\$109,375
Cyber	Beazley USA Services, Inc., as agent, Syndicate 2623/623 at Lloyd's of London	12/1/2023	W30E9D210101	\$251,562
U.S. Workers' Compensation	Starr Specialty Ins. Co.	3/1/2024	1000004537	\$777,946

Type of Coverage		Insurer	Expiration Date	Policy Number(s)	Annual Premium (approx.)
D&O	Primary D&O	Federal Insurance Co.	4/21/24	82621174	\$747,103
	1 st Excess D&O	Everest National Ins. Co.	4/21/24	PC2EX00 007221	
	2 nd Excess D&O	Endurance Risk Solutions Assurance Co.	4/21/24	DOX3000 8721301	
	3 rd Excess D&O	QBE Ins. Corp.	4/21/24	130004713	
	4 th Excess D&O	National Union Fire Ins. Co.	4/21/24	04-785-80-47	
	5 th Excess D&O	Axis Ins. Co.	4/21/24	P-001-001158385-01	
	6 th Excess D&O Side A	Gemini Ins. Co./Berkley	4/21/24	BPRO8097850	
7 th Excess D&O Side A	Vantage Risk Assurance Co.	4/21/24	P04ML0000034750		