UNITED STATES BANKRUPTCY COURT
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)
WESCO AIRCRAFT HOLDINGS, INC., *et al.*, Plaintiffs, *v.* **SSD INVESTMENTS LTD.**, *et al.*, Defendants.	Adv. Pro. No. 23-03091 (DRJ)
SSD INVESTMENTS LTD., *et al.*, Counterclaim Plaintiffs, *v.* **WESCO AIRCRAFT HOLDINGS, INC.**, *et al.*, Counterclaim Defendants.	

FIRST AMENDED COMPLAINT AND
COUNTERCLAIM ANSWER

[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.

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Wesco Aircraft Holdings, Inc. and its debtor affiliates (in their capacity as debtors in possession, collectively, the "***Debtors***"; in their pre-petition capacity, collectively, the "***Company***") in the above-captioned Chapter 11 cases (collectively, these "***Chapter 11 Cases***"), and as plaintiffs in the above-captioned adversary proceeding (this "***Adversary Proceeding***"), hereby file this amended complaint (this "***First Amended Complaint***") against the defendants in this Adversary Proceeding (collectively, the "***Defendants***")[2] and answer in response to the *Answer, Affirmative Defenses, and Counterclaims* [ECF No. 50] (the "***Counterclaims***") filed against the Debtors in this proceeding. In support of this First Amended Complaint, the Debtors allege as follows:

INTRODUCTION

1. In March 2022, the Company, the holders of a supermajority of the Company's then-secured notes (the "***Participating Secured Noteholders***"), the holders of a majority of the Company's unsecured notes and the holder of the 2023 Promissory Note (as defined below) (the "***Participating Unsecured Noteholders***"), and Wilmington Savings Fund Society, FSB, ("***WSFS***"), the trustee at the time under the indentures for the Company's secured and unsecured notes, amended certain of the Company's debt documents to effectuate a transaction that unlocked $250 million in immediate liquidity for the Company, extended maturities, and substantially decreased its cash interest payments (the "***2022 Transaction***"). Each step of the 2022 Transaction was done in accordance with the Company's debt documents, the terms of which allowed, among other things, so-called "exit consents" and lien releases with the requisite number of votes from the Company's noteholders.

2. The 2022 Transaction consensually recapitalized the Company through two sequential amendments to the applicable indentures in order to permit, *inter alia*, the infusion of

[2] The Defendants are named in paragraphs 20-92 of this First Amended Complaint.

much-needed cash, the release of liens securing the then-outstanding secured notes, and the issuance of two tranches of new secured notes—the 2026 Secured 1L Notes (as defined below) and the 2027 Secured 1.25L Notes (as defined below). The incremental liquidity was obtained through the issuance of $250 million of new secured notes, following the first of the two amendments. Following the second of the two amendments, which released the liens securing all the outstanding secured notes, and pursuant to a privately negotiated agreement (the Exchange, as defined below), the newly-issued secured notes and the pre-existing secured notes held by the Participating Secured Noteholders were exchanged into the 2026 Secured 1L Notes. The indentures for the Company's unsecured notes were also amended to allow for the issuance of the additional $250 million in debt and the Participating Unsecured Noteholders' unsecured notes were also exchanged into the 2027 Secured 1.25L Notes. At each step, the 2022 Transaction complied with the terms of the then-governing indentures and facilitated the Company's ability to obtain the financing necessary for it to continue as a going concern.

3. Seven months after the closing, the 2022 Transaction was challenged by some of the Company's formerly secured noteholders. These disgruntled holders had previously proposed a competing position-enhancing transaction, which was not selected by the Company after the Company negotiated proposals with its various stakeholders. On October 28, 2022, this group (the "***Formerly Secured Noteholders***") filed a lawsuit against the Company and certain Non-Debtor Parties to the transaction in the Supreme Court of the State of New York, styled as *SSD Investments Ltd. et al. v. Wilmington Savings Fund Society, FSB, et al.*, Index No. 654068/2022 (N.Y. Sup. Ct.,

N.Y. Cty.) asserting that the 2022 Transaction was impermissible and void (the "***Formerly Secured Noteholders Action***").[3]

4. The Formerly Secured Noteholders asserted state-law claims for fraudulent transfer (against the Debtors, TopCo, the Participating Secured Noteholders, and the Participating Unsecured Noteholders) and state-law preferential transfer (against the Debtors, TopCo, and Participating Unsecured Noteholders associated with the Debtors' equity sponsor Platinum), declaratory judgment and breach of contract (against the Debtors and WSFS), breach of the implied covenant of good faith and fair dealing (against the Debtors, WSFS and the Participating Secured Noteholders), tortious interference (against Platinum), conversion (against TopCo, the Participating Secured Noteholders, and the Participating Unsecured Noteholders), and aiding and abetting conversion (against the Company's board of directors). The crux of the Formerly Secured Noteholders Action was that the 2022 Transaction violated the consent provisions in the Original Secured Indentures (as defined below), and that the Debtors and other parties should be directed to return all parties to the pre-transaction status quo.

5. Over four months later, and nearly a year after consummation of the 2022 Transaction, on March 27, 2022, a holder of the Company's pre-existing unsecured notes that were not exchanged as part of the 2022 Transaction brought suit against certain participants in the 2022 Transaction in the Supreme Court of the State of New York, styled as *Langur Maize, L.L.C. v. Platinum Equity Advisors, LLC, et al.*, Index No. 651548/2023 (N.Y. Sup. Ct., N.Y. Cty.) (the "***Unsecured Noteholder Action***," and, together with the Formerly Secured Noteholders Action, the "***New York State Actions***"). In that action, plaintiff Langur Maize L.L.C. ("***Langur Maize***"

[3] The defendants in the Formerly Secured Noteholders Action are: the Debtors; the Debtors' board of directors; WSFS; the Debtors' equity sponsor Platinum Equity, LLC ("***Platinum***"); the Debtors' indirect non-Debtor parent Wolverine Top Holding Corporation ("***TopCo***"); the Participating Secured Noteholders, and the Participating Unsecured Noteholders.

and with the Formerly Secured Noteholders, the "***New York State Action Plaintiffs***") asserted that the 2022 Transaction and, in particular, the exchange of the Participating Unsecured Noteholders' unsecured notes for 2027 Secured 1.25L Notes, violated the terms of the Original Unsecured Indenture (as defined below). Langur Maize brought claims for fraudulent transfer, preferential transfer, breach of contract, breach of the implied covenant of good faith and fair dealing, tortious interference with contract, unjust enrichment, and civil conspiracy.[4]

6. While Langur Maize failed to name the Company as a defendant in the Unsecured Noteholder Action, the omission does not change that lawsuit's essence. The Unsecured Noteholder Action challenges the Company's conduct in entering into the 2022 Transaction and, like the Formerly Secured Noteholders' Action, seeks relief that directly implicates the Debtors' rights and obligations, including seeking a finding that the 2022 Transaction breached the Original Unsecured Indenture, that the Transaction constituted fraudulent transfers and preferences, that it breached the implied covenant of good faith and fair dealing, and other substantially similar claims related to the 2022 Transaction. Moreover, as pled, Langur Maize's tortious interference claim asserted against Platinum requires demonstrating that the Debtors breached the Original Unsecured Indenture.

7. The Debtors filed for Chapter 11 on June 1, 2023 (the "***Petition Date***") and on the same day, filed the complaint commencing this Adversary Proceeding (the "***Original Complaint***") [ECF No. 1] and a motion [ECF No. 2] seeking to stay the New York State Actions through the pendency of these Chapter 11 Cases. Both of the New York State Actions were temporarily stayed

[4] The defendants in the Unsecured Noteholder Action are: WSFS; Platinum; TopCo; and the Participating Unsecured Noteholders (collectively with the non-debtor defendants in the Formerly Secured Noteholders' Action, the "***Non-Debtor Parties***").

by the Court pending final hearings to consider the applicability of the automatic stay and/or an extension of the stay for a longer period.

8. On June 26, 2023, the Formerly Secured Noteholders answered the Original Complaint and filed the Counterclaims. The Counterclaims join as counterclaim defendants almost all of the Non-Debtor Parties named in the New York State Actions, including: (i) WSFS; (ii) the Participating Secured Noteholders; (iii) the Participating Unsecured Noteholders; (iv) TopCo; and (v) Platinum. The Counterclaims seek not only a declaration that the 2022 Transaction breached the Original Secured Indentures and/or the implied covenant of good faith and fair dealing, but also the issuance of orders from this Court (i) granting the Formerly Secured Noteholders equitable liens with priority over the Participating Secured Noteholders and Participating Unsecured Noteholders' liens, and (ii) equitably subordinating the Participating Secured Noteholders and Participating Unsecured Noteholders' claims. Adjudication of these claims will require resolution of the exact same issues that form the basis of the New York State Actions.

9. The Debtors file this First Amended Complaint, amending their Original Complaint as of right. The Debtors seek to adjudicate promptly and in the proper forum the propriety of the 2022 Transaction, the legitimacy of the Debtors' capital structure, and all other issues arising out of the 2022 Transaction that may be relevant to any finding necessary to confirm a plan of reorganization, including the Debtors' good faith, by requesting that the Court: (i) stay prosecution of the New York State Actions under Sections 362 and 105 of the Bankruptcy Code pending confirmation of a plan in these Chapter 11 Cases; (ii) confirm the propriety of the Company's actions (and the related actions of Non-Debtor Parties) in connection with the 2022 Transaction;

and (iii) declare that certain Defendants lack standing to pursue claims against certain third parties absent express assignment of such claims.[5]

A. The Debtors' Request for a Stay of the New York State Actions

10. Litigating the New York State Actions while the claims asserted in the Counterclaims and this First Amended Complaint are being adjudicated in this Court would risk prejudicing the Debtors' rights, would be costly and inefficient, and would risk inconsistent adjudication of identical issues before two different courts—only one of which (this one) can grant complete relief. As such, the Debtors submit that both New York State Actions must be stayed on a final basis pending confirmation of a plan in these Chapter 11 Cases. There can be no dispute that this Chapter 11 filing automatically stays the prosecution of all causes of action against the Debtors themselves. There is also no question that claims, whether or not asserted against the Debtors, seeking equitable relief, avoidance of all or part of the 2022 Transaction, or relief requiring all defendants to "undertake all actions necessary to restore the status quo ante, such that [all pre-transaction collateral and priorities] are restored to the same position as if the [2022 Transaction] were never undertaken"[6] are attempts to exercise control over debtor property or are claims that belong to the Debtors' bankruptcy estates, cannot be brought by the New York State Actions Plaintiffs directly, and thus must be stayed under Section 362(a)(3) of the Bankruptcy Code. These claims are a direct attack on the Debtors' current capital structure and estate entitlements. Allowing them to proceed in an outside forum, even only against the Non-Debtor

[5] The Debtors do not seek any declaratory relief with respect to avoidance actions, including any alleged insider preferences, which belong to the estate. The Debtors would oppose any request by a party seeking standing to pursue any claim based on allegations that the 2022 Transaction was undertaken with any intention to harm creditors or prefer others, as opposed to the Company's good faith intent to enhance its prospects. Further, the Debtors reserve the power to negotiate a global resolution of any such claims as part of the Plan process.

[6] Complaint ¶¶ 182, 194, *SSD Investments Ltd., et al. v. Wilmington Savings Fund Society, FSB, et al.*, Index No. 654068/2022 (N.Y. Sup. Ct.) [Doc. No. 2].

Parties, would divest this Court of its power and obligation to determine issues that are fundamental to the Debtors' reorganization—including claim priorities, claim allowance, and creditor distributions—and that could hardly be more central to this Court's mandate. Thus, the Debtors seek a declaration that these claims are automatically stayed by the filings of these Chapter 11 Cases and cannot proceed in New York state court.

11. To the extent this Court determines that the application of the stay is not automatic as to certain claims, the Debtors submit that the stay should be extended to all claims in the New York State Actions, including those asserted against the Non-Debtor Parties. The Debtors and the Non-Debtor Parties share an identity of interests because the claims asserted against the Debtors and the Non-Debtor Parties in the New York State Actions require resolution of identical legal and factual issues. Moreover, the Non-Debtor Parties' have contractual indemnification rights against the Debtors, such that the claims against the Non-Debtor Parties are not only, at their core, about the ***Debtors'*** conduct in connection with the 2022 Transaction, but also subject the Debtors to potential liabilities. Each of the claims arises out of the same transactions or occurrences and relies on the same alleged actions of the Debtors—whose contractual responsibilities would ***necessarily*** be determined through any adjudication of claims asserted against the Non-Debtor Parties. Allowing the actions to proceed against the Non-Debtor Parties will rob the Debtors of the benefits of the automatic stay by forcing the Debtors to engage in a two-front war over their capital structure, both here and in the New York state court.

12. Moreover, as is now even more evident after the filing of the Counterclaims, the issues presented in the New York State Actions go to the heart of the Debtors' reorganization efforts and should be determined in this Court, in this Adversary Proceeding. The New York State Actions implicate issues that would directly impact creditor priorities as they currently exist as well as

distributions under any plan of reorganization of the Debtors; allowing those issues to be litigated elsewhere during the pendency of these Chapter 11 Cases would undermine with the objectives of the Bankruptcy Code, allow certain creditors to leapfrog over others without the benefit of this Court's oversight, adversely impact the Debtors' ability to promptly and effectively reorganize, and risk the possibility of inconsistent rulings on matters imperative to the Debtors' restructuring efforts. When confronted with a similar situation in *Serta Simmons Bedding LLC et al. v. AG Centre Street Partnership et al.*, Case No. 23-90020, Adv. Proc. No. 23-03007, this Court concluded that:

> The core of what I'm being asked to do [*i.e.*, determine the validity of a financing transaction] runs directly to core function of the claims adjudication process over which there are very few exceptions. It also really does affect the plan process and the findings that I'm required to make under [Sections] 1129(a) and 1123 [of the Bankruptcy Code.] There is not a path that I am willing to accept that allows another court to make those determinations for me.

See Hr'g Tr., *Serta Simmons Bedding LLC*, *et al.* at 60:23-25, 61:1-4 (Mar. 13, 2023).

13. The Debtors' indemnification obligations likewise warrant the extension of the stay to all claims in both of the New York State Actions as each of the Non-Debtors Parties sued will have claims against the Debtors based on their indemnification rights. Moreover, WSFS' indemnification rights are secured by a charging lien with priority over the 2026 Secured 1L Notes and 2027 Secured 1.25L Notes, a fact that will further complicate the Debtors' ability to negotiate with its various stakeholders in connection with formulating a plan of reorganization if the New York State Actions are not stayed and the claims raised therein are not decided by this Court.

14. Finally, the allegations herein, and the *Debtors' Emergency Motion for an Order (I) Declaring that the Automatic Stay Applies to the Non-Debtor Parties in the New York State Actions or Extending the Automatic Stay to the Non-Debtor Parties and (II) Preliminarily*

Enjoining the New York State Actions (the "***Motion***") [ECF No. 2], and the *Declaration of Raymond Carney in Support of Chapter 11 Petitions and First Day Motions* (the "***First Day Declaration***") [Case No. 23-90611, ECF No. 13], support the Court's issuance of a preliminary injunction under Bankruptcy Code Section 105 enjoining the prosecution of the New York State Actions during the Chapter 11 Cases. The Debtors have met all of the criteria to obtain such an injunction from day one of these Chapter 11 cases.

B. The Debtors Request Declaratory Relief Regarding the 2022 Transaction

15. By this First Amended Complaint, the Debtors seek a declaratory judgment that the 2022 Transaction fully complied with the plain, unambiguous terms of the applicable indentures and that the Debtors did not violate the implied covenant of good faith and fair dealing by entering into the 2022 Transaction. The Debtors submit that the Company engaged, in good faith, with the key stakeholders in the Company's capital structure that it determined were the most likely providers of capital, obtained the requisite consents from the secured and unsecured noteholders necessary to amend the Original Secured Indentures and the Original Unsecured Indenture, lawfully released preexisting liens, and properly exchanged the Participating Secured Noteholders' and Participating Unsecured Noteholders' notes in accordance with the applicable provisions in the Indentures.

16. Resolution of these issues in this Court is necessary to determine the allowability of certain claims against the Debtors, the validity of liens on interests of the Debtors in property, and the ranking of certain creditors against others in these Chapter 11 Cases, and to enable the Debtors to confirm a Chapter 11 plan that respects the capital structure they believe to be valid.

17. Furthermore, upon information and belief, Langur Maize and certain of the Formerly Secured Noteholders were not holders of unsecured and secured notes, respectively, at

the time of the closing of the 2022 Transaction. To the extent that these parties acquired their positions in the Debtors' notes after the closing of the 2022 Transaction and without expressly negotiated assignments of accrued claims, the Debtors seek a declaration that they do not have standing to bring claims against Non-Debtor Parties, except WSFS. In the Unsecured Noteholder Action, Langur Maize failed to assert that they acquired any such rights by assignment. And the Counterclaims allege that "many"—meaning not all—of the Formerly Secured Noteholders held their 2024 Notes and/or 2026 Notes at the time of the 2022 Transaction. These issues affect the Debtors' adjustment of their debtor-creditor relationship with the Non-Debtor Parties that were sued in the New York State Actions and that have indemnification claims against the Debtors.

18. For these reasons, as more fully described herein, the Debtors respectfully request that the Court grant the relief sought in this First Amended Complaint.

PARTIES

I. PLAINTIFFS

19. Plaintiffs are the Debtors identified in the Chapter 11 petitions for relief filed on June 1, 2023. 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.

II. DEFENDANTS

20. Upon information and belief, defendant SSD Investments Ltd. is a Cayman Islands exempted company with its registered office in the Cayman Islands.

21. Upon information and belief, defendant JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Core Plus Bond) of JPMorgan Chase Bank, N.A. is a

national banking association with its principal place of business in Ohio. The Commingled Pension Trust Fund (Core Plus Bond) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law.

22. Upon information and belief, defendant JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Short Duration Core Plus) of JPMorgan Chase Bank, N.A. is a national banking association with its principal place of business in Ohio. The Commingled Pension Trust Fund (Short Duration Core Plus) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law.

23. Upon information and belief, defendant JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Income) of JPMorgan Chase Bank, N.A. is a national banking association with its principal place of business in Ohio. The Commingled Pension Trust Fund (Income) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law.

24. Upon information and belief, defendant JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Corporate High Yield) of JPMorgan Chase Bank, N.A. is a national banking association with its principal place of business in Ohio. The Commingled Pension Trust Fund (Corporate High Yield) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law.

25. Upon information and belief, defendant JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (High Yield) of JPMorgan Chase Bank, N.A. is a national banking association with its principal place of business in Ohio. The Commingled Pension Trust Fund (High Yield) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law.

26. Upon information and belief, defendant JPMorgan Investment Funds, on behalf of its sub-fund Global High Yield Bond Fund, is a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

27. Upon information and belief, defendant JPMorgan Investment Funds, on behalf of its sub-fund Income Opportunity Fund, is a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

28. Upon information and belief, defendant JPMorgan Investment Funds, on behalf of its sub-fund Global Income Fund, is a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

29. Upon information and belief, JPMorgan Investment Funds, on behalf of its sub-fund Global Income Conservative Fund, is a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

30. Upon information and belief, defendant JPMorgan Funds, on behalf of its sub-fund US High Yield Plus Bond Fund, is a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

31. Upon information and belief, defendant JPMorgan Funds, on behalf of its sub-fund Income Fund, is a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

32. Upon information and belief, defendant JPMorgan Funds, on behalf of its sub-fund Global Bond Opportunities Sustainable Fund, is a société anonyme qualifying as a société

d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

33. Upon information and belief, defendant JPMorgan Funds, on behalf of its sub-fund Global Bond Opportunities Fund, is a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

34. Upon information and belief, defendant iShares Public Limited Company, on behalf of its sub-fund iShares Global High Yield Corp Bond UCITS ETF, is an Irish corporation that maintains its registered office in Ireland.

35. Upon information and belief, defendant iShares II Public Limited Company, on behalf of its sub-fund iShares $ High Yield Corp Bond UCITS ETF, is an Irish corporation that maintains its registered office in Ireland.

36. Upon information and belief, defendant iShares Trust, on behalf of its series iShares iBonds 2026 Term High Yield and Income ETF, is a Delaware statutory trust with its principal place of business in California.

37. Upon information and belief, defendant iShares Trust, on behalf of its series iShares Broad USD High Yield Corporate Bond ETF, is a Delaware statutory trust with its principal place of business in California.

38. Upon information and belief, defendant iShares Trust, on behalf of its series iShares 0-5 Year High Yield Corporate Bond ETF, is a Delaware statutory trust with its principal place of business in California.

39. Upon information and belief, defendant iShares Trust, on behalf of its series iShares iBoxx $ High Yield Corporate Bond ETF, is a Delaware statutory trust with its principal place of business in California.

40. Upon information and belief, defendant iShares Trust, on behalf of its series iShares iBonds 2024 Term High Yield and Income ETF, is a Delaware statutory trust with its principal place of business in California.

41. Upon information and belief, defendant BlackRock Institutional Trust Company, N.A., acting in its capacity as Trustee of the U.S. High Yield Bond Index Non-Lendable Fund B, is a national banking association with its principal place of business in California.

42. Upon information and belief, defendant iShares VI Public Limited Company, on behalf of its sub-fund iShares Global High Yield Corp Bond GBP Hedged UCITS ETF (Dist), is an Irish corporation that maintains its registered office in Ireland.

43. Upon information and belief, defendant iShares VI Public Limited Company, on behalf of its sub-fund iShares Global High Yield Corp Bond CHF Hedged UCITS ETF (Dist), is an Irish corporation that maintains its registered office in Ireland.

44. Upon information and belief, defendant iShares IV Public Limited Company, on behalf of its sub-fund iShares $ Short Duration High Yield Corp Bond UCITS ETF, is an Irish corporation that maintains its registered office in Ireland.

45. Upon information and belief, defendant iShares Trust, on behalf of its series iShares Core 1-5 Year USD Bond ETF, is a Delaware statutory trust with its principal place of business in California.

46. Upon information and belief, defendant iShares U.S. High Yield Fixed Income Index ETF (CAD-Hedged), by its trustee, manager and portfolio adviser BlackRock Asset Management Canada Limited, is an Ontarian Trust with its principal place of business in Ontario, Canada.

47. Upon information and belief, defendant iShares Trust, on behalf of its series iShares Core Total USD Bond Market ETF, is a Delaware statutory trust with its principal place of business in California.

48. Upon information and belief, defendant iShares U.S. High Yield Bond Index ETF (CAD-Hedged), by its trustee, manager and portfolio adviser BlackRock Asset Management Canada Limited, is an Ontarian Trust with its principal place of business in Ontario, Canada.

49. Upon information and belief, defendant iShares, Inc., on behalf of its series iShares US & Intl High Yield Corp Bond ETF, is a Maryland corporation with its principal place of business in California.

50. Upon information and belief, defendant BlackRock Bank Loan Fund, by its manager BlackRock Asset Management Ireland Limited, is an Irish Trust that maintains its registered office in Ireland.

51. Upon information and belief, defendant BlackRock Floating Rate Income Trust, is a Delaware statutory trust with its principal place of business in Delaware.

52. Upon information and belief, defendant BlackRock Limited Duration Income Trust, is a Delaware statutory trust with its principal place of business in Delaware.

53. Upon information and belief, defendant BlackRock Dynamic High Income Portfolio of BlackRock Funds II, is a Massachusetts business trust with its principal place of business in Delaware.

54. Upon information and belief, defendant BlackRock Floating Rate Income Portfolio of BlackRock Funds V, is a Massachusetts business trust with its principal place of business in Delaware.

55. Upon information and belief, defendant BlackRock Managed Income Fund of BlackRock Funds II, is a Massachusetts business trust with its principal place of business in Delaware.

56. Upon information and belief, defendant BlackRock Floating Rate Income Strategies Fund, Inc., is a Maryland corporation with its principal place of business in Delaware.

57. Upon information and belief, defendant PSAM WorldArb Master Fund Ltd., is a Cayman Islands exempted company with its registered office in the Cayman Islands.

58. Upon information and belief, defendants Rebound Portfolio Ltd., is a Cayman Islands exempted company with its registered office in the Cayman Islands.

59. Upon information and belief, defendant JPMorgan Funds, on behalf of its sub-fund Multi-Manager Alternatives Fund, is a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

60. Upon information and belief, defendant Lumyna Specialist Funds (formerly called Viaduct Invest FCP-SIF), on behalf of its sub-fund Event Alternative Fund, is an unincorporated joint ownership of assets — specialized investment fund, registered in Luxembourg.

61. Upon information and belief, defendant Lumyna Investments Ltd., on behalf of its sub-fund PSAM Global Event UCITS Fund, is a private limited company, with its registered office in the United Kingdom.

62. Upon information and belief, defendant DELA Depositary & Asset Management B.V., is a Dutch (Besloten Vennootschap met beperkte aansprakelijIcheid, with a registered office in the Netherlands.

63. Upon information and belief, defendant Kapitalforeningen PenSam Invest - PSI 84 US High Yield II, is an alternative investment fund (AIF) administered by Nylcredit Portefolje Administration A/S, with a registered office in Denmark.

64. Upon information and belief, defendant The New Zealand Guardian Trust Company Limited, as Trustee for AMP Wholesale High Yield Bond Fund, is a Trustee Company, with a registered office in New Zealand. AMP Wholesale High Yield Bond Fund is a New Zealand Unit Trust Fund, with a registered office in New Zealand.

65. Upon information and belief, defendant UBS Fund Management (Switzerland) AG, is a Swiss Aktiengesellschaft, with a registered office in Switzerland.

66. Upon information and belief, defendant JNL Series Trust, on behalf of its series JNL/JPMorgan Global Allocation Fund, is a is a Massachusetts business trust with its principal place of business in Michigan.

67. Upon information and belief, defendant JPMorgan Fund ICVC, on behalf of its sub fund JPM Global High Yield Bond Fund, is an open-ended investment company with variable capital with its principal place of business in England.

68. Upon information and belief, defendant JPMorgan Trust I, on behalf of its series JPMorgan Income Builder Fund, is a Delaware statutory trust with its principal place of business in New York.

69. Upon information and belief, defendant JPMorgan Trust I, on behalf of its series JPMorgan Total Return Fund, is a Delaware statutory trust with its principal place of business in New York.

70. Upon information and belief, defendant JPMorgan Trust I, on behalf of its series JPMorgan Strategic Income Opportunities Fund, is a Delaware statutory trust with its principal place of business in New York.

71. Upon information and belief, defendant JPMorgan Fund ICVC, on behalf of its sub fund JPM Multi-Asset Income Fund, is an open-ended investment company with variable capital with its principal place of business in England.

72. Upon information and belief, defendant Lincoln Variable Insurance Products Trust, on behalf of its series LVIP JPMorgan High Yield Fund, is a Delaware statutory trust with its principal place of business in Indiana.

73. Upon information and belief, defendant Advanced Series Trust, on behalf of its portfolio AST High Yield Portfolio, is an open-ended management investment company with its principal place of business in Connecticut.

74. Upon information and belief, defendant GIM Trust, on behalf of its series U.S. High Yield Bond Fund, is an open-ended Cayman Islands series trust with its registered office in the Cayman Islands.

75. Upon information and belief, defendant JPMorgan Trust I, on behalf of its series JPMorgan Global Allocation Fund, is a Delaware statutory trust with its principal place of business in New York.

76. Upon information and belief, defendant HSBC Institutional Trust Services (Asia) Limited, as trustee of JPMorgan Multi Income Fund, is a public company limited by shares incorporated in Hong Kong with its principal place of business in Hong Kong. Upon information and belief, JPMorgan Multi Income Fund is a unit trust authorized as a collective investment scheme by the Hong Kong Securities and Futures Commission.

77. Upon information and belief, defendant JPMorgan Trust I, on behalf of its series JPMorgan Global Bond Opportunities Fund, is a Delaware statutory trust with its principal place of business in New York.

78. Upon information and belief, defendant JPMorgan Trust I, on behalf of its series JPMorgan Short Duration Core Plus Fund, is a Delaware statutory trust with its principal place of business in New York.

79. Upon information and belief, defendant IBM 401(k) Plus Plan Trust , on behalf of the IBM 401(k) Plus Plan, is a retirement plan with its registered office in New York.

80. Upon information and belief, defendant JPMorgan Trust I, on behalf of its series JPMorgan Income Fund, is a Delaware statutory trust with its principal place of business in New York.

81. Upon information and belief, defendant Migros-Pensoinskasse Fonds is a Swiss investment fund with its registered office in Switzerland.

82. Upon information and belief, defendant J.P. Morgan Exchange-Traded Fund Trust, on behalf of its series JPMorgan Core Plus Bond ETF, is a Delaware statutory trust with its principal place of business in New York.

83. Upon information and belief, defendant HSBC Institutional Trust Services (Asia) Limited, as trustee of JPMorgan Multi Balanced Fund, is a public company limited by shares incorporated in Hong Kong with its principal place of business in Hong Kong. Upon information and belief, JPMorgan Multi Balanced Fund is a unit trust authorized as a collective investment scheme by the Hong Kong Securities and Futures Commission.

84. Upon information and belief, defendant Zurich American Insurance is a company incorporated under the law of the State of New York with its principal place of business in Illinois.

85. Upon information and belief, defendant NBI High Yield Bond ETF is an exchange-traded fund established as a trust under the laws of the Province of Ontario, Canada with its registered office in Canada.

86. Upon information and belief, defendant Deferred Salary Plan of the Electrical Industry is a Defined Contribution Profit-Sharing Plan with 401(k) and Roth features with its registered office in New York.

87. Upon information and belief, defendant NBI Unconstrained Fixed Income ETF is an exchange-traded fund established as a trust under the laws of the Province of Ontario, Canada with its registered office in Canada.

88. Upon information and belief, defendant National Employment Savings Trust Corporation, in its capacity as trustee of the National Employment Savings Trust, is a public corporation established under the law of the United Kingdom with its principal place of business in England.

89. Upon information and belief, defendant JPMorgan Trust II on behalf of its series, JPMorgan Core Plus Bond Fund, is a Delaware statutory trust with its principal place of business in New York.

90. Upon information and belief, defendant JPMorgan Trust II on behalf of its series, JPMorgan High Yield Fund, is a Delaware statutory trust with its principal place of business in New York.

91. Upon information and belief, defendant The Integrity Fund on behalf of its Series, Integrity High Income Fund, is a mutual fund managed advised by Viking Fund Management, LLC, headquartered in Minot, North Dakota.

92. Upon information and belief, defendant Langur Maize L.L.C., is a Delaware limited liability company with its principal place of business in New York.

93. Every plaintiff in the New York State Actions is named as a defendant in this First Amended Complaint.

JURISDICTION AND VENUE

94. The Court has jurisdiction over this First Amended Complaint pursuant to 28 U.S.C. § 1334.

95. This is a core proceeding under 28 U.S.C. § 157(b) as it concerns application of the automatic stay and resolution of disputes concerning the validity of the Debtors' current capital structure. The claims concern the allowance or disallowance of certain claims against the Debtors' estates, determinations of the validity, extent, or priority of liens against the Debtors' property, viability of any potential plan of reorganization, liquidation of estate assets, and the adjustment of debtor-creditor relationships. *See* 28 U.S.C. § 157(b)(2)(B), (K), (L), (O).

96. Under Rule 7008 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") and Rule 7008-1 of the Bankruptcy Local Rules for the Southern District of Texas (the "***Local Rules***"), plaintiffs consent to the entry of final orders or judgment by this Court in connection with this adversary proceeding if it is determined that, absent consent of the parties, the Court cannot enter final orders or judgments consistent with Article III of the United States Constitution.

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

BACKGROUND

I. OVERVIEW OF THE CHAPTER 11 CASES

98. On the Petition Date, the Debtors each commenced a voluntary case under Chapter 11 of the Bankruptcy Code in this Court. The Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and the *Order Directing Joint Administration of Chapter 11 Cases* [ECF No. 73]. The Debtors are operating their businesses as debtors in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. On June 16, 2023, the United States Trustee for the Southern District of Texas appointed an official committee of unsecured creditors (the "***Committee***"). *See Notice of Appointment of Official Committee of Unsecured Creditors* [ECF No. 261]. No trustee or examiner has been appointed.

99. The Debtors are 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 their distribution business, the Debtors offer aerospace hardware and parts, electronic products, chemicals, and tooling products, which it stockpiles for rapid distribution at service centers around the globe. In its service business, the Debtors manage all aspects of their 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, the need to deliver parts and services on a near immediate basis is critical, with timing and deadlines integral to the Debtors and their customers' business operations, which primarily serve the public and national defense.

100. 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 ENTER INTO THE INDENTURES

101. The Company was formed upon the closing of a leveraged buyout (the "***LBO***") between the Company's predecessor entity and Pattonair. The LBO was financed through the issuance of several series of notes.

102. As relevant here, the Company issued, and is the borrower under, *inter alia*, (i) the November 27, 2019 Indenture between the Company and the BOKF, N.A. ("***BOKF***") (along with its predecessor indenture trustees BNY and WSFS, the "***Trustee***") as indenture trustee (as amended on January 9, 2020 and January 28, 2020 the "***Original 2026 Indenture***" and, as amended on March 28, 2022, the "***Amended 2026 Indenture***"), which provided for $900,000,000 in senior secured notes (the "***2026 Notes***" and the holders of those notes, the "***2026 Noteholders***"); and (ii) the November 27, 2019 Indenture between the Company and the Trustee (as amended on January 9, 2020 and January 28, 2020 the "***Original 2024 Indenture***" and with the Original 2026 Indenture the "***Original Secured Indentures***," and as amended on March 28, 2022, the "***Amended 2024 Indenture***" and with the Amended 2026 Indenture, the "***Amended Secured Indentures***"),[7] which provided for $650,000,000 in senior secured notes (the "***2024 Notes***" and with the "***2026 Notes***," the "***Secured Notes***," and the holders of the 2024 Notes, the "***2024 Noteholders***" and with the 2026 Noteholders, the "***Secured Noteholders***"); and (iii) the November 27, 2019 Indenture between and among the Company and the Trustee which provided for $525,000,000 in unsecured notes (the "***Original Unsecured Indenture***" and as amended on March 28, 2022, the "***Amended Unsecured Indenture***") which provided for $525,000,000 in unsecured notes (the "***Unsecured Notes***").

[7] All provisions of the 2024 Indenture and 2026 Indenture (both Original and Amended) relevant to this First Amended Complaint are substantively identical.

103. The Secured and Unsecured Indentures (both Original and Amended) are governed by New York law.

III. THE 2022 TRANSACTION WAS NEGOTIATED IN GOOD FAITH

104. The LBO closed in January of 2020, shortly before the onset of the COVID-19 pandemic. As described in the First Day Declaration, the COVID-19 pandemic devastated the aerospace industry, with travel restrictions leading to a rapid decline in the demand for the Company's parts and services. This decline also made it difficult for the Company to implement some of the synergy initiatives that had motivated the LBO.

105. To improve liquidity, the Company took a number of steps including: (i) in November 2020, Platinum, through TopCo, provided the Company with a $25 million cash infusion in exchange for a $25 million unsecured promissory note due November 2023 (the "***2023 Promissory Note***"); (ii) throughout 2021, the Company sold approximately $120 million of inventory, with the total value of its inventory decreasing from $1.26 billion at the end of 2020 to $1.14 billion at the end of 2021; and (iii) in October 2021, the Company negotiated with Rolls-Royce (one of the Company's largest customers) to shorten its trade terms. These actions contributed to the Company's ability to make interest payments through the end of 2021, including approximately $105 million of interest due November 15, 2021.

106. Despite these attempts to manage liquidity, the Company found itself overleveraged and suffering from continued pandemic-driven liquidity shortfalls. In late 2021, the Company retained advisors and began searching for liquidity-enhancing transactions that would enable it to weather the downturn and return to normal operations. By the beginning of 2022, the situation was worsening as key suppliers had begun to accelerate their payment terms and even cut off

supply in response to late payments by the Company. Additionally, the Company's factoring facility provider stopped making new advances, causing a nearly $40 million decrease in liquidity.

107. Given the operational and liquidity challenges the Company was facing, it sought to execute a transaction quickly. In the months leading up to the 2022 Transaction, the Company had been forced to delay vendor payments, which in turn resulted in vendors stopping deliveries and issuing payment demands, potentially undermining the Company's continued ability to serve its customers. The Company also had a UK audit scheduled to be filed on March 11, 2022, with a statement of emphasis regarding its ability to continue as a going concern. The public posting of this statement was likely to put further pressure on the business and liquidity. The Company was also concerned about news leaking to the public regarding its liquidity issues and efforts to effectuate a liquidity-enhancing transaction, as such news could further exacerbate the vendor and customer pressure that the Company was facing.

108. After considering the options under its debt documents and in light of the prevailing market conditions, the Company pursued multiple parallel paths. On one track, the Company amended its asset-based credit facility to provide incremental liquidity (which was consummated in February 2022), and explored potential options for alternative factoring facility providers. On the other track, the Company began a strategic review of more comprehensive liquidity-enhancing transactions.

109. At the outset of its strategic review, the Company received unsolicited outreach from certain of the Participating Secured Noteholders, who represented that they held over two-thirds of each of the then-secured 2024 and 2026 Notes. The Participating Secured Noteholders proposed a comprehensive transaction that was intended to provide sufficient liquidity through the end of the aerospace industry's pandemic-driven downturn. The Participating Secured Noteholders

were the only constituency who had the ability to amend the debt and lien baskets in the Original Secured Indentures to provide additional liquidity, and they held over two-thirds of the 2024 Notes, which was particularly relevant as the 2024 Notes had the Company's next upcoming maturity (apart from the $25 million 2023 Promissory Note).

110. The Company began negotiations with the Participating Secured Noteholders, including requesting that the Participating Secured Noteholders provide new money on a *pari passu* basis with the 2024 and 2026 Notes, or through a pro rata transaction, neither of which were acceptable to the Participating Secured Noteholders.

111. The Company was committed to identifying the best actionable financing solution, while also trying to avoid news leaks that could further disrupt the Company's operations, given concerns around its vendors, customers, and factoring facility provider. While it was considering the proposal from the Participating Secured Noteholders, the Company also engaged in good faith discussions with its other stakeholders, including the Formerly Secured Noteholders, after the Formerly Secured Noteholders approached the Company with their own unsolicited transaction proposal.

112. Discussions with the Company's stakeholders included: (a) the Participating Secured Noteholders; (b) the Formerly Secured Noteholders, which collectively held a minority of the Company's 2026 Notes and 2024 Notes; (c) the holder of a majority of the Company's Unsecured Notes; (d) the holder of a controlling position of the payment-in-kind notes (the "***PIK Notes***"), issued by Wolverine Intermediate Holding Corporation, an indirect holding company of the issuer of the Secured and Unsecured Notes; (e) a majority of lenders under the Company's asset-based loan facility; and (f) the provider of the Company's principal facility for factoring receivables. Negotiations with these creditor groups spanned months and involved careful

consideration of various proposals by the Company, its Board of Directors, and its advisors. As discussions advanced toward a transaction, Mr. Bartels was appointed to the board of directors of Wolverine Intermediate Holding Corporation on February 8, 2022 to serve as an independent director.

113. Progress on the Company's negotiations with the Participating Secured Noteholders was disrupted briefly when news of a pending transaction leaked, and the Formerly Secured Noteholders began buying notes that the Participating Secured Noteholders had lent out to brokers through customary securities lending arrangements. This resulted in a temporary increase in the trading prices of the 2026 Notes, as the Formerly Secured Noteholders attempted to purchase sufficient notes to block a potential transaction with the Participating Secured Noteholders.

114. Despite this tactic, the Company entertained proposals from both the Participating Secured Noteholders and the Formerly Secured Noteholders. The board of directors carefully considered each proposal the Company received in light of all circumstances. Ultimately, the board determined that the best financing terms came from the Participating Secured Noteholders.

115. The Formerly Secured Noteholders' proposal was materially inferior to the Participating Secured Noteholders' proposal from both an economic and execution risk perspective. Economically, the Participating Secured Noteholders' proposal provided significantly more upfront and long-term liquidity, maturity extensions, and incremental basket capacity for future exchanges or to raise incremental liquidity. The Participating Secured Noteholders' proposal provided for approximately $130 million more in total incremental liquidity than the Formerly Secured Noteholders' proposal by the end of 2022. This was due to an incremental $77.5 million of new money upfront ($250 million of new money, before transaction costs, versus $172.5 million

in the Formerly Secured Noteholders' proposal, before transaction costs), and significantly more liquidity over time due to the Participating Secured Noteholders' and Participating Unsecured Noteholders' agreement to capitalize their accrued interest through the date of the transaction, to forgo amortization on the 2026 Secured 1L Notes and 2027 Secured 1.25L Notes, and to receive a substantial amount of future interest in kind. These future savings would provide even more liquidity over time, with the Company projecting that the Participating Secured Noteholders' proposal would result in approximately $280 million more in total incremental liquidity than the Formerly Secured Noteholders' proposal by the end of 2026. The Participating Secured Noteholders' proposal also extended the maturities on $455 million of 2024 Notes to November 2026, versus only $43-$90 million of 2024 Notes (depending on the ultimate participation of holders) offered by the Formerly Secured Noteholders. The Participating Secured Noteholders' proposal also extended the maturity of the $25 million 2023 Promissory Note to November 2027. Finally, the Participating Secured Noteholders' proposal allowed the Company to issue up to $575 million of incremental 2027 Secured 1.25L Notes that could be used to refinance remaining 2024 or 2026 Notes, and to raise additional future liquidity.

116. From an execution risk perspective, the Formerly Secured Noteholders' proposal, which envisioned a "dropdown" transaction, was inferior due to legal and operational complexities, outstanding diligence efforts that were required to reach closing, and timing constraints. The Formerly Secured Noteholders' proposal relied on stripping liens on select assets to remove them as collateral for the 2024 and 2026 Notes, and moving those assets to a non-guarantor entity. This transaction would have carried significant litigation and execution risk with the Participating Secured Noteholders, who held over a majority of the 2024 and 2026 Notes and had the ability to direct the agent under both indentures in a way that potentially could have

prevented closing on the Formerly Secured Noteholders' proposal. The transaction also relied on a potentially aggressive read of the Company's joint venture and letter of credit debt baskets to raise structurally senior debt at the non-guarantor entity. Additionally, identifying assets to move and completing the transfer of such assets would have taken a significant amount of time and may have led to operational disruptions. For instance, some of the assets being considered for transfer were contracts, which could have required notices or consents to customers, entry into a number of intercompany support agreements, potential changes in tax attributes, and other operational complexities. The Formerly Secured Noteholders' proposed transaction would have thus required significant time and diligence that the Company did not have given its liquidity position. The proposal was also not fully committed, and was subject to the satisfactory completion of legal and financial diligence, including identifying and valuing assets to transfer to the non-guarantor entity.

117. Additionally, the Formerly Secured Noteholders' proposal demanded significant concessions from Platinum, TopCo and the Platinum Fund, including (i) equitizing the 2023 Promissory Note; (ii) capitalizing the interest on the Platinum Fund's Unsecured Notes through 2024; and (iii) foregoing all management fees. The Formerly Secured Noteholders' proposal provided no consideration for these concessions.

118. Given the significant execution risks associated with trying to close the Formerly Secured Noteholders' proposal, and the fact that it was economically worse for the Company, the board ultimately determined to pursue the Participating Secured Noteholders' proposal.

119. In order to implement the Participating Secured Noteholders' proposal, the Company needed consents from a majority of the holders of (i) the Unsecured Notes and (ii) the PIK Notes to permit the issuance of the $250 million of new money. These holders were unwilling to provide the necessary consents unless they could also participate in the 2022 Transaction, with

the majority holders of the Unsecured Notes exchanging their Unsecured Notes into the 2027 Secured 1.25L Notes, and the majority holder of the PIK Notes exchanging its 2024 Notes and/or 2026 Notes into 2026 Secured 1L Notes and its Unsecured Notes into the 2027 Secured 1.25L Notes.

120. Notably, the Participating Unsecured Noteholders' participation in the 2022 Transaction provided the Company with a number of benefits. The Participating Unsecured Noteholders agreed to capitalize their accrued interest through the date of the transaction, providing approximately $22 million of incremental liquidity. The Participating Unsecured Noteholders also agreed to accrue the remainder of their May 15, 2022 interest payment until November 15, 2022, providing the Company with a near-term liquidity benefit. They also agreed to receive a substantial amount of future interest on the 2027 Secured 1.25L Notes in kind. The non-participating unsecured noteholders continued to receive cash interest payments at a rate of 13.125%, while the Participating Unsecured Noteholders received cash interest at a rate of 4.0% through 2022, and 6.0% thereafter. In addition, Platinum agreed to accrue management fees for at least three years, and agreed to extend the maturity on its $25 million 2023 Promissory Note to November 2027. In light of these substantial benefits, the board determined to include the Participating Unsecured Noteholders in the 2022 Transaction, and Mr. Bartels as independent director approved the inclusion of Platinum's Unsecured Notes and the 2023 Promissory Note in the 2022 Transaction.

121. Throughout this process, the Company negotiated with the Participating Secured Noteholders and Participating Unsecured Noteholders to achieve the most favorable terms possible. The Company prepared multiple counterproposals and engaged win hard-fought, good faith negotiations. The Company also executed non-disclosure agreements and provided

substantial requested diligence to the Participating Secured Noteholders, the Formerly Secured Noteholders, and certain of the Participating Unsecured Noteholders.

122. The 2022 Transaction was ultimately supported by every stakeholder group referenced above, other than the Formerly Secured Noteholders, and closed on March 28, 2022. At the time the 2022 Transaction closed, the Company forecasted that it had sufficient liquidity through 2027 and beyond, if it were able to extend the maturities on its funded debt.

IV. THE 2022 TRANSACTION

123. Effectuating the 2022 Transaction required several distinct and sequential steps, including two amendments to the Original Secured Indentures and Original Unsecured Indentures, the issuance of $250 million in new then-secured notes in exchange for cash, and an exchange of notes held by the Participating Secured Noteholders and Participating Unsecured Noteholders into new 2026 Secured 1L Notes (as defined below) and new 2027 Secured 1.25L Notes (as defined below), respectively.

124. Each step of the 2022 Transaction complied with the applicable provisions of the Company's debt documents.

A. The Third Supplemental Indentures

125. First, on March 28, 2022, with the consent of a simple majority of its noteholders under the Original Secured Indentures, the Company amended the Original Secured Indentures pursuant to supplemental indentures (the "***Third Supplemental Secured Indentures***"), to, *inter alia*, expand the Company's permitted lien baskets to allow for the issuance of $250 million in additional 2026 Notes secured by the existing Collateral (as defined in the Original Secured Indentures) in exchange for much needed cash provided by the Participating Secured Noteholders. This expansion of the lien baskets (as well as additional ministerial amendments related to the

governance of new notes) required the consent of a simple majority of the holders of the 2024 and 2026 Notes under Section 9.02 of the Original Secured Indentures, which was obtained.

126. The Original Secured Indentures expressly contemplated the issuance of additional *pari passu* secured notes under Sections 2.01 and 4.26. Section 2.01(e) provided that "[a]dditional Secured Notes ranking *pari passu* with the Initial Secured Notes may be issued from time to time by the Issuer without notice to or consent of the Holders," while Section 4.26 states that "[t]he Issuer . . . has the ability hereunder to issue an unlimited aggregate principal amount of Additional Secured Notes, all of which may be secured by the Collateral."

127. The Original Unsecured Indenture was also amended pursuant to a supplemental indenture (the "***Third Supplemental Unsecured Indenture***" and, together with the Third Supplemental Secured Indentures, the "***Third Supplemental Indentures***"), with the support of a simple majority of unsecured noteholders pursuant to Section 9.02 of the Original Unsecured Indenture to accommodate the new issuance and facilitate the Exchange (as defined and described further below).

128. To effectuate these amendments, the Company requested that WSFS (then the Trustee under the Original Secured Indentures and Original Unsecured Indenture) execute and deliver copies of the Third Supplemental Indentures, and provided WSFS with (among other materials) (i) Officer's Certificates dated March 28, 2022, executed by Ray Carney in his capacity as Chief Financial Officer of the Company (the "***Third Officer's Certificates***") and (ii) letter opinions from its counsel (the "***Third Opinions of Counsel***"). Under the Original Secured Indentures and Original Unsecured Indenture, the Company had agreed to indemnify WSFS for the exercise of its powers and duties.

129. The Third Officer's Certificates and the Third Opinions of Counsel provided that the conditions precedent to the execution of the Third Supplemental Indentures had been met, that WSFS was being directed to enter into the Third Supplemental Indentures, and that all documents related thereto were true, correct, duly authorized, and binding. As mandated by the Original Secured Indentures and the Original Unsecured Indenture, WSFS executed and delivered the Third Supplemental Indentures.

B. The Note Purchase Agreement

130. Immediately following the execution of the Third Supplemental Indentures, the Company and certain of the Participating Secured Noteholders executed a note purchase agreement, dated March 28, 2022 (the "***Note Purchase Agreement***"), effectuating the issuance of $250 million in principal of additional 2026 Notes in exchange for cash.

C. The Fourth Supplemental Indentures

131. Promptly following the consummation of the Note Purchase Agreement, the Company again amended the Original Secured Indentures, the Original Unsecured Indenture, and relevant related security documents, pursuant to supplemental indentures (the "***Fourth Supplemental Indentures***"), this time with the requisite consent of Secured Noteholders holding at least two-thirds of the 2026 Notes and 2024 Notes under the Original Secured Indentures (including the holders of the newly issued $250 million in 2026 Notes) and a majority of Unsecured Noteholders under the Original Unsecured Indenture.

132. To effectuate these amendments, the Company requested that WSFS execute and deliver copies of the Fourth Supplemental Indentures and provided WSFS with (i) Officer's Certificates dated March 28, 2022, executed by Ray Carney in his capacity as Chief Financial

Officer of the Company (the "***Fourth Officer's Certificates***") and (ii) letter opinions from its counsel (the "***Fourth Opinions of Counsel***").

133. The Fourth Officer's Certificates and the Fourth Opinions of Counsel provided that the conditions precedent to the execution of the Fourth Supplemental Indentures had been met, that WSFS was being directed to enter into the Fourth Supplemental Indentures and that all documents related thereto were true, correct, duly authorized, and binding. As mandated by the Original Secured Indentures and Original Unsecured Indenture, WSFS executed and delivered the Fourth Supplemental Indentures, effecting the Amended Secured Indentures and Amended Unsecured Indenture.

134. The Amended Secured Indentures and Amended Unsecured Indenture permitted, but did not effectuate, an exchange (the "***Exchange***") of (a) the Participating Secured Noteholders' 2026 Notes and 2024 Notes for new first lien secured notes due 2026 (the "***2026 Secured 1L Notes***"), and (b) the notes held by the Participating Unsecured Noteholders' (including those held by affiliates of Platinum) for new junior-lien secured notes due 2027 (the "***2027 Secured 1.25L Notes***" and together with the 2026 Secured 1L Notes, the "***New Notes***"). The Fourth Supplemental Indentures also released the liens held by WSFS on behalf of the 2024 Notes and 2026 Notes, allowed for the issuance of senior secured debt, and removed certain covenants that could otherwise undermine the 2022 Transaction.

135. WSFS is the Trustee for 2026 Secured 1L Notes and the 2027 Secured 1.25L Notes.

D. The Exchange Agreement

136. Immediately after execution of the Fourth Supplemental Indentures, the Company, the Participating Secured Noteholders, and the Participating Unsecured Noteholders consummated

a single exchange agreement, dated March 28, 2022 (the "***Exchange Agreement***"), facilitating the Exchange.

137. WSFS is not a party to the Exchange Agreement and was not directed to take any action to complete the Exchange. The Exchange was done by the entity within the Company that had issued the 2024 Notes and 2026 Notes, which was referred to in the Exchange Agreement as the "Issuer."

138. Sections 2.02(a)(i) & (ii) of the Exchange Agreement provide for the exchange of the 2024 Notes and 2026 Notes, stating that each of the relevant Participating Secured Noteholders:

> agrees to deliver to the Issuer, at the Exchange Closing, the Exchanged [2024 or 2026] Notes held by such Holder . . . [and] in consideration therefor, the Issuer hereby agrees to issue to such Holder a principal amount of New 1st Lien Notes equal to 100.902% of (x) the principal amount of such Holder's Exchanged [2024 or 2026] Notes, *plus* (y) all unpaid interest on such Exchanged [2024 or 2026] Notes accrued to, but excluding, the Closing Date . . . .

139. Section 2.02(a)(iii) of the Exchange Agreement provides that each of the Participating Unsecured Noteholders:

> agrees to deliver to the Issuer, at the Exchange Closing, the Exchanged Unsecured Notes held by such Holder . . . [and] in consideration therefor, the Issuer hereby agrees to issue to such Holder a principal amount of New 1.25 Lien Notes equal to 101.125% of (x) the principal amount of such Holder's Exchanged Unsecured Notes, *plus* (y) all unpaid interest on such Exchanged Unsecured Notes accrued to, but excluding, the Closing Date . . . .

140. The Company's pre- and post-2022 Transaction capital structures are depicted in Exhibit B to the First Day Declaration.

141. The 2022 Transaction provided the Company with $224 million of much-needed cash (after accounting for transaction costs), which allowed it to continue operating its business, including by preserving jobs and critical relationships with key customers. The 2022 Transaction also provided several other important benefits: It extended the maturities on $455 million of 2024

Notes by two years and the maturity of the $25 million 2023 Promissory Note by four years; it significantly reduced the Company's future cash interest and amortization obligations (by approximately $30 million of cash interest and $15 million of amortization in the first year following the transaction); and it allowed the Company to accrue management fees owing to Platinum, without payment for at least three years. Finally, the 2022 Transaction provided the Company the ability to issue additional 2027 Secured 1.25L Notes that could be used to refinance remaining 2024 or 2026 Notes, and to raise additional future liquidity.

V. AFTER THE 2022 TRANSACTION

142. The 2026 Secured 1L Notes not only provided two additional years of runway, but also required reduced cash interest payments, compared to the obligations exchanged, of 7.5% per year. The 2024 Notes and 2026 Notes held by the Formerly Secured Noteholders continued to provide for annual interest rates of 8.5% and 9%, respectively, payable entirely in cash.

143. The 2027 Secured 1.25L Notes replaced unsecured debt with shorter maturities and also required reduced cash interest payments, compared to the obligations exchanged, of 4% for interest payments made prior to December 2022 and 6% thereafter. Additionally, no cash interest was due on the May 2022 payment date. The Unsecured Notes that remain outstanding continued to provide for an interest rate of 13.125%, payable entirely in cash.

144. Since the 2022 Transaction was effectuated, two interest payments have been made on the 2024 and 2026 Notes (at 8.5% and 9%, annually) and Unsecured Notes (at 13.125%, annually), on May 15, 2022 and on November 15, 2022. Holders of the 2026 Secured 1L Notes agreed to capitalize their accrued interest through the date of the 2022 Transaction, and on May 15, 2022 received only a pro-rated interest payment for the time period between the close of the 2022 Transaction and May 15, 2022. Holders of the 2026 Secured 1L Notes then also received an

interest payment on November 15, 2022. However, in both cases, the amount of cash received by the 2026 Secured 1L Noteholders was based on the lower post-transaction rate of 7.5%. Holders of the 2027 Secured 1.25L Notes also agreed to capitalize their accrued interest through the date of the 2022 Transaction, and agreed to accrue their pro-rated May 15, 2022 interest payment, such that the first interest payment received by the holders of the 2027 Secured 1L Notes post-transaction was on November 15, 2022. The cash interest received by holders of the 2027 Secured 1.25L Notes was based on the lower post-transaction rate of 4.0%.

145. The Company issued a press release on March 29, 2022 announcing the 2022 Transaction.

146. Based on market conditions at the time of the 2022 Transaction, the Company projected that the recapitalization would right its business and position it for growth.

147. The 2022 Transaction generated significant liquidity for the Company and allowed the Company's management team to devote substantial time to developing a business plan to leverage that liquidity in what at the time appeared to be a rapidly improving commercial environment. As a result, the Company secured new business, grew revenue by over $120 million, and improved adjusted EBITDA performance by nearly 40% in 2022.

148. Despite these successes, the Company was beset by unpredictable and uncontrollable global market forces. The supply-chain dysfunction, inflationary pressure, rising costs of capital, economic slow-down, delayed rebound of the aerospace industry, market breakdowns resulting from the COVID-19 pandemic, and other events all combined to significantly impair the Company's profitability.

149. In January 2023, facing an unfavorable economic environment and the New York State Actions, and with sizable financial obligations looming, the Company initiated discussions

about its liquidity options with certain of its stakeholders. However, the Company was unable to obtain out-of-court financing, on terms consistent with existing debt covenants and sufficient to meet its immediate liquidity needs, including the approximately $93 million in interest payments due May 15, 2023, and maintain operations as a going concern. Thus, the Company was forced to file these Chapter 11 Cases.

VI. THE 2022 TRANSACTION COMPLIED WITH THE INDENTURES

150. As discussed above, the 2022 Transaction was effectuated through two sequential amendments of the Original Secured Indentures and Original Unsecured Indentures: (1) the Third Supplemental Indentures, which, by increasing the available lien baskets under the Original Secured Indentures, allowed the infusion of cash on account of issuing $250 million in principal of 2026 Notes; and (2) the Fourth Supplemental Indentures, which allowed the Company to issue new senior debt, enter into the Exchange, and release the liens securing the 2024 and 2026 Notes. Both amendments complied with the consent requirements under the Original Secured Indentures and Original Unsecured Indentures, and the Exchange was explicitly authorized pursuant to Section 3.07(h) of the Original Secured Indentures and Original Unsecured Indentures.

A. The 2022 Transaction Did Not Breach The Secured Indentures

1. The Amendments Of The Original Secured Indentures Complied With Section 9.02

151. ***Section 9.02 Governs Amendments Under the Secured Indentures***. Section 9.02 of the Secured Indentures for the 2024 Notes and the 2026 Notes (both Original and Amended) provides that any amendment or supplement, except in certain enumerated exceptions, requires the consent of the Holders of a simple majority of the "then outstanding" Secured Notes.

152. There are two exceptional circumstances in which an amendment requires the consent of more than a majority.

153. The first exception sets out a list of eleven enumerated amendments that could not be made "without the consent of each Holder affected" (the "***Sacred Rights***"), including any amendment that would "make any change to, or modify, the ranking of the . . . Secured Notes in respect of right of payment that would adversely affect the Holders of the . . . Secured Notes" (the "***Right of Payment Sacred Right***").

154. The second exception in the Original Secured Indentures (the "***Supermajority Consent Provision***") required "the consent of the Holders of at least 66 2/3% in aggregate principal amount of the . . . Secured Notes then outstanding" for any "amendment, supplement or waiver" that would "have the effect of releasing all or substantially all of the Collateral from the Liens created pursuant to the Security Documents" or have any other effect on the Collateral or the Secured Noteholders' rights thereto.

155. ***The Third Supplemental Indentures Had The Requisite Majority Consent Under Section 9.02***. Because increasing the lien baskets (and other administerial actions taken under the Third Supplemental Indentures) did not fall into any of the enumerated exceptions to the simple majority-amendment rule, the Third Supplemental Indentures only required majority consent, which the Company obtained. Thus, the Third Supplemental Indentures complied with the Original Secured Indentures.

156. ***The Note Purchase Agreement Complied With The Applicable Indentures***. The issuance of the $250 million in additional 2026 Notes, permitted by and following the Third Supplemental Indentures, was also valid.

157. Indeed, the Original Secured Indentures expressly contemplated the issuance of additional *pari passu* secured notes under Section 2.01, which provides that "[a]dditional Secured Notes ranking *pari passu* with the Initial Secured Notes may be issued from time to time by the

Issuer without notice to or consent of the Holders," as well as Section 4.26, which states that "[t]he Issuer . . . has the ability hereunder to issue an unlimited aggregate principal amount of Additional Secured Notes, all of which may be secured by the Collateral."

158. Section 2.01(e) also states that the issuance of "Additional Secured Notes" is "subject to the Issuer's compliance with Section[] . . . 4.12;" Section 4.12(a) in turn provides that the Company may not "directly or indirectly . . . create, incur, assume or suffer to exist any Lien of any kind," other than the Indentures' many types of enumerated "Permitted Liens."

159. No new liens were created or incurred, directly or indirectly, to issue the additional 2026 Notes. The issuance of these 2026 Notes therefore complied with Sections 2.01 and 4.12.

160. ***The Fourth Supplemental Indentures Had The Requisite Supermajority Consent Under Section 9.02***. Unlike the Third Supplemental Indentures, the Company's entry into the Fourth Supplemental Indentures did trigger the Supermajority Provision of Section 9.02 because they released the liens securing the 2024 and 2026 Notes. However, in connection with the Fourth Supplemental Indentures, the Debtors obtained the consent of a supermajority of the holders of Secured Notes, which included consents on account of the newly issued $250 million in 2026 Notes. Consents on account of those 2026 Notes were appropriately counted because the holders of the new 2026 Notes had all the same voting rights as the holders of all other 2026 Notes, as required under Section 2.01(e) of the Original Secured Indentures which provided that new notes "shall have the same terms as to status, redemption or otherwise as the Initial Secured Notes" and "must be fungible with the Initial Secured Notes."

161. Section 9.02 of the Original Secured Indentures further provided that the "2026 Secured Notes" (a term that included any additional notes that were subsequently issued), will count towards any amendment. This provision specifically contemplated the Company's right to

count all consents obtained, including, "without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the 2026 Secured Notes." In other words, the Original Secured Indentures expressly contemplated so-called "exit consents."

162. Separately, the Fourth Supplemental Indentures did not affect any Sacred Right, including the Right of Payment Sacred Right, and therefore did not require any consents beyond those obtained from the Participating Secured Noteholders. Indeed, the Original Secured Indentures specifically state that modification of the ranking "with respect of right of payment" means only payment subordination, and not lien subordination.

163. In particular, Section 4.09(c) of the Original Secured Indentures provides that "no Indebtedness will be deemed to be contractually subordinated in ***right of payment*** to any other Indebtedness of the Issuer or any Restricted Subsidiary solely by virtue of being unsecured or by virtue of being secured on a junior priority basis."

164. The Fourth Supplemental Indentures did not alter the timing or amounts owed on the 2026 Notes and 2024 Notes. Rather they simply allowed for the issuance of new secured debt that ranked higher than the 2026 Notes and 2024 Notes in ***lien priority only***. There is no Sacred Right against ***lien*** subordination. Indeed, as described above, Section 9.02 expressly allows the release of liens securing collateral with supermajority consent.

165. Thus, the Fourth Supplemental Indentures (and the 2022 Transaction as a whole) did not impact the Right of Payment Sacred Right of any Secured Noteholder and complied with the Original Secured Indentures.

2. The Exchange Was Properly Effectuated Under Section 3.07(h) Of The Original Secured Indentures

166. Section 3.07(h) of the Original Secured Indentures provides:

> The Issuer or its Affiliates may at any time and from time to time purchase . . . Secured Notes. ***Any such purchases may be made***

> ***through open market or privately negotiated transactions*** with third parties or ***pursuant to one or more tender or exchange offers*** or otherwise, ***upon such terms and at such prices as well as with such consideration as the Issuer or any such Affiliates may determine***. To the extent . . . Secured Notes are purchased or otherwise acquired by the Issuer, such . . . Secured Notes may be cancelled and all obligations thereunder terminated.

167. The Exchange was a "privately negotiated transaction" properly effectuated pursuant to Section 3.07(h).

168. Specifically, pursuant to the Exchange Agreement, the Participating Secured Noteholders directly agreed with the Debtors voluntarily to "deliver" their 2024 Notes and 2026 Notes to the Company, and in exchange, the Debtors directly agreed with the Participating Secured Noteholders to "issue" to them the 2026 Secured 1L Notes on the terms and subject to the conditions contained therein.

169. Alternatively, or additionally, the Exchange was an "open market . . . transaction" effectuated pursuant to Section 3.07(h), which term unambiguously includes debt exchanges.

170. The Exchange did not require the participation of the Trustee for the 2024 Notes and 2026 Notes. Indeed, WSFS was not a party to the Exchange Agreement.

171. After the Exchange was consummated, WSFS was informed by the Company of its occurrence, through a Cancellation Order dated March 28, 2022 issued by the Company that authorized and instructed WSFS to cancel the exchanged Secured Notes and Unsecured Notes.

Neither the Participating Secured Noteholders nor the Participating Unsecured Noteholders directed WSFS to take any action in connection with the Exchange.

172. Because the Exchange was validly and voluntarily negotiated, agreed, and consummated in accordance with the terms of Section 3.07(h), rather than 3.07(a)-(g), it was not a "redemption" under the Original Secured Indentures.

173. The term "redemption," as used in agreements or similar documents governing the issuance of debt or equity, generally refers to an issuer's unilateral right to reacquire its debt or equity when certain conditions are met. Upon a true "redemption," the holder of debt or equity is obligated to honor the request by the issuer. In contrast, the Exchange was entirely voluntary on both sides, and therefore was not a redemption.

174. With respect to the Company's 2024 Notes and 2026 Notes, Sections 3.07(a) through (g) of the Original Secured Indentures address various situations where the Company may ***redeem*** 2024 Notes and/or 2026 Notes at its own option subject to certain conditions and restrictions.

175. For instance, to effectuate a redemption under Section 3.07(a), the redemption must be "at a redemption price equal to [108.500% for the 2024 Notes and 109.000% for the 2026 Notes] of the principal amount of . . . Secured Notes redeemed, plus accrued and unpaid interest" and is only allowed if other circumstances are met.

176. Section 3.07(b) permits the Company to unilaterally redeem "all or a portion of the . . . Secured Notes at a redemption price equal to 100% of the principal amount of the . . . Secured Notes redeemed, plus the Applicable Premium [as defined in the Original Secured Indentures] as of the date of the redemption notice, and accrued and unpaid interest."

177. And under Section 3.07(c), if the Company launches a tender offer of the Secured Notes at any price and "if Holders of at least 90% in aggregate principal amount of the . . . Secured Notes outstanding tender such Secured Notes in such offer," then the Company may unilaterally redeem the balance of the 2024 Notes and/or 2026 Notes at the same price on 60-days' notice.

178. Section 3.07(e) prohibits redemptions at the Issuer's option "prior to November 15, 2022."[8]

179. Section 3.07(f) allows for the unilateral redemption of 2024 Notes and/or 2026 Notes pursuant to a schedule of fixed premiums depending on the year of the redemption.

180. Finally, Section 3.07(g) sets forth certain requirements for the Company's notice of redemption and describes certain effects of the occurrence of a redemption, for instance that "interest will cease to accrue on the . . . Secured Notes or portions thereof called for redemption on the applicable redemption date."

181. These requirements are not applicable to purchases or exchanges voluntarily made under Section 3.07(h). Indeed, the application of any of these provisions to purchases made under Section 3.07(h) would directly conflict with the language in Section 3.07(h), which allows for purchases "***at any time*** and from time to time . . . through open market or privately negotiated transactions . . . ***upon such terms and at such prices as well as with such consideration as the Issuer or any such Affiliates may determine***."

182. As the above-quoted language makes clear, Section 3.07(h) does not concern redemptions at all; rather, it contemplates purchases or exchanges made pursuant to agreed terms between the Debtors and the seller(s). Moreover, unlike the rest of Section 3.07, nowhere in Section 3.07(h) do the words "redemption" or "redeem" even appear.

[8] Section 3.07(d) states "[reserved]."

183. Section 3.02 of the Original Secured Indentures places a further restriction on redemptions, but not purchases, or exchanges, stating:

> If less than all of the . . . Secured Notes are to be ***redeemed*** pursuant to the provisions of Section 3.07 hereof, the Trustee will select . . . Secured Notes for redemption or purchase pro rata, by lot or by such method as it shall deem fair and appropriate (subject to applicable DTC procedures with respect to the Global Notes, including the Applicable Procedures). If the . . . Secured Notes are represented by Global Notes, interests in such Global Notes will be selected for redemption or purchase by DTC in accordance with its Applicable Procedures.

184. This Section explicitly governs redemptions only. Because the Exchange was properly effectuated pursuant to Section 3.07(h), it was not a "redemption," and the restriction imposed by Section 3.02 did not apply. WSFS, as Trustee for the 2024 Notes and 2026 Notes, was not obligated—and had no occasion—to take any action with respect to the Exchange and did not do so. Rather, the Company, the Participating Secured Noteholders, and the Participating Unsecured Noteholders—but not WSFS—entered into the Exchange Agreement to effectuate the Exchange. WSFS was not provided with any consideration from the Company with which to implement a redemption and therefore had no ability whatsoever to control who or how to pay such consideration.

185. Given the structure of the 2022 Transaction, including that the Exchange was effectuated pursuant to Section 3.07(h), through the Exchange Agreement, without WSFS's participation and without any direction from any of the Secured Noteholders to WSFS, the Exchange did not breach Section 6.05 of the Original Secured Indentures. Indeed, Section 6.05, which allows "[h]olders of a majority in aggregate principal amount of the then outstanding . . . Secured Notes" to "direct the time, method and place of conducting any proceeding for exercising

any remedy available to the Trustee or . . . exercising any trust or power conferred on it," is wholly inapplicable to the Exchange.

B. The 2022 Transaction Did Not Breach The Unsecured Indenture

1. The Amendments Of The Original Unsecured Indenture Complied With Section 9.02

186. Section 9.02 of the Unsecured Indenture (both Original and Amended) provides that any amendment or supplement, except in certain enumerated exceptions, requires the consent of the Holders of a simple majority of the "then outstanding" Unsecured Notes.

187. One exception to this amendment-by-majority rule is certain Sacred Rights substantively identical to those in the Original Secured Indentures, including a Right of Payment Sacred Right that states that any amendment that would "make any change to, or modify, the ranking of the Unsecured Notes in respect of right of payment that would adversely affect the Holders of the Unsecured Notes" requires the "consent of each Holder affected."

188. Similar to the Original Secured Indentures, the Original Unsecured Indenture expressly clarifies that modification of the ranking "with respect of right of payment" means only payment subordination, and not on account of lien status.

189. The Original Unsecured Indenture's Section 4.09(c) provides that "no Indebtedness will be deemed to be contractually subordinated in ***right of payment*** to any other Indebtedness of the Issuer or any Restricted Subsidiary solely by virtue of being unsecured or by virtue of being secured on a junior priority basis."

190. The 2022 Transaction did not alter the timing or amounts owed on the Unsecured Notes, rather it simply allowed for the issuance of new secured debt that ranked higher than the Unsecured Notes in ***lien priority only***.

191. Thus, the 2022 Transaction did not impact the Right of Payment Sacred Right of any Unsecured Noteholder and required only majority consent, which the Company obtained.

2. The Exchange Was Properly Effectuated Under Section 3.07(h) Of The Original Unsecured Indenture

192. Similar to the Original Secured Indentures, Section 3.07(h) of the Original Unsecured Indenture provides:

> The Issuer or its Affiliates may at any time and from time to time purchase Unsecured Notes. ***Any such purchases may be made through open market or privately negotiated transactions*** with third parties or ***pursuant to one or more tender or exchange offers*** or otherwise, ***upon such terms and at such prices as well as with such consideration as the Issuer or any such Affiliates may determine***. To the extent Unsecured Notes are purchased or otherwise acquired by the Issuer, such Unsecured Notes may be cancelled and all obligations thereunder terminated.

193. As explained above, the Exchange was a "privately negotiated transaction" properly effectuated pursuant to Section 3.07(h) and/or an "open market . . . transaction" effectuated pursuant to Section 3.07(h), which term unambiguously includes debt exchanges.

194. Specifically, pursuant to the Exchange Agreement, the Participating Unsecured Noteholders directly agreed with the Debtors voluntarily to "deliver" their Unsecured Notes to the Company, and in exchange, the Debtors directly agreed with the Participating Unsecured Noteholders to "issue" to them the 2027 Secured 1.25L Notes on the terms and subject to the conditions contained therein.

195. The Exchange did not require the participation of the Trustee for the Unsecured Notes. Indeed, WSFS was not a party to the Exchange Agreement.

196. Because the Exchange was validly and voluntarily negotiated, agreed, and consummated in accordance with the terms of Section 3.07(h), it was not a "redemption" under the Original Unsecured Indenture.

197. With respect to the Company's Unsecured Notes, Sections 3.07(a) through (g) of the Original Unsecured Indenture address various situations where the Company may ***redeem*** Unsecured Notes at its own option, each setting forth certain conditions and restrictions functionally identical to those in Sections 3.07(a) through (g) of the Original Secured Indentures.

198. As with Section 3.07(a) through (g) of the Original Secured Indentures (discussed above at paragraphs 173-180), these requirements are not applicable to purchases or exchanges voluntarily made under Section 3.07(h) and would directly conflict with the language in Section 3.07(h), which allows for purchases "***at any time*** and from time to time . . . through open market or privately negotiated transactions . . . ***upon such terms and at such prices as well as with such consideration as the Issuer or any such Affiliates may determine***."

199. As the above-quoted language makes clear, Section 3.07(h) does not concern redemptions at all; rather, it contemplates purchases or exchanges made pursuant to agreed terms between the Debtors and the seller(s). Moreover, unlike the rest of Section 3.07, nowhere in Section 3.07(h) do the words "redemption" or "redeem" even appear.

200. Similar to the Original Secured Indentures, Section 3.02 of the Original Unsecured Indenture places a further restriction on redemptions, but not purchases, stating:

> If less than all of the Unsecured Notes are to be ***redeemed*** pursuant to the provisions of Section 3.07 hereof, the Trustee will select Unsecured Notes for redemption or purchase pro rata, by lot or by such method as it shall deem fair and appropriate (subject to applicable DTC procedures with respect to the Global Notes, including the Applicable Procedures). If the Unsecured Notes are represented by Global Notes, interests in such Global Notes will be

> selected for redemption or purchase by DTC in accordance with its Applicable Procedures.

201. But, again, this Section explicitly governs redemptions only and, for the reasons stated above, the Exchange was not a "redemption." Section 3.02 thus did not apply and WSFS was not obligated—and had no occasion—to take any action with respect to the Exchange and did not do so.

202. The Company, the Participating Secured Noteholders, and the Participating Unsecured Noteholders—but not WSFS—entered into the Exchange Agreement to effectuate the Exchange. WSFS was not provided with any consideration from the Company with which to implement a redemption and therefore had no ability whatsoever to control who to pay such consideration.

203. And, as explained above, the Exchange did not implicate Section 6.05 of the Original Unsecured Indenture, which is substantively identical to Section 6.05 of the Original Secured Indentures, because the "[h]olders of a majority in aggregate principal amount of the then outstanding Unsecured Notes" did not "direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it," in connection with the Exchange, rendering this Section wholly inapplicable.

VII. THE DEBTORS' INDEMNIFICATION OBLIGATIONS

A. Indemnification of Noteholders

204. Pursuant to the agreements underlying the 2022 Transaction and other Company agreements, the Debtors are obligated to indemnify *each* of the Non-Debtor Parties.

205. Specifically, Section 8.02(a) of the Note Purchase Agreement and Section 8.02(a) of the Exchange Agreement (together, the "***2022 Transaction Indemnification Provisions***"), obligate the Debtors to indemnify various Non-Debtor Parties for damages and legal fees and other

expenses that result from litigation related to or arising out of the 2022 Transaction. In relevant part, the 2022 Transaction Indemnification Provisions provide:

> ***Each of the Issuer and the Guarantors, jointly and severally, agrees to indemnify and hold harmless each Holder*** (and any Related Funds of each Holder), ***its Affiliates, its managers*** and the directors, representatives, officers, employees and agents of such Holder, ***such manager and each Person who controls such Holder or such manager within the meaning of either the Securities Act or the Exchange Act and any advisor or representative to any of the foregoing*** (each, an "***Indemnified Person***") ***against any and all losses, claims, damages, liabilities or out-of-pocket expenses*** (including legal fees and other expenses reasonably incurred in connection with investigating or defending same) (collectively, "***Losses***") to the extent that any such Loss results ***from any actual, threatened or expected actions, litigations, investigations or proceedings*** (whether or not such Indemnified Person is a party thereto) (each, a "Proceeding") that (i) arise out of or are based upon any breach by any Issuer or Guarantor of any representation or warranty or failure to comply with any of the agreements set forth in any of the Transaction Documents, or (ii) are otherwise ***related to or arise out of or in connection with, in each case, the Transactions***, including modifications or future additions to the Transaction Documents, or execution of letter agreements or other related activities . . . . ***The Issuer and the Guarantors also will reimburse each Indemnified Person for any legal or other expenses reasonably incurred by such Indemnified Person, as such expenses are incurred (or, at the Indemnified Person's election, pay such legal or other expenses directly upon receipt of invoices therefor), in connection with investigating, preparing or defending against any of the foregoing Losses***, including in connection with any Proceeding in connection with the enforcement of this provision. This indemnity agreement will be in addition to any liability that the Issuer and the Guarantors may otherwise have.

The "Issuer" is defined in the relevant agreements to mean Wesco Aircraft Holdings, Inc., and the "Guarantors" are numerous Debtor subsidiaries of Wesco Aircraft Holdings, Inc. The "Holders" are defined to mean each purchaser under the Note Purchase Agreement and each holder of New Notes under the Exchange Agreement. The Note Purchase Agreement and Exchange Agreement also obligate the Debtors to indemnify each such Holders' "Related Funds," as well as all "Affiliates [and] managers" of each Holder. Thus, the scope of the 2022 Transaction

Indemnification Provisions extends to all of the non-Debtor defendants in the New York State Actions other than WSFS and the defendants who were directors of the Debtor entities.

206. Section 7.07(b) of the indentures for the New Notes further provide, in relevant part:

> ***The Issuer and the Guarantors will indemnify on a joint and several basis the Trustee*** (including its officers, directors, employees and agents) ***against any and all losses, liabilities or expenses, including fees and expenses of counsel . . . incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, the Security Documents and the Intercreditor Agreements***, including the reasonable costs and expenses of enforcing this Indenture against the Issuer and the Guarantors . . ***. and defending itself against any claim (whether asserted by the Issuer, the Guarantors, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder***, except to the extent any such loss, liability or expense may be attributable to its negligence or willful misconduct (and in the case of the Notes Collateral Agent, the Notes Collateral Agent's gross negligence or willful misconduct) as determined by a court of competent jurisdiction in a final and non-appealable decision. . . . The Trustee may have separate counsel and ***the Issuer will pay the reasonable and documented fees and out-of-pocket expenses of such counsel.***

This provision extends the Debtors' indemnification obligations to WSFS.

207. And WSFS' indemnification rights are secured by charging liens on "all money or property held or collected" by WSFS, pursuant to the indentures for both the 2026 Secured 1L Notes and the 2027 Secured 1.25L Notes, as set forth in Section 7.07(d) thereof:

> ***To secure the Issuer's and the Guarantors' payment obligations in this Section 7.07, the Trustee will have a Lien prior to the [New Notes] on all money or property held or collected by the Trustee***, except that held in trust to pay principal of, premium on, if any, or interest on, particular [New Notes]. Such Lien will survive the satisfaction and discharge of this Indenture, the resignation or

> removal of the Trustee and the termination for any reason of this Indenture.

B. Indemnification of Directors

208. Pursuant to certain of the Debtors' organizational documents, the Debtors are obligated to indemnify their directors (the "***Directors***"), for damages and legal fees and other expenses that result from the New York State Actions. In relevant part, the Bylaws for Wesco Aircraft Holdings, Inc. and Wolverine Intermediate Holding Corp. provide:

> ***The company shall indemnify***, to the full extent permitted by the Delaware General Corporation Law and other applicable law, as it presently exists or may hereafter be amended, ***any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative*** (each, a "proceeding") by reason of the fact that (x) ***such person is or was serving or has agreed to serve as a director or officer of the company***, or (y) such person, while serving as a director or officer of the company, is or was serving or has agreed to serve at the request of the company as a director, officer, employee, manager or agent of another corporation, partnership, joint venture, trust, nonprofit entity or other enterprise or (z) such person is or was serving or has agreed to serve at the request of the company as a director, officer or manager of another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted by such person in such capacity, and who satisfies the applicable standard of conduct set forth in the Delaware General Corporation Law or other applicable law: (i) in a proceeding other than a proceeding by or in the right of the company, ***against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person or on such person's behalf*** in connection with such proceeding and any appeal therefrom; or (ii) in a proceeding by or in the right of the company to procure a judgment in its favor, against expenses (including attorneys' fees) actually and reasonably incurred by such person or on such person's behalf in connection

> with the defense or settlement of such proceeding and any appeal therefrom.

209. In relevant part, the Certificate of Incorporation of Wolverine Intermediate Holding Corp. further provides:

> ***The Company shall indemnify, defend and hold harmless each director*** to the fullest extent permitted by the [General Corporation Law of the State of Delaware] and other appliable law. . . .

210. Further, the Debtors are obligated to indemnify Non-Debtor Party Patrick Bartels, pursuant to the Independent Director Agreement, for damages and legal fees and other expenses that result from litigation related to or arising from the 2022 Transaction. In relevant part, the Independent Director Agreement provides:

> ***The Company shall indemnify, defend and hold harmless Director*** to the fullest extent permitted by the General Corporate Law of the State of Delaware and other applicable law.

The "Company" is defined in the relevant agreement to mean Wolverine Intermediate Holding Corporation, a Debtor in these cases. "Director" is defined in the relevant agreement to mean Patrick Bartels.

211. The Debtors thus are obligated to indemnify each of the Non-Debtor Parties for expenses and costs incurred in connection with any litigation related to the 2022 Transaction. Prosecution of the New York State Actions—even solely against the Non-Debtor Parties—thus directly impacts (and depletes) the property of the estate.

VIII. THE NEW YORK STATE ACTIONS AND RELATED LITIGATION

A. The Formerly Secured Noteholders' Lawsuit Challenging The 2022 Transaction

212. On October 27, 2022, the Formerly Secured Noteholders commenced the Formerly Secured Noteholders' Action.

213. The Formerly Secured Noteholders' Action challenges the 2022 Transaction by alleging claims against the Company and others for breach of the Original Secured Indentures, breach of the implied covenant of good faith and fair dealing, fraudulent transfer, and preferential transfer. The Formerly Secured Noteholders also assert a tortious interference claim against Platinum, a conversion claim against TopCo, the Participating Secured Noteholders, and the Participating Unsecured Noteholders, and an aiding and abetting conversion claim against the Company's directors.

214. The claims at issue in the Formerly Secured Noteholders' Action all arise out of the 2022 Transaction and, at base, rest on contesting on the permissibility of the Company's conduct. Moreover, the Formerly Secured Noteholders' Action seeks, among other things, an order declaring the 2022 Transaction null and void and not enforceable, as well as an order functionally unwinding the transaction by ordering the parties to return all liens, collateral rights, and security documents to their status quo ante, which would completely upend the Debtors' capital structure.

215. The Formerly Secured Noteholders' Action's contract claims allege a purported failure by the Company to obtain the necessary consents under Section 9.02 of the Original Secured Indentures premised on two theories. *First*, the Formerly Secured Noteholders argue that the Company did not actually obtain supermajority consents because (a) the additional 2026 Notes issues pursuant to the Third Supplemental Indenture should not count to the supermajority threshold and (b) the Third Supplemental Indenture itself required supermajority consent because it "indirectly" led to the issuance of the New Notes. *Second*, the Formerly Secured Noteholders argue that the 2022 Transaction violated the Right of Payment Sacred Right.

216. The Formerly Secured Noteholders' Action's claim for breach of the implied covenant of good faith and fair dealing alleges that the Company and others engaged in bad faith

when issuing the additional 2026 Notes and releasing the liens held by the 2026 Notes and 2024 Notes without the consent of the Formerly Secured Noteholders. But, as explained above, the Company was explicitly permitted to take these actions under the express terms of the Original Secured Indentures, and in any case, the Company engaged in good faith in all aspects of the 2022 Transaction. The Company administered a robust negotiation process prior to the 2022 Transaction. The Company's board, including its independent director, reviewed the fairness of the 2022 Transaction and approved it. And the Company publicly disclosed the 2022 Transaction shortly after its consummation.

217. The Formerly Secured Noteholders' claims of intentional fraudulent transfer and insider preferential transfer—which are themselves property of the Debtors' estates—request the court to unwind the 2022 Transaction.

218. The Formerly Secured Noteholders' claims against Non-Debtor Parties directly challenge the Company's conduct in entering into the 2022 Transaction and are intertwined with the Chapter 11 process. For instance, the Formerly Secured Noteholders' tortious interference claim is premised on the Company's purported breach of the Original Secured Indentures. And the Formerly Secured Noteholders' conversion claims cannot stand if the 2022 Transaction complied with the Original Secured Indentures.

219. In January 2023, the Debtors and certain Non-Debtor Parties each filed motions to dismiss the Formerly Secured Noteholders' complaint. Those motions remain pending. As of the Petition Date, the Debtors and the Non-Debtor Parties have each served and responded to discovery requests and interrogatory demands, and the Debtors had made an initial production of documents. Absent application of the automatic stay to the Formerly Secured Noteholders' Action, the Non-Debtor Parties and the Debtors—as the likely custodians of a majority of the documents

sought by the Formerly Secured Noteholders—will be burdened with numerous ongoing depositions, document review and production, and other time-consuming discovery requests. As of the Petition Date, discovery was not scheduled to be completed until March 2024, and any resolution of the claims raised in the Formerly Secured Noteholders' Action would take place in the distant future.

220. Upon information and belief, certain of the Formerly Secured Noteholders purchased some or all of their 2026 Notes and/or 2024 Notes well after the 2022 Transaction was effectuated and at a discount from the par value of the 2026 Notes and/or 2024 Notes.

221. Given the nature of the claims asserted in the Formerly Secured Noteholders' Action, and the impact they may have on the Debtors' ability to successfully reorganize, on the Petition Date the Debtors filed the Original Complaint and the Motion seeking an order staying prosecution of the Formerly Secured Noteholders' Action during the pendency of these Chapter 11 Cases.

222. On June 7, 2023, the Court entered a *Joint Stipulation and Agreed Order* [ECF No. 21], temporarily staying the Formerly Secured Noteholders' Action until July 14, 2023.

B. Langur Maize Purchases Unsecured Notes At A Deep Discount And Institutes Its Own Lawsuit Against Non-Debtors

223. Upon information and belief, Langur Maize purchased all of its Unsecured Notes well after the 2022 Transaction was effectuated and at a discount of over 90% from the par value of the Unsecured Notes.

224. On March 27, 2023, nearly a year after the 2022 Transaction closed and a mere two months before the filing of these Chapter 11 Cases, Langur Maize commenced its state court action, selectively suing certain Non-Debtor Parties.

225. The Unsecured Noteholder Action does not name the Company as a defendant, but it does name the Company's non-Debtor parent TopCo and the Company's equity sponsor Platinum as defendants, along with WSFS and the Participating Unsecured Noteholders.

226. Like the Formerly Secured Noteholders Action, the Unsecured Noteholder Action challenges the 2022 Transaction, asserting that it breached the Original Unsecured Indenture and the implied covenant of good faith and fair dealing.[9] Langur Maize also brought claims for insider preference, fraudulent transfer, unjust enrichment, tortious interference, and civil conspiracy, all related to the same occurrence: the 2022 Transaction.

227. Like the avoidance actions asserted by the Formerly Secured Noteholders, the insider preference and fraudulent transfer claims asserted by Langur Maize are property of the Debtors, and prosecution of those claims by Langur Maize is automatically stayed under Section 362 of the Bankruptcy Code.

228. For its contract claims, Langur Maize argues that the Exchange was a "redemption" which required WSFS to comply with the terms of Section 3.02 of the Original Unsecured Indenture and alleges that WSFS, at the direction of Platinum—through the Company—and the Participating Unsecured Noteholders, breached Section 3.02 by redeeming Unsecured Notes in a manner that was not *pro rata*, by lot, or "fair and appropriate."

229. But as described above, WSFS did not redeem any Unsecured Notes, nor was it directed by the Company to do so. While WSFS participated in certain other steps of the 2022 Transaction (*e.g.*, executing and delivering copies of the Third Supplemental Indentures and Fourth Supplemental Indentures), it was not a party to the Exchange Agreement and did not undertake

[9] Indeed, Langur Maize's own request for judicial intervention accompanying its complaint lists the Formerly Secured Noteholders' Action as a "related action." *See* Doc. No. 6, *Langur Maize, L.L.C. v. Platinum Equity Advisors, LLC, et al.*, Index No. 651548/2023 (N.Y. Sup. Ct.).

any action in connection with the Exchange Agreement. Instead, this claim in actuality challenges the conduct of the Company, who directly negotiated with and selected the Participating Unsecured Noteholders via the Exchange Agreement to purchase the Unsecured Notes held by the Participating Unsecured Noteholders through a "privately negotiated transaction" under Section 3.07(h).[10]

230. Langur Maize's other contract-based claim suffers from a similar mischaracterization that is intended to obscure Langur Maize's underlying challenge to the Debtors' conduct. It alleges that because the Participating Unsecured Noteholders directed WSFS to redeem their notes in purported violation of Section 3.02, they breached Section 6.05 of the Original Unsecured Indenture, which purportedly limits their ability to direct WSFS to only "exercising any trust or power conferred on it." But the Participating Unsecured Noteholders did not direct WSFS to do anything in connection with the Exchange Agreement. And, again, WSFS did not redeem any Unsecured Notes and did not require direction from any party—the Debtors commenced the Exchange directly with the Participating Unsecured Noteholders. This claim, again, is a challenge to the Debtors' conduct in disguise.

231. Langur Maize's last contract-based argument is a carbon copy of the breach of contract theories asserted ***against the Company*** in the Formerly Secured Noteholders' Action—that the 2022 Transaction violated the Right of Payment Sacred Right, notwithstanding Section 4.09(c)'s express language permitting lien subordination.

232. Langur Maize also alleges that the 2022 Transaction violated the implied covenant of good faith and fair dealing for the exact same reasons that Langur Maize purports the 2022

[10] In fact, in its state-court motion to dismiss the Unsecured Noteholder Action (filed at docket number 80 in the state court), WSFS explains specifically how it informed Langur Maize of its factual inaccuracies, to no avail. WSFS has even ***moved for sanctions*** against Langur Maize for pursuing this claim against WSFS notwithstanding the foregoing notice of its inaccurate allegations.

Transaction violated Sections 3.02, 6.05, and 9.02 of the Original Unsecured Indenture. But the 2022 Transaction violated none of these provisions, and the Company engaged in good faith in all aspects of the 2022 Transaction.

233. The rest of the claims likewise present direct challenges to the Company's conduct in entering into the Exchange and the 2022 Transaction and are intertwined with these Chapter 11 Cases.

234. Langur Maize's tortious interference claim—that Platinum procured purported contract breaches through the 2022 Transaction—expressly pleads that the Company breached specific sections of the Original Unsecured Indenture. If Langur Maize were to obtain a ruling that the 2022 Transaction violated the Original Unsecured Indenture, or that the Debtors themselves breached this agreement, this could expose the Debtors to liability and an unwinding of some or all of the 2022 Transaction, which forms the basis of the Debtors' capital structure.

235. Finally, Langur Maize's unjust enrichment and civil conspiracy claims likewise bring into questions the Company's conduct.

236. As of the Petition Date, the Unsecured Noteholder Action was in its utmost infancy; Discovery was, however, already underway, and, not surprisingly, given the subject matter of the litigation, one Debtor entity has been served with a non-party subpoena in the proceeding. That Debtor entity responded to the subpoena on May 22, 2023 and received three follow-up communications from Langur Maize in the week preceding the Petition Date. Any resolution of the Unsecured Noteholder Action, however, is far off.

237. Given the extent to which these claims are premised on Debtor conduct, and the potential impact an adverse ruling may have on the Debtors, on the Petition Date, the Debtors filed

the Original Complaint and the Motion seeking an order staying prosecution of the Unsecured Noteholder Action during the pendency of these Chapter 11 Cases.

238. On June 14, 2023, the Court entered an *Order* [ECF No. 40], temporarily staying the Unsecured Noteholder Action until August 7, 2023.

C. The Counterclaims And This First Amended Complaint

239. On June 26, 2023, the Formerly Secured Noteholders filed the Counterclaims. The Counterclaims join as counterclaim defendants almost all of the Non-Debtor Parties and seek, among other things, declarations that the 2022 Transaction breached Section 9.02 (and by extension Sections 4.09 and 4.12) of the Original Secured Indentures and/or the implied covenant of good faith and fair dealing based on allegations that are substantively identical to those raised in the Formerly Secured Noteholders' Action. Additionally, the Counterclaims allege that the 2022 Transaction breached Section 3.02 of the Original Secured Indentures based on the same theory advanced by Langur Maize in the Unsecured Noteholders' Action.

240. Accordingly, in response to the Counterclaims, the Debtors hereby file this First Amended Complaint, amending the Original Complaint as of right. By this First Amended Complaint, the Debtors seek an order (i) staying prosecution of the New York State Actions under Sections 362 and 105 of the Bankruptcy Code through the pendency of these Chapter 11 Cases (relief previously sought in the Original Complaint); and (ii) declaring that the 2022 Transaction (a) complied with Sections 9.02, 4.09 and 4.12, and did not implicate Sections 3.02 and 6.05, of the Original Secured Indentures; (b) complied with Section 9.02, and did not implicate Sections 3.02 and 6.05, of the Original Unsecured Indenture, and (c) did not violate the implied covenant of good faith and fair dealing; and (iii) declaring that Langur Maize lacks standing to pursue claims against certain third parties absent express assignment of such claims.

241. In light of the causes of action asserted in the Counterclaims and this First Amended Complaint, it is clear that the Formerly Secured Noteholders' Action should be stayed as both the Debtors and the plaintiffs in that Action have now filed substantially overlapping claims in this proceeding that, for the reasons stated above, this Court must resolve.

242. Moreover, given the overlap of allegations in the Counterclaims, this First Amended Complaint, and the Unsecured Noteholder Action, the Debtors submit that it is also abundantly clear that the Unsecured Noteholder Action must also be stayed while these issues are adjudicated in this Court.

243. There is no doubt that there exists a substantial controversy between the Debtors and Langur Maize "of sufficient immediacy and reality to warrant the issuance of a declaratory judgment" regarding the 2022 Transaction. ***First***, it is imperative for the Debtors to obtain a finding by this Court that the 2022 Transaction did not violate *either* the Original Secured Indentures *or* the Original Unsecured Indenture and that the Debtors did not otherwise participate in any improper conduct.

244. ***Second***, the Unsecured Noteholder Action and potential liability of the Debtors' constituents thereunder raises significant issues with regard to the Debtors' ability to negotiate a plan of reorganization with its stakeholders, weighing in favor of adjudicating all disputes relating to the 2022 Transaction in this Court. Indeed, it is for this reason that the Debtors raise in Count Four of this First Amended Complaint a gating issue of whether Langur Maize—as a subsequent purchaser of the Unsecured Notes—even has standing under applicable New York law to bring an action against the various Non-Debtor Parties named in the Unsecured Noteholder.

245. In any case, upon information and belief, Langur Maize has not, and could not have, suffered any damages as a result of the 2022 Transaction because from the time the Company

entered into the 2022 Transaction until the commencement of these Chapter 11 Cases, the holders of the Company's unsecured debt continued to receive interest payments on account of their debt that substantially exceeded the payments received by the Participating Unsecured Noteholders in the same period.

246. Given the core nature of this Court's role, including in adjudicating the proceedings affecting the liquidation of estate assets and adjustment of the debtor-creditor relationship under 28 U.S. Code § 157(b)(1)(O), the determination of whether such a collateral attack on the Debtors' estate is appropriate and whether any damages resulting from such an attack exist must be made by this Court.

COUNT ONE:
Declaratory Judgment Pursuant to 28 U.S.C. § 2201

Against All Defendants

247. The Debtors incorporate by reference the allegations in Paragraphs 1-246 as if set forth fully herein.

248. Pursuant to the Declaratory Judgment Act, "[i]n a case of actual controversy within its jurisdiction . . . any court of the United States . . . may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought." 28 U.S.C. §2201(a). Bankruptcy Courts have the authority to issue declaratory judgments.

249. Courts have jurisdiction to issue declaratory relief where "the facts alleged, under all the circumstances, show that there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." *Md. Casualty Co. v. Pac. Coal & Oil Co.*, 312 U.S. 270 (1941).

250. There is a substantial controversy between the Debtors and the Defendants of sufficient immediacy and reality to warrant the issuance of a declaratory judgment that the

automatic stay applies to both the New York State Actions in their entirety because without resolution of this controversy, Defendants will continue to litigate the New York State Actions against the Non-Debtor Parties. Continuation of the New York State Actions against the Non-Debtor Parties would prevent the Debtors from efficiently and productively working toward a successful reorganization and pose a substantial risk of inconsistent rulings on identical issues in this Court and in the New York state court, all to the detriment of the Debtors' estates and its creditors.

251. Pursuant to Sections 362(a)(1) and (a)(3) of the Bankruptcy Code, the filing of these Chapter 11 Cases automatically stays any pre-petition action "to recover a claim against the debtor" or to "obtain possession of property of the estates or of property from the estates or to exercise control over property of the estates." 11 U.S.C. § 362(a)(1), (3).

252. The automatic stay applies to certain claims alleged in the New York State Actions as they are attempts "to recover a claim against the debtor." This applies to claims asserted against the Debtors, but also to claims asserted against the Non-Debtor Parties where the liability of the Non-Debtor Parties is not independent of the Debtors' liability and a judgment against the Non-Debtor Parties will be binding upon the Debtors' estate.

253. Additionally, the automatic stay applies to claims in the New York State Actions asserted against the Non-Debtor Parties that are attempts to exercise control over property of the Debtors' estate. These claims request the court to unwind the 2022 Transaction and thus seek to undermine and transform the Debtors' current capital structure and nullify the Debtors' rights under valuable contracts. Thus, these claims are subject to 362(a)(3) and are stayed.

254. The automatic stay also applies to certain claims alleged in the New York State Actions against both the Debtors and the Non-Debtor Parties pursuant to Section 362(a)(3)—

including the claims of intentional fraudulent transfer, insider preferential transfer, and for a declaratory judgment concerning the Original Indentures—because these claims are property of the Debtors' estates.

255. Accordingly, the Debtors seek an order from this Court declaring that that the automatic stay applies to these claims in the New York State Actions.

COUNT TWO:
Extension of Automatic Stay
Pursuant to Sections 362 and 105 of the Bankruptcy Code

Against All Defendants

256. The Debtors incorporate by reference the allegations in Paragraphs 1-255 as if set forth fully herein.

257. Upon the commencement of a bankruptcy case, the automatic stay operates as a stay, applicable to all entities, of "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 under [Chapter 11]," as well as "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate." *See* 11 U.S.C. § 362(a)(1), (3).

258. Section 105(a) of the Bankruptcy Code grants this Court the broad authority 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).

259. In circumstances where the automatic stay does not already apply to an action, a bankruptcy court, pursuant to authority under Section 105(a) of the Bankruptcy Code, may extend the automatic stay under Section 362, where (i) the non-debtor and the debtor share an identity of interests such that the suit against the non-debtor is effectively a suit against the debtor, or (ii) the third-party action will have an adverse impact on the debtor's ability to accomplish reorganization.

260. As such, even if the Court does not find that the stay applies automatically to all of the claims in the New York State Actions as described above, the Court can and should extend the automatic stay to all of the claims against Non-Debtor Parties under Bankruptcy Code Sections 362(a)(3) and 105(a) because both of these conditions are met.

261. ***First***, the Non-Debtor Parties and the Debtors share an identity of interests such that the New York State Actions against the Non-Debtor Parties are effectively lawsuits against the Debtors. An identity of interests exists between the Non-Debtor Parties and the Debtors because the allegations against the Non-Debtor Parties and the Debtors in the New York State Actions arise from the same factual and legal basis. The claims against the Debtors and against the Non-Debtor Parties in the New York State Actions arise from the 2022 Transaction and the validity of the underlying contracts that govern the rights and obligations of both the Non-Debtor Parties and the Debtors. Indeed, severance of the claims against the Debtors is effectively impossible because the claims against the Non-Debtor Parties and Debtors arise out of the same transaction, present common questions of law and fact, and will involve the same evidence, witnesses, and documentary proof.

262. An identity of interests between the Non-Debtor Parties and the Debtors also exists because the Debtors are required to indemnify certain Non-Debtor Parties for litigation damages and expenses incurred in connection with the 2022 Transaction and certain of the Non-Debtor Parties have asserted such rights; thus, if the automatic stay is not applied to the Non-Debtor Parties in the New York State Actions, there will likely be costly litigation at the ultimate expense of the Debtors.

263. ***Second***, any continued litigation in the New York State Actions would undoubtedly have an adverse consequence on the Debtors' estates and their ability to reorganize. If the New

York State Actions continue to proceed against the Non-Debtor Parties, the Debtors will undoubtedly face difficulty in obtaining creditor support for any plan of reorganization—in light of the New York State Actions' rendering key plan underpinnings such as lien priority and capital structure uncertain, with no end in sight. The treatment of the 2022 Transaction is of critical importance in these Chapter 11 Cases and in an ultimate plan of reorganization; as such, continuance of the New York State Actions would adversely impact the Debtors' ability to reorganize in this Court.

264. Moreover, upon the filing of the Counterclaims, this Court has been called upon to resolve key legal and factual issues that are substantively identical to those raised in the New York State Actions. Indeed, the Counterclaims allege claims based on Section 3.02 of the Original Secured Indentures—an identical theory (based on the identical contractual provisions) to Langur Maize's claim that Section 3.02 of the Original Unsecured Indentures was breached. Simultaneous litigation of those issues in this Court and in the New York State Court is not only an inefficient and duplicative use of resources, but also carries a substantial risk of inconsistent rulings.

265. In light of the foregoing, it is clear that continued litigation of the New York State Actions would hinder the Debtors' ability to efficiently and productively work toward a successful reorganization.

266. Accordingly, if the Court does not declare that the automatic stay applies to claims against the Non-Debtor Parties, the Debtors respectfully request an order from this Court extending the automatic stay to the Non-Debtor Parties with respect to the New York State Actions.

COUNT THREE:
Preliminary Injunction Pursuant to
Section 105 of the Bankruptcy Code

Against All Defendants

267. The Debtors incorporate by reference the allegations in Paragraphs 1-266 as if set forth fully herein.

268. Section 105(a) of the Bankruptcy Code grants this Court the broad authority 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). The Court's powers under section 105(a) of the Bankruptcy Code include the power to issue injunctions and stay proceedings against non-debtors.

269. A court may enjoin litigation of a pending action as to non-debtors, pursuant to section 105 of the Bankruptcy Code, where (i) the movant is substantially likely to prevail on the merits of an application for stay relief, (ii) there is a substantial threat that the movant will suffer irreparable injury if the injunction is not granted, (iii) the balance of equities weighs in favor of the movant, and (iv) the injunction does not disservice the public interest.

270. The Court should enjoin the New York State Actions as to the Non-Debtor Parties because the Debtors meet each of the four requirements for a preliminary injunction.

271. ***First***, the Debtors are likely to succeed on the merits of this Complaint. For the reasons detailed in Count I and Count II (¶¶ 87-104), the Debtors have demonstrated that the automatic stay applies to the entirety of the New York State Actions pursuant to section 362(a)(3) of the Bankruptcy Code, or in the alternative, that the automatic stay should be extended to the Non-Debtor Parties.

272. ***Second***, the Debtors will suffer immediate and irreparable harm absent a stay, and failure to enjoin prosecution of the New York State Actions would negate the very purpose of the automatic stay. Without a stay, the Debtors will be forced to participate in and defend against the

New York State Actions during the period the Motion is adjudicated because the validity of the 2022 Transaction and its underlying contracts is of critical importance in these Chapter 11 Cases and in an ultimate plan of reorganization, and further because the Debtors are required to indemnify certain Non-Debtor Parties for litigation damages and expenses in connection with the 2022 Transaction. Continued prosecution of the New York State Actions would distract the Debtors' management team and divert time and resources away from the Debtors' restructuring efforts and instead into time-consuming discovery, further threatening the Debtors' ability to swiftly and efficiently come to any resolution in these Chapter 11 Cases.

273. ***Third***, the balance of equites weighs in the Debtors' favor. In contrast to the immediate and irreparable harm that the Debtors will suffer, the only potential harm the Defendants could face is a slight delay to the resolution of their claims. Such potential delay does not constitute significant harm. Moreover, because the very issues at the heart of the New York State Actions will almost certainly be considered and resolved in the context of a plan of reorganization in these Chapter 11 Cases—well ahead of any resolution that could be achieved in the New York State Actions, which are in infancy stages—the Defendants might indeed face *no* delay, and instead have their claims adjudicated *more* quickly and efficiently in this Court.

274. ***Fourth***, a preliminary injunction is in the public interest. In order to move efficiently through the reorganization process (and, in doing so, maximize the recoveries to creditors including these plaintiffs), the Debtors need to focus their time, resources, and funds on these Chapter 11 Cases. The automatic stay is a fundamental protection that allows debtors to do just that. Enforcing the automatic stay against the Non-Debtor Parties would enable the Debtors to maximize the value of their estates and focus on successfully reorganizing in Chapter 11; two paramount goals of the Bankruptcy Code which are in the public interest.

275. Accordingly, the Debtors respectfully request a preliminary injunction, enjoining prosecution of the New York State Actions to prevent the Debtors and their estates from suffering irreparable harm.

COUNT FOUR:
Declaratory Judgment Pursuant to 28 U.S.C. § 2201

Against All Defendants

276. The Debtors incorporate by reference the allegations in Paragraphs 1-275 as if set forth fully herein.

277. Pursuant to Section 2201 of the Declaratory Judgment Act, this Court has the authority to issue declaratory judgments where the facts alleged, under all the circumstances, show that there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality, to warrant the issuance of declaratory judgment.

278. There is a substantial controversy between the Debtors and the Defendants of sufficient immediacy and reality to warrant the issuance of a declaratory judgment because Defendants have asserted that the 2022 Transaction was an improper and illegal transaction under the Original Secured Indentures, the Original Unsecured Indenture, and the implied covenant of good faith and fair dealing, and conformation of any plan proposed by the Debtors based on their current capital structure will require resolution of these issues. Thus, without resolution, such claims could prevent or hinder the Debtors from successfully obtaining confirmation of a plan and preclude the Debtors from emerging from chapter 11, to the detriment of its estate and its creditors.

279. The Debtors seeks a declaratory judgment confirming that (1) the 2022 Transaction did not violate the Right of Payment Sacred Right in the Original Secured Indentures and the Original Unsecured Indenture; (2) the Company obtained all consents required under the Original Secured Indentures and the Original Unsecured Indenture to effectuate the 2022 Transaction and

therefore did not breach any Supermajority Consent Provision in the Indentures; (3) the Company's issuance of the Additional Notes did not breach Sections 2.10, 4.09, or 4.12 of the Original Secured Indentures; (4) the Exchange was properly executed under Section 3.07(h) of the Original Secured Indentures and the Original Unsecured Indenture and was not a redemption subject to the limitations in Section 3.02 of the Original Secured Indentures and the Original Unsecured Indenture; (5) the Exchange did not implicate Section 6.05 of the Original Secured Indentures or the Original Unsecured Indenture; and (6) the Company did not violate the covenant of good faith and fair dealing by entering into the 2022 Transaction.

COUNT FIVE:
Declaratory Judgment Pursuant to 28 U.S.C. § 2201

Against Langur Maize And Formerly Secured Noteholders That Purchased Notes After the 2022 Transaction

280. The Debtors incorporate by reference the allegations in Paragraphs 1-279 as if set forth fully herein.

281. Under New York law, which governs the Original Unsecured Indenture, accrued causes of action are only transferred upon the sale of a bond if such causes of action are expressly assigned by the transferor to the transferee. New York courts routinely hold that purchasers of bonds and other negotiable instruments lack standing to assert accrued claims when such claims have not been expressly assigned.

282. New York General Obligations Law Section 13-107 codifies an exception to this rule, providing that "[u]nless expressly reserved in writing, a transfer of any bond shall vest in the transferee all claims or demands of the transferrer, whether or not such claims or demands are known to exist, (a) for damages or recission against the obligor on such bond, (b) for damages against the trustee or depository under any indenture under which such bond was issued or

outstanding, and (c) for damages against any guarantor of the obligation of such obligor, trustee or depository." N.Y. Gen. Oblig. Law § 13-107(1).

283. By its plain terms, Section 13-107 only applies to claims against an obligor, trustee, depository, or guarantor of a bond. Accordingly, accrued claims against all other parties must be expressly assigned for the purchaser of a bond to have standing to assert such claims under New York law.

284. Upon information and belief, Langur Maize acquired its Unsecured Notes after the 2022 Transaction occurred.

285. Upon information and belief, accrued causes of action arising out of the 2022 Transaction were not expressly assigned to Langur Maize when it purchased the Unsecured Notes.

286. Other than WSFS, none of the defendants named in the Unsecured Noteholder Action is an obligor, trustee, depository, or guarantor of the Unsecured Notes.

287. Upon information and belief, certain Formerly Secured Noteholders acquired their 2026 Notes and/or 2024 Notes after the 2022 Transaction occurred.

288. Upon information and belief, accrued causes of action arising out of the 2022 Transaction were not expressly assigned to the Formerly Secured Noteholders that acquired their 2026 Notes and/or 2024 Notes after the 2022 Transaction occurred when they purchased their 2026 Notes and/or 2024 Notes.

289. Other than the Debtors and WSFS, none of the defendants named in the Formerly Secured Noteholders' Action is an obligor, trustee, depository, or guarantor of the 2026 Notes and/or 2024 Notes.

290. There is a substantial controversy between the Debtors and Langur Maize and the Formerly Secured Noteholders that acquired their 2026 Notes and/or 2024 Notes after the 2022

Transaction of sufficient immediacy and reality to warrant the issuance of a declaratory judgment. Without resolution of this controversy, the Debtors anticipate these parties will continue their attempts to challenge the 2022 Transaction (and the Debtors' conduct related thereto) in other courts via claims against third parties. Such claims could prevent or hinder the Debtors from successfully obtaining confirmation of a plan and preclude the Debtors from emerging from Chapter 11, to the detriment of its estate and its creditors.

291. The Debtors seeks a declaratory judgment confirming that Langur Maize and the Formerly Secured Noteholders that acquired their 2026 Notes and/or 2024 Notes after the 2022 Transaction lack standing to pursue the claims asserted in the New York State Actions against all Non Debtor Parties named therein other than WSFS.

PRAYER FOR RELIEF

Upon the foregoing First Amended Complaint, the Debtors respectfully request relief as follows:

a. that this Court declare that the automatic stay applies to the entirety of both of the New York State Actions and the subject matter thereof under Section 362(a)(1) and (3) of the Bankruptcy Code, including as to each of the Non-Debtor Parties;

b. in the alternative to clause (a), that this Court extend the automatic stay under Section 362 and/or Section 105 of the Bankruptcy Code as to any or all of the Non-Debtor Parties in the New York State Actions;

c. that this Court enjoin continuation of the following prepetition actions under section 105 of the Bankruptcy Code:

   i. *SSD Investments Ltd. et al. v. Wilmington Savings Fund Society, FSB et al.*, Index No. 654068/2022 (N.Y. Sup. Ct., N.Y. Cty.); and

   ii. *Langur Maize, L.L.C. v. Platinum Equity Advisors, LLC, et al.*, Index No. 651548/2023 (N.Y. Sup. Ct., N.Y. Cty.);

d. that this Court declare that the 2022 Transaction was permitted under Section 9.02, 4.09, and 4.12 of the Original Secured Indentures and Section 9.02 of the Original Unsecured Indenture;

e. that this Court declare that the Exchange was properly executed under Section 3.07(h) of the Original Secured Indentures and Original Unsecured Indenture;

f. that this Court declare that the Exchange was not a "redemption" subject to Section 3.02 of the Original Secured Indentures and Original Unsecured Indenture;

g. that this Court declare that the Exchange did not implicate Section 6.05 of the Original Secured Indentures and Original Unsecured Indenture;

h. in the alternative to clauses (e) and (f), if the Court determines that the Exchange was a redemption subject to Section 3.02, that this Court declare that Langur Maize has not suffered any damages as a result of the 2022 Transaction and, pursuant to the Court's equitable powers, to the extent just and proper, enter an order that provides Langur Maize the opportunity to be treated as a holder of 2027 1.25L Secured Notes in these Chapter 11 Cases upon tendering to the Debtors the amount by which the cash interest payments paid on Langur Maize's Unsecured Notes exceeded the cash interest payments that would have been payable on the 2027 1.25L Secured Notes since the 2022 Transaction, had Langur Maize participated in the Exchange;

i. that this Court declare that the Company did not violate the implied covenant of good faith and fair dealing by entering into the 2022 Transaction;

j. that this Court declare that Langur Maize lacks standing to pursue the causes of action asserted in the Unsecured Noteholder Action against all defendants named therein other than WSFS;

k. that this Court declare that certain Formerly Secured Noteholders—to be identified following discovery—acquired their 2026 Notes and/or 2024 Notes after the 2022 Transaction occurred and accordingly lack standing to pursue the causes of action asserted in the Formerly Secured Noteholders Action and the Counterclaims against all defendants named therein other than WSFS;

l. that this Court award costs and attorneys' fees, as this Court deems just and proper; and

m. that this Court grant such other and further relief that this Court deems just and proper.

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ANSWER

Plaintiffs Wesco Aircraft Holdings, Inc. and its debtor affiliates (in their capacity as debtors in possession, collectively, the "***Debtors***"; in their pre-petition capacity, collectively, the "***Company***") in the above-captioned Chapter 11 cases (collectively, these "***Chapter 11 Cases***"), plaintiffs in the above-captioned adversary proceeding (this "***Adversary Proceeding***"), hereby file their answer (this "***Answer***") to the *Original Secured Plaintiffs' Counterclaims Against the Debtors and Third-Party Claims Against WSFS, Platinum, and the Favored Noteholders* [ECF No. 50] (the "***Counterclaims***") filed by Defendants and Counter-Plaintiffs (the "***Formerly Secured Noteholders***") listed in Appendix A of the Counterclaims [ECF No. 50 at 113-15]. The Debtors answer as follows:

STATEMENT PURSUANT TO LOCAL RULE 7012-1

In submitting this Answer, the Debtors consent to the entry of final orders or judgments by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

SPECIFIC RESPONSES TO THE COUNTERCLAIM'S ALLEGATIONS

Nature of the Action

114. On March 28, 2022, the Debtors executed an unprecedented position-enhancing transaction that breached the plain terms of the Governing Indentures—the "Insider Transaction." The Debtors, under the control of Platinum, and the Favored Noteholders attempted to deprive the 2024/2026 Holders of the bargained-for liens that secured payment of their Notes even though strict supermajority and other consent requirements under the Governing Indentures expressly prohibited this Insider Transaction.

ANSWER: The Debtors admit that, on March 28, 2022, in accordance with the terms of their debt agreements, the Company, with other parties including the holders of a supermajority of the Company's secured notes and the holders of a majority of the Company's unsecured notes, amended certain of the Company's debt documents to effectuate a transaction that unlocked $250

million (before transaction costs and fees) in liquidity for the Company. The Debtors admit that the 2022 Transaction included the release of the liens securing the then-outstanding secured notes. The allegations in Paragraph 114 otherwise purport to characterize the Original Secured and Unsecured Indentures, which speak for themselves, and no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured and Unsecured Indentures for their contents and deny any allegations that are inconsistent therewith. The Debtors further state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as "an unprecedented position-enhancing transaction" and as the "Insider Transaction" and characterizing the Participating Noteholders as the "Favored Noteholders." To the extent Paragraph 114 asserts legal conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 114, including that that the Debtors acted "under the control of Platinum" or that the 2022 Transaction was in any way impermissible or improper.[11]

115. At the time of the Insider Transaction, the 2024/2026 Holders held more than one-third of the 2026 Original Secured Notes. This should have been the end of the matter. But the Company, at the behest of Platinum, embarked on a path that would benefit insiders and a select few favored noteholders, while boxing out all competing alternatives. As one observer prophetically said when the Insider Transaction was first described in the press, it is "***obscenely greedy and one can expect substantial legal challenges.***"

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 115 that prior to the 2022 Transaction and the permissible issuance of the Additional 2026 Notes, the Formerly Secured Noteholders held approximately one third of the 2026 Original Secured Notes. The Debtors further state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors admit that Paragraph 115 quotes the article *Wesco Aircraft in*

[11] Paragraph references in the Answer are to the paragraphs of the Counterclaims.

Talks with Select Holders for Priming Roll-Up and New Capital Injection, which appeared on Debtwire on February 7, 2022, and which speaks for itself. The Debtors otherwise deny the allegations in Paragraph 115, including that the Debtors acted "at the behest of Platinum" or that the 2022 Transaction was in any way impermissible or improper.

116. The Debtors knew that they required a two-thirds supermajority of existing holders to consummate the Insider Transaction. The Favored Noteholders also knew this, as did the market, and the surging trading prices of the Notes reflected exactly that. Yet, after the Favored Noteholders tried and failed to obtain a bona fide supermajority, the Debtors and the Favored Noteholders devised a sham to circumvent the Governing Indentures' supermajority consent requirements, knowing that they had only a simple majority (not a supermajority) of the 2026 Original Secured Notes. They purported to—by a single integrated transaction—create new dilutive notes that were simultaneously issued and retired: the "Phantom Notes."

ANSWER: The Debtors deny the allegations in Paragraph 116 that purport to characterize their knowledge, including that the 2022 Transaction was in any way impermissible or improper or that the documents executing the 2022 Transaction may be treated as a "single integrated" agreement. The Debtors further state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as "sham" or characterizing the Additional 2026 Notes as "Phantom Notes" or characterizing the Participating Noteholders as the "Favored Noteholders." To the extent the allegations in Paragraph 116 purport to characterize the Original Secured Indentures, which speak for themselves, the Debtors state that no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 116 that purport to characterize the knowledge or conduct of other parties and therefore deny those allegations. To the extent Paragraph 116 asserts legal conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 116.

117. The purpose of the Phantom Notes was to supposedly discharge the 2024/2026 Holders' liens and create new liens for new super-senior notes issued by the Company and made

available only to the Favored Noteholders. However, issuing new notes to—"***directly or indirectly***"—create new liens is prohibited under the Governing Indentures and thus the Phantom Notes violated those express terms.

ANSWER: The Debtors admit that the 2022 Transaction, in compliance with all governing agreements, included the issuance of the Additional 2026 Notes, supermajority consent—including the votes of the holders of the Additional 2026 Notes—for the Fourth Supplemental Secured Indentures, and the permissible release of the liens securing the then-outstanding secured notes. The Debtors state that no response is required to the argumentative rhetoric characterizing the Additional 2026 Notes as "Phantom Notes" or characterizing the Participating Noteholders as the "Favored Noteholders." To the extent the allegations in Paragraph 117 purport to characterize the Original Secured Indentures, which speak for themselves, the Debtors state that no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 117 asserts further legal conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 117.

118. The Company itself, moreover, has conceded through counsel in open court that this was all just "one liquidity transaction."

ANSWER: To the extent the allegations in Paragraph 118 quote from the transcript of the first day hearing in the Debtors' main bankruptcy case, the statements made at the hearing speak for themselves and no response is required. To the extent the allegations suggest a legal conclusion, the Debtors deny the allegations in Paragraph 118.

119. The Governing Indentures expressly required supermajority consent—which the Company did not have as to the 2026 Original Secured Notes—for any amendment to: (i) "***have the effect of***" releasing the Liens (defined below), (ii) "***modify***" the security instruments securing the Notes in a manner that would "***adversely affect***" holders, "***or***" (iii) "***modify***" the security instruments or the Governing Indentures in "***any manner adverse***" to such holders. The Insider Transaction therefore breached all of these protective provisions.

ANSWER: The allegations in Paragraph 119 purport to characterize the Original Secured Indentures, which speak for themselves, and the Debtors state that no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. The Debtors further state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors otherwise deny the allegations in Paragraph 119, including that the Fourth Supplemental Secured Indentures lacked supermajority consent.

120. The Insider Transaction let certain Favored Noteholders, and only them, exchange their Original Secured Notes for approximately $1.27 billion of new, super-senior secured notes in the so-called "Uptier Exchange." Further, the Insider Transaction permitted the Platinum Creditors (including the Company's current owner) and Carlyle (the Company's prior owner) to exchange on a dollar-for-dollar basis their unsecured notes for approximately $473 million of newly issued secured notes in the so-called "Unsecured Roll-up" in return for the votes required to effectuate the Uptier Exchange. Critically, though, the vote of the Platinum Creditors could not be counted under the Governing Indentures and, therefore, the Platinum Creditors were not needed to effectuate the Uptier Exchange. The Debtors nonetheless offered the Platinum Creditors the opportunity to exchange their unsecured notes anyway—essentially for no consideration.

ANSWER: The Debtors admit that, under the Exchange Agreement permitted by the Amended Secured Indentures and Amended Unsecured Indenture, the 2022 Transaction included an exchange of (a) the Participating Secured Noteholders' 2026 Notes and 2024 Notes for approximately $1.27 billion new first lien secured notes due 2026, the 2026 Secured 1L Notes, and (b) the notes held by the Participating Unsecured Noteholders', including those held by affiliates of Platinum and Carlyle, for approximately $473 million new junior-lien secured notes due 2027, the 2027 Secured 1.25L Notes. The Debtors deny that only the Participating Noteholders were given the opportunity to exchange their Original Secured Notes. The Debtors deny that "Carlyle" previously owned the Company, or that the Carlyle entity that previously owned shares in one of the Company's predecessor entities held or exchanged any of the Company's Unsecured Notes. To the extent the allegations in Paragraph 120 purport to characterize the Original Secured or

Unsecured Indentures and the Exchange Agreement, which speak for themselves, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured and Unsecured Indentures and the Exchange Agreement for their contents and deny any allegations that are inconsistent therewith. The Debtors further state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or characterizing the Participating Noteholders as the "Favored Noteholders." To the extent Paragraph 120 asserts further legal conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 120.

121. The Insider Transaction also purported to stack over $1.7 billion in new senior debt whose maturity would spring ahead of the 2024/2026 Holders' Notes. The Insider Transaction thus modified the "ranking of [the Notes] in respect of right of payment" that "adversely affect[ed]" the 2024/2026 Holders. This breached the 2024/2026 Holders' "sacred rights" under the Governing Indentures and would have required each 2024/2026 Holder's consent.

ANSWER: The Debtors deny that the 2022 Transaction included the issuance of approximately $1.7 billion in new senior debt whose maturity would spring ahead of the 2024/2026 Holders' Notes. To the extent the allegations in Paragraph 121 purport to characterize the Original Secured Indentures, which speak for themselves, the Debtors state that no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. The Debtors further state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." Paragraph 121 otherwise asserts legal conclusions, and no response is required. To the extent a response is required, the Debtors otherwise deny the allegations in Paragraph 121.

122. Furthermore, knowing full well that the Insider Transaction would result in this extremely costly litigation, Platinum and its accomplices imposed an indemnity obligation on the Company to cover the costs of their intentional wrongdoing, despite the Governing Indentures not containing any such indemnity. The Insider Transaction likewise included an apparent "settlement

basket," which underscores the Company's and Platinum's recognition of their wrongdoing and their knowledge of the future litigation that the Insider Transaction would cause.

ANSWER: To the extent the allegations in Paragraph 122 purport to characterize the Note Purchase Agreement, the Exchange Agreement, or the indentures for the New Notes, which speak for themselves, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Note Purchase Agreement, the Exchange Agreement, or the indentures for the New Notes for their contents and deny any allegations that are inconsistent therewith. The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 122 asserting the purported intentions of Platinum or its "accomplices." The Debtors further state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors otherwise deny the allegations in Paragraph 122.

123. Because the Favored Noteholders used the Insider Transaction to exit their prior holdings and purportedly create new liens to support their new notes, the 2024/2026 Holders presently own more than 95 percent of the 2026 Original Secured Notes and approximately 38 percent of the 2024 Original Secured Notes.

ANSWER: The Debtors admit that the Participating Noteholders, under the Exchange Agreement, permissibly exchanged their holdings prior to the transaction for 2026 Secured 1L Notes and 2027 Secured 1.25L Notes, respectively. The Debtors further state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or characterizing the Participating Noteholders as the "Favored Noteholders." The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding the Formerly Secured Noteholders' current holdings.

124. A substantial subset of the 2024/2026 Holders commenced an action in New York state court in October 2022, which the Debtors seek to stay in their Adversary Complaint and which has been stayed on an interim basis by stipulation.

ANSWER: The Debtors admit that a group of Formerly Secured Noteholders commenced an action in New York state court in October 2022, that the Debtors have sought relief before this Court to stay that action, and that that action is currently stayed on an interim basis. The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 124 that this action was commenced by a "substantial subset" of the Formerly Secured Noteholders now asserting these claims.

125. By these Counterclaims, the 2024/2026 Holders seek equitable lien and equitable subordination, as well as declaratory judgment confirming their direct standing to bring these claims and that the Insider Transaction breached the Governing Indentures or, in the alternative, the covenant of good faith and fair dealing implied by those agreements.

ANSWER: The Debtors admit that the allegations in Paragraph 125 accurately summarize the relief sought by these Counterclaims. The Debtors further state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction."

The Parties

I. Counterclaim Plaintiffs

126. Counterclaim Plaintiff SSD Investments Ltd. is a holder of 2026 Original Secured Notes. SSD Investments Ltd. is a Cayman Islands exempted company with its registered office in the Cayman Islands.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 126.

127. Counterclaim Plaintiff JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Core Plus Bond) of JPMorgan Chase Bank, N.A., is a holder of 2026 Original Secured Notes. The Commingled Pension Trust Fund (Core Plus Bond) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law. JPMorgan Chase Bank, N.A. is a national banking association with its main office in Ohio.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 127.

128. Counterclaim Plaintiff JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Short Duration Core Plus) of JPMorgan Chase Bank, N.A., is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. The Commingled Pension Trust Fund (Short Duration Core Plus) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law. JPMorgan Chase Bank, N.A. is a national banking association with its main office in Ohio.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 128.

129. Counterclaim Plaintiff JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Income) of JPMorgan Chase Bank, N.A., is a holder of 2026 Original Secured Notes. The Commingled Pension Trust Fund (Income) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law. JPMorgan Chase Bank, N.A. is a national banking association with its main office in Ohio.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 129.

130. Counterclaim Plaintiff JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Corporate High Yield) of JPMorgan Chase Bank, N.A., is a holder of 2026 Original Secured Notes. The Commingled Pension Trust Fund (Corporate High Yield) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law. JPMorgan Chase Bank, N.A. is a national banking association with its main office in Ohio.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 130.

131. Counterclaim Plaintiff JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (High Yield) of JPMorgan Chase Bank, N.A., is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. The Commingled Pension Trust Fund (High Yield) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law. JPMorgan Chase Bank, N.A. is a national banking association with its main office in Ohio.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 131.

132. Counterclaim Plaintiff JPMorgan Investment Funds, on behalf of its sub-fund Global High Yield Bond Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Investment Funds, a société anonyme qualifying as a société

d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 132.

133. Counterclaim Plaintiff JPMorgan Investment Funds, on behalf of its sub-fund Income Opportunity Fund, is a holder of 2026 Original Secured Notes. JPMorgan Investment Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 133.

134. Counterclaim Plaintiff JPMorgan Investment Funds, on behalf of its sub-fund Global Income Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Investment Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 134.

135. Counterclaim Plaintiff JPMorgan Investment Funds, on behalf of its sub-fund Global Income Conservative Fund, is a holder of 2026 Original Secured Notes. JPMorgan Investment Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 135.

136. Counterclaim Plaintiff JPMorgan Funds, on behalf of its sub-fund US High Yield Plus Bond Fund, is a holder of 2026 Original Secured Notes. JPMorgan Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 136.

137. Counterclaim Plaintiff JPMorgan Funds, on behalf of its sub-fund Income Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 137.

138. Counterclaim Plaintiff JPMorgan Funds, on behalf of its sub-fund Global Bond Opportunities Sustainable Fund, is a holder of 2026 Original Secured Notes. JPMorgan Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 138.

139. Counterclaim Plaintiff JPMorgan Funds, on behalf of its sub-fund Global Bond Opportunities Fund, is a holder of 2026 Original Secured Notes. JPMorgan Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 139.

140. Counterclaim Plaintiff iShares Public Limited Company, on behalf of its sub-fund iShares Global High Yield Corp Bond UCITS ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Public Limited Company is an Irish corporation that maintains its registered office in Ireland.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 140.

141. Counterclaim Plaintiff iShares II Public Limited Company, on behalf of its subfund iShares $ High Yield Corp Bond UCITS ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares II Public Limited Company is an Irish corporation that maintains its registered office in Ireland.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 141.

142. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares iBonds 2026 Term High Yield and Income ETF, is a holder of 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 142.

143. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares Broad USD High Yield Corporate Bond ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 143.

144. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares 0-5 Year High Yield Corporate Bond ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 144.

145. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares iBoxx $ High Yield Corporate Bond ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 145.

146. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares iBonds 2024 Term High Yield and Income ETF, is a holder of 2024 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 146.

147. Counterclaim Plaintiff BlackRock Institutional Trust Company, N.A., acting in its capacity as Trustee of the U.S. High Yield Bond Index Non-Lendable Fund B, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. BlackRock Institutional Trust Company, N.A. is a national banking association with its principal place of business in California.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 147.

148. Counterclaim Plaintiff iShares VI Public Limited Company, on behalf of its subfund iShares Global High Yield Corp Bond GBP Hedged UCITS ETF (Dist), is a holder of 2024 Original Secured Notes. iShares VI Public Limited Company is an Irish corporation that maintains its registered office in Ireland.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 148.

149. Counterclaim Plaintiff iShares VI Public Limited Company, on behalf of its subfund iShares Global High Yield Corp Bond CHF Hedged UCITS ETF (Dist), is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares VI Public Limited Company is an Irish corporation that maintains its registered office in Ireland.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 149.

150. Counterclaim Plaintiff iShares IV Public Limited Company, on behalf of its subfund iShares $ Short Duration High Yield Corp Bond UCITS ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares IV Public Limited Company is an Irish corporation that maintains its registered office in Ireland.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 150.

151. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares Core 1-5 Year USD Bond ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 151.

152. Counterclaim Plaintiff iShares U.S. High Yield Fixed Income Index ETF (CADHedged), ("iShares HY Fixed Income ETF CAD-Hedged"), by its trustee, manager and portfolio adviser BlackRock Asset Management Canada Limited, was a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares HY Fixed Income ETF CAD-Hedged was an Ontarian Trust with its principal place of business in Ontario, Canada. After the filing of the First New York Action, the iShares HY Fixed Income ETF CAD-Hedged merged with Plaintiff iShares U.S. High Yield Bond Index ETF (CAD-Hedged) ("iShares HY Bond Index ETF CAD-Hedged"), which is its successor in interest.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 152.

153. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares Core Total USD Bond Market ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 153.

154. Counterclaim Plaintiff iShares HY Bond Index ETF CAD-Hedged, by its trustee, manager and portfolio adviser BlackRock Asset Management Canada Limited, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares HY Bond Index ETF CADHedged is an Ontarian Trust with its principal place of business in Ontario, Canada. iShares HY Bond Index ETF CAD-Hedged is the successor in interest to iShares HY Fixed Income ETF CADHedged.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 154.

155. Counterclaim Plaintiff iShares, Inc., on behalf of its series iShares US & Intl High Yield Corp Bond ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares, Inc. is a Maryland corporation with its principal place of business in California.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 155.

156. Counterclaim Plaintiff BlackRock Bank Loan Fund, by its manager BlackRock Asset Management Ireland Limited, is a holder of 2026 Original Secured Notes. BlackRock Bank Loan Fund is an Irish Trust that maintains its registered office in Ireland.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 156.

157. Counterclaim Plaintiff BlackRock Floating Rate Income Trust is a holder of 2026 Original Secured Notes. BlackRock Floating Rate Income Trust is a Delaware statutory trust with its principal place of business in Delaware.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 157.

158. Counterclaim Plaintiff BlackRock Limited Duration Income Trust is a holder of 2026 Original Secured Notes. BlackRock Limited Duration Income Trust is a Delaware statutory trust with its principal place of business in Delaware.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 158.

159. Counterclaim Plaintiff BlackRock Dynamic High Income Portfolio of BlackRock Funds II is a holder of 2026 Original Secured Notes. BlackRock Dynamic High Income Portfolio of BlackRock Funds II is a Massachusetts business trust with its principal place of business in Delaware.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 159.

160. Counterclaim Plaintiff BlackRock Floating Rate Income Portfolio of BlackRock Funds V is a holder of 2026 Original Secured Notes. BlackRock Floating Rate Income Portfolio of BlackRock Funds V is a Massachusetts business trust with its principal place of business in Delaware.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 160.

161. Counterclaim Plaintiff BlackRock Managed Income Fund of BlackRock Funds II is a holder of 2026 Original Secured Notes. BlackRock Managed Income Fund of BlackRock Funds II is a Massachusetts business trust with its principal place of business in Delaware.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 161.

162. Counterclaim Plaintiff BlackRock Floating Rate Income Strategies Fund, Inc. is a holder of 2026 Original Secured Notes. BlackRock Floating Rate Income Strategies Fund, Inc. is a Maryland corporation with its principal place of business in Delaware.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 162.

163. Counterclaim Plaintiff PSAM WorldArb Master Fund Ltd. is a holder of 2024 Original Secured Notes. PSAM WorldArb Master Fund Ltd. is a Cayman Islands exempted company with its registered office in the Cayman Islands.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 163.

164. Counterclaim Plaintiff Rebound Portfolio Ltd. is a holder of 2024 Original Secured Notes. Rebound Portfolio Ltd. is a Cayman Islands exempted company with its registered office in the Cayman Islands.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 164.

165. Counterclaim Plaintiff JPMorgan Funds, on behalf of its sub-fund Multi-Manager Alternatives Fund, is a holder of 2024 Original Secured Notes. JPMorgan Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 165.

166. Counterclaim Plaintiff Lumyna Specialist Funds (formerly called Viaduct Invest FCP-SIF), on behalf of its sub-fund Event Alternative Fund, is a holder of 2024 Original Secured Notes. Lumyna Specialist Funds is an unincorporated joint ownership of assets – specialized investment fund, registered in Luxembourg.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 166.

167. Counterclaim Plaintiff Lumyna Investments Ltd., on behalf of its sub-fund PSA Global Event UCITS Fund, is a holder of 2024 Original Secured Notes. Lumyna Investments Ltd. is a private limited company, with its registered office in the United Kingdom.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 167.

168. Counterclaim Plaintiff Kapitalforeningen PenSam Invest - PSI 84 US High Yield II is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. Kapitalforeningen PenSam Invest - PSI 84 US High Yield II is an alternative investment fund (AIF) administered by Nykredit Portefølje Administration A/S, with a registered office in Denmark.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 168.

169. Counterclaim Plaintiff The New Zealand Guardian Trust Company Limited, as Trustee for AMP Wholesale High Yield Bond Fund, is the holder of 2024 Original Secured Notes and 2026 Original Secured Notes. AMP Wholesale High Yield Bond Fund is a New Zealand Unit Trust Fund, with a registered office in New Zealand. The New Zealand Guardian Trust Company Limited is a Trustee Company, with a registered office in New Zealand.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 169.

170. 170. Counterclaim Plaintiff UBS Fund Management (Switzerland) AG is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. UBS Fund Management (Switzerland) AG is a Swiss "Aktiengesellschaft", with a registered office in Switzerland.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 170.

171. Counterclaim Plaintiff JNL Series Trust, on behalf of its series JNL/JPMorgan Global Allocation Fund, is a holder of 2026 Original Secured Notes. JNL Series Trust is a is a Massachusetts business trust with its principal place of business in Michigan.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 171.

172. Counterclaim Plaintiff JPMorgan Fund ICVC, on behalf of its sub fund JPM Global High Yield Bond Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Fund ICVC is an open-ended investment company with variable capital with its principal place of business in England.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 172.

173. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Income Builder Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 173.

174. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Total Return Fund, is a holder of 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 174.

175. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Strategic Income Opportunities Fund, is a holder of 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 175.

176. Counterclaim Plaintiff JPMorgan Fund ICVC, on behalf of its sub fund JPM Multi- Asset Income Fund, is a holder of 2026 Original Secured Notes. JPMorgan Fund ICVC is an open-ended investment company with variable capital with its principal place of business in England.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 176.

177. Counterclaim Plaintiff Lincoln Variable Insurance Products Trust, on behalf of its series LVIP JPMorgan High Yield Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. Lincoln Variable Insurance Products Trust is a Delaware statutory trust with its principal place of business in Indiana.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 177.

178. Counterclaim Plaintiff Advanced Series Trust, on behalf of its portfolio AST High Yield Portfolio, is a holder of 2026 Original Secured Notes. Advanced Series Trust is an open-ended management investment company with its principal place of business in Connecticut.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 178.

179. Counterclaim Plaintiff GIM Trust, on behalf of its series U.S. High Yield Bond Fund, is a holder of 2026 Original Secured Notes. GIM Trust is an open-ended Cayman Islands series trust with its registered office in the Cayman Islands.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 179.

180. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Global Allocation Fund, is a holder 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 180.

181. Counterclaim Plaintiff HSBC Institutional Trust Services (Asia) Limited, as trustee of JPMorgan Multi Income Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. HSBC Institutional Trust Services (Asia) Limited is a public company limited by shares incorporated in Hong Kong with its principal place of business in Hong Kong. JPMorgan Multi Income Fund is a unit trust authorized as a collective investment scheme by the Hong Kong Securities and Futures Commission.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 181.

182. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Global Bond Opportunities Fund, is a holder 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 182.

183. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Short Duration Core Plus Fund, is a holder 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 183.

184. Counterclaim Plaintiff IBM 401(k) Plus Plan Trust , on behalf of the IBM 401(k) Plus Plan, is a holder 2026 Original Secured Notes. The IBM 401(k) Plan Trust is a retirement plan with its registered office in New York.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 184.

185. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Income Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 185.

186. Counterclaim Plaintiff Migros-Pensoinskasse Fonds is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. Migros-Pensoinskasse Fonds is a Swiss investment fund with its registered office in Switzerland.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 186.

187. Counterclaim Plaintiff J.P. Morgan Exchange-Traded Fund Trust, on behalf of its series JPMorgan Core Plus Bond ETF, is a holder of 2026 Original Secured Notes. J.P. Morgan Exchange-Traded Fund Trust is a Delaware statutory trust with its principal place of business in New York.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 187.

188. Counterclaim Plaintiff HSBC Institutional Trust Services (Asia) Limited, as trustee of JPMorgan Multi Balanced Fund, is a holder of 2026 Original Secured Notes. HSBC Institutional Trust Services (Asia) Limited is a public company limited by shares incorporated in Hong Kong with its principal place of business in Hong Kong. JPMorgan Multi Balanced Fund is a unit trust authorized as a collective investment scheme by the Hong Kong Securities and Futures Commission.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 188.

189. Counterclaim Plaintiff Zurich American Insurance Company is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. Zurich American Insurance Company is a company incorporated under the law of the State of New York with its principal place of business in Illinois.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 189.

190. Counterclaim Plaintiff NBI High Yield Bond ETF is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. NBI High Yield Bond ETF is an exchangetraded fund established as a trust under the laws of the Province of Ontario, Canada with its registered office in Canada.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 190.

191. Counterclaim Plaintiff Deferred Salary Plan of the Electrical Industry is a holder of 2024 Original Secured Notes. Deferred Salary Plan of the Electrical Industry is a Defined Contribution Profit-Sharing Plan with 401(k) and Roth features with its registered office in New York.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 191.

192. Counterclaim Plaintiff NBI Unconstrained Fixed Income ETF is a holder of 2026 Original Secured Notes. NBI Unconstrained Fixed Income ETF is an exchange-traded fund established as a trust under the laws of the Province of Ontario, Canada with its registered office in Canada.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 192.

193. Counterclaim Plaintiff National Employment Savings Trust Corporation, in its capacity as trustee of the National Employment Savings Trust, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. National Employment Savings Trust Corporation is a public corporation established under the law of the United Kingdom with its principal place of business in England.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 193.

II. Debtor Counterclaim Defendants

194. Counterclaim Defendant Wesco Aircraft Holdings, Inc. (i.e., the Company) is a Delaware corporation. The Company has its principal place of business and chief executive office in Texas. The Company is the issuer of the Original Senior Secured Notes under the respective Governing Indentures.

ANSWER: The Debtors admit the allegations in Paragraph 194, but note that the term the "Company" is used in the First Amended Complaint to refer collectively to all the Debtors, in their pre-petition capacity.

195. The Guarantor Defendants that guaranteed the Company's obligations under the Governing Indentures comprise: Adams Aviation Supply Company Limited, a United Kingdom entity; Flintbrook Limited, a United Kingdom entity; HAAS Chemical Management of Mexico, Inc., a Pennsylvania entity; HAAS Corporation of Canada, a Pennsylvania entity; HAAS Corporation of China, a Pennsylvania entity; HAAS Group International SCM Limited, a United Kingdom entity; HAAS Group International, LLC, a Pennsylvania entity; HAAS Group, LLC, a

Delaware entity; HAAS Holdings, LLC, a Delaware entity; HAAS International Corporation, a Pennsylvania entity; HAAS of Delaware LLC, a Delaware entity; HAAS TCM Group of the UK Limited, a United Kingdom entity; HAAS TCM Industries LLC, a Delaware entity; HAAS TCM of Israel Inc., a Delaware entity; Interfast USA Holdings Incorporated, a Delaware entity; Netmro, LLC, a Florida entity; Pattonair Holding, Inc., a Delaware entity; Pattonair (Derby) Limited, a United Kingdom entity; Pattonair Europe Limited, a United Kingdom entity; Pattonair Group Limited, a United Kingdom entity; Pattonair Holdings Limited, a United Kingdom entity; Pattonair Limited, a United Kingdom entity; Pattonair USA, Inc., a Texas entity; Pioneer Finance Corporation, a Delaware entity; Pioneer Holding Corporation, a Delaware entity; Quicksilver Midco Limited, a United Kingdom entity; Uniseal, Inc., an Indiana entity; Wesco 1 LLP, a United Kingdom entity; Wesco 2 LLP, a United Kingdom entity; Wesco Aircraft Canada, LLC, a Delaware entity; Wesco Aircraft EMEA, Ltd., a United Kingdom entity; Wesco Aircraft Europe Limited, a United Kingdom entity; Wesco Aircraft Hardware Corp., a California entity; Wesco Aircraft International Holdings Limited, a United Kingdom entity; Wesco Aircraft SF, LLC, a Delaware entity; Wesco LLC 1, a Delaware entity; Wesco LLC 2, a Delaware entity; Wolverine Intermediate Holding II Corporation, a Delaware entity; and Wolverine UK Holdco Limited, a United Kingdom entity.[12]

ANSWER: The Debtors admit the allegations in Paragraph 195, including footnote 10.

III. Non-Debtor Counterclaim Defendants

196. Counterclaim Defendant Wilmington Savings Fund Society, FSB (i.e., "WSFS") is a federal savings bank with its principal place of business in Delaware. WSFS served as successor indenture trustee and collateral agent under the Governing Indentures from March 14, 2022, until May 26, 2023.

ANSWER: The Debtors admit that WSFS served as successor indenture trustee and collateral agent under the Governing Indentures from March 14, 2022, until May 26, 2023. The Debtors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 196.

197. Counterclaim Defendant Platinum Equity Advisors, LLC (i.e., the "Platinum Sponsor") is a Delaware limited liability company with its principal place of business in California. The Platinum Sponsor is the private equity sponsor and a person in control of the Platinum-Controlled Parent and its subsidiaries, including the Company. Upon information and belief, the Platinum Sponsor is also the investment manager or advisor for the Platinum Fund and it often

[12] The following debtors in these Chapter 11 proceedings did not guarantee the Company's obligations under the Governing Indentures and, therefore, have not been named as defendants in this Complaint: (1) HAAS Group Canada, Inc., (2) Haas TCM de Mexico, S. de R.L. de C.V., (3) Wesco Aircraft Canada, Inc., and (4) Wolverine Intermediate Holding Corporation.

acted as agent for, and on behalf of, the Platinum-Controlled Parent and the Platinum Fund in connection with the Insider Transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or TopCo as the "Platinum-Controlled Parent." The Debtors admit that the Platinum Sponsor is a limited liability company with its principal place of business in California and that it is the private equity sponsor of the Company. The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations as to whether the Platinum Sponsor acts as investment manager, advisor, or agent for TopCo or the Platinum Fund. Paragraph 197 otherwise asserts legal conclusions to which no response is required.

198. Counterclaim Defendant Wolverine Top Holding Corporation (i.e., the "Platinum-Controlled Parent") is a Delaware corporation and the indirect, 100% owner of the Company and its subsidiaries. The Platinum-Controlled Parent is an affiliate and person in control of the Company and the Guarantor Defendants.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent." The Debtors otherwise admit the allegations contained in Paragraph 198, except that the term "person in control" asserts legal conclusions to which no response is required.

199. Counterclaim Defendant Platinum Equity Capital Partners International, IV (Cayman) LP (i.e., the "Platinum Fund") is an affiliate of the Platinum-Controlled Parent and the Platinum Sponsor that was, upon information and belief, simultaneously invested in the Platinum-Controlled Parent and certain unsecured notes issued by the Company. The Platinum Fund is an affiliate and insider of the Company. The Company's consolidated financial statements for the three months ending March 31, 2022 have described the Platinum Fund as a "related part[y]" of the Company.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent." The Debtors state that the term "insider" asserts legal conclusions to which no response is required. The Debtors admit that the Platinum Fund is an affiliate of the Platinum-Controlled Parent and the Platinum Sponsor and that

the Platinum Fund, or an affiliate thereof, held Unsecured Notes. The Debtors otherwise deny the allegations in paragraph 199.

200. Counterclaim Defendants Silver Point Noteholders (the "Silver Point Noteholders") include Silver Point Capital Fund, L.P.; Silver Point Capital Offshore Master Fund, L.P.; Silver Point Select Opportunities Fund A, L.P.; Silver Point Distressed Opportunities Fund, L.P.; Silver Point Distressed Opportunities Offshore Master Fund, L.P.; Silver Point Distressed Opportunity Institutional Partners Master Fund (Offshore), L.P.; Silver Point Distressed Opportunity Institutional Partners, L.P.; Silver Point SCF CLO I, Ltd.; Silver Point Specialty Lending Fund; and Silver Point Specialty Credit Fund II Mini-Master Fund (Offshore), L.P. The Silver Point Noteholders are those noteholders who participated in the Insider Transaction as holders of 2026 Original Secured Notes and/or 2024 Original Secured Notes and for which Silver Point Capital, L.P.; Silver Point Distressed Opportunities Management, LLC; Silver Point Specialty Credit Fund Management, LLC; and Silver Point Specialty Credit Fund II Management, LLC act as investment or collateral manager.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors admit the allegations that the Counterclaim Defendants identified in Paragraph 200 participated in the 2022 Transaction as holders of 2026 Original Secured Notes and/or 2024 Original Secured Notes. The Debtors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 200.

201. Counterclaim Defendants PIMCO Noteholders (the "PIMCO Noteholders") include PIMCO Tactical Income Opportunities Fund; PIMCO Global Income Opportunities Fund; PIMCO Tactical Income Fund; PIMCO Global StocksPLUS & Income Fund; PCM Fund, Inc.; PIMCO Strategic Income Fund, Inc.; PIMCO Corporate & Income Opportunity Fund; PIMCO High Income Fund; PIMCO Income Strategy Fund; PIMCO Income Strategy Fund II; PIMCO Corporate & Income Strategy Fund; PIMCO Dynamic Income Opportunities Fund; PIMCO Dynamic Income Fund; PIMCO ETFs plc, PIMCO US Short-Term High Yield Corporate Bond Index UCITS ETF (previously identified as PIMCO Fixed Income Source ETFs plc, PIMCO Short-Term High Yield Corporate Bond Index Source UCITS ETF); PIMCO Flexible Credit Income Fund; PIMCO Funds: PIMCO Low Duration Credit Fund; PIMCO Funds: PIMCO High Yield Spectrum Fund; PIMCO ETF Trust: PIMCO 0-5 Year High Yield Corporate Bond Index Exchange-Traded Fund; OC III LVS I LP; PIMCO Tactical Opportunities Master Fund Ltd.; PIMCO OP Trust Flexible Credit Fund, L.P.; PIMCO DISCO Fund III LP; Texas Children's Hospital Foundation; Bakery and Confectionery Union and Industry International Pension Fund; Employees' Retirement System of the State of Rhode Island; Desjardins Floating Rate Income Fund; Desjardins Global Tactical Bond Fund; and BMO Global Strategic Bond Fund. The PIMCO Noteholders are those noteholders who participated in the Insider Transaction as holders of 2026

Original Secured Notes and/or 2024 Original Secured Notes and for which Pacific Investment Management Company LLC acts as investment manager, adviser, or sub-adviser.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors admit the allegations that the Counterclaim Defendants identified in Paragraph 201 participated in the 2022 Transaction as holders of 2026 Original Secured Notes and/or 2024 Original Secured Notes. The Debtors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 201.

202. Counterclaim Defendants Carlyle Noteholders (the "Carlyle Noteholders") include CCOF Onshore Co-Borrower LLC, CSP IV Acquisitions, L.P., and CCOF Master, L.P. The Carlyle Noteholders are those noteholders who participated in the Insider Transaction as holders of unsecured notes issued by the Company and who are managed or advised by The Carlyle Group L.P. or its affiliates.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors admit the allegations that the Counterclaim Defendants identified in Paragraph 202 participated in the 2022 Transaction as holders of 2026 Original Secured Notes and/or 2024 Original Secured Notes. The Debtors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 202.

203. Counterclaim Defendant Senator Global Opportunity Master Fund L.P. (the "Senator Noteholder") is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes issued by the Company and is managed or advised by Senator GP LLC.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 203.

204. Counterclaim Defendant Citadel Equity Fund Ltd. (the "Citadel Noteholder") is a holder of 2026 Original Secured Notes issued by the Company and is managed or advised by Citadel Advisors LLC.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 204.

205. Counterclaim Defendant Spring Creek Capital LLC (the "Spring Creek Noteholder") participated in the Insider Transaction as a holder of unsecured notes issued by the Company and, on information belief, is beneficially owned by SCC Holdings, LLC.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors admit that Spring Creek Noteholder participated in the 2022 Transaction as a holder of Unsecured Notes. The Debtors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 205.

Subject Matter Jurisdiction and Venue

206. This Court has subject matter jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 1334.

ANSWER: Paragraph 206 asserts legal arguments and conclusions, to which no response is required.

207. Venue of this adversary proceeding in this Court is proper pursuant to 28 U.S.C. § 1409, because this is the district in which the related bankruptcy case is pending.

ANSWER: Paragraph 207 asserts legal arguments and conclusions, to which no response is required.

208. The Counterclaim Plaintiffs' claims for equitable subordination and equitable lien are core claims for which the Counterclaim Plaintiffs consent to entry of a final order or judgment by this Court.

ANSWER: Paragraph 208 asserts legal arguments and conclusions, to which no response is required.

209. The Counterclaim Plaintiffs' declaratory judgment claim is a non-core claim for which the Counterclaim Plaintiffs do not consent to entry of a final order or judgment by this Court.

ANSWER: Paragraph 209 asserts legal arguments and conclusions, to which no response is required.

210. Pursuant to Bankruptcy Rule 7008, the Counterclaim Plaintiffs do not consent to the entry of final orders or judgment by this Court in connection with this adversary proceeding if it is determined that, absent consent of the parties, the Court cannot enter final orders or judgments consistent with Article III of the United States Constitution.

ANSWER: Paragraph 210 asserts legal arguments and conclusions, to which no response is required.

Personal Jurisdiction

211. All Debtor Counterclaim Defendants are subject to the jurisdiction of this Court as debtors in the related bankruptcy cases.

ANSWER: Paragraph 211 asserts a legal conclusion to which no response is required.

212. Additionally, each Counterclaim Defendant is subject to personal jurisdiction pursuant to Federal Rule of Bankruptcy Procedure 7004 because each Counterclaim Defendant herein has established minimum contacts with the United States.

ANSWER: Paragraph 212 asserts legal arguments and conclusions, to which no response is required.

213. The Debtor Counterclaim Defendants are parties to the Governing Indentures, which include consent to the jurisdiction of courts in the United States, namely in the State of New York.

ANSWER: Paragraph 213 purports to characterize the Original Secured and Unsecured Indentures, which speak for themselves, and no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured and Unsecured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 213 otherwise asserts legal arguments and conclusions, to which no response is required.

214. WSFS was a party to the Governing Indentures, which include consent to the jurisdiction of courts in the United States, namely in the State of New York.

ANSWER: Paragraph 214 purports to characterize the Original Secured and Unsecured Indentures, which speak for themselves, and no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured and Unsecured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 214 otherwise asserts legal arguments and conclusions to which no response is required.

215. The Favored Noteholders are parties to the Exchange Agreement, which includes a consent to the jurisdiction of courts in the United States, namely in the State of New York.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Participating Noteholders as the "Favored Noteholders." Paragraph 215 purports to characterize the Exchange Agreement, which speaks for itself, and no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Exchange Agreement for its contents and deny any allegations that are inconsistent therewith. Paragraph 215 otherwise asserts legal arguments and conclusions to which no response is required.

216. Where a federal statute or rule provides for nationwide service of process, as does Bankruptcy Rule 7004, a federal court has personal jurisdiction over any defendant having minimum contacts with the United States.

ANSWER: Paragraph 216 asserts legal arguments and conclusions, to which no response is required.

217. Accordingly, this Court has personal jurisdiction over the Counterclaim Defendants based on their contacts with the United States.

ANSWER: Paragraph 217 asserts legal arguments and conclusions, to which no response is required.

Factual Allegations

I. The Company

218. The Company is the product of a 2020 merger between Wesco and Pattonair, a portfolio company of the Platinum Sponsor.

ANSWER: The Debtors admit the allegations in Paragraph 218.

219. According to the Debtors, "[t]he Company provides customizable and often on-demand supply chain management services to manufacturers and maintenance providers across several industries, with a focus on the commercial and defense aerospace industry." Carney Decl. ¶ 20.

ANSWER: The Debtors admit the allegation in Paragraph 219.

220. Since their acquisition of the Company in January 2020, the Platinum-Controlled Parent and the Platinum Sponsor have controlled the Company. The Platinum-Controlled Parent is an indirect parent of the Company. Each year, the Company is obligated to pay the Platinum Sponsor approximately $7 million in consulting fees, plus other fees and expenses.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent." The Debtors admit that TopCo is an indirect parent of the Company. The Debtors deny that the Company is obligated to pay the Platinum Sponsor $7 million in annual fees. Paragraph 220 otherwise asserts legal conclusions, to which no response is required.

221. The Company states that it is owned "by a chain of three holding companies: Wolverine Intermediate Holding II Corporation . . . [is directly owned by] Wolverine Intermediate . . . [which in turn is directly owned by]" the Platinum-Controlled Parent. Carney Decl. ¶ 39.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent." The Debtors otherwise admit the allegation in Paragraph 221.

222. Upon information and belief, the Platinum Fund owns or controls more than 20% of the voting shares of the Platinum-Controlled Parent, and it and the Company are under the common control of the Platinum Sponsor.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent." The Debtors state that Paragraph 222 contains assertions regarding common control, which are legal conclusions, to which no response is required. The Debtors otherwise admit the allegations in Paragraph 222.

223. The board of directors of Wolverine Intermediate (the "Board") is composed of individuals selected and controlled by the Platinum Sponsor. Except for the later-appointed director Patrick Bartels, whom the Debtors describe as "independent," the Debtors do not hold out members of the Board as being independent from the Platinum Sponsor or the Debtors.

ANSWER: The Debtors deny that the Board is composed of individuals selected and controlled by the Platinum Sponsor. The Debtors state that Paragraph 223 contains assertions regarding control and independence of various members of the Board, which are legal conclusions, to which no response is required. The Debtors otherwise admit the allegations in Paragraph 223.

224. At the time of the Insider Transaction, the Board consisted entirely of the following senior executives and officers of the Platinum Sponsor, apart from Mr. Bartels:

- Mary Ann Sigler, Chief Financial Officer of the Platinum Sponsor;
- John G. Holland, Managing Director and General Counsel of the Platinum Sponsor;
- Louis Samson, Co-President of the Platinum Sponsor;
- Michael Fabiano, Managing Director of the Platinum Sponsor; and
- Malik Vorderwuelbecke, Managing Director of the Platinum Sponsor

(collectively with Mr. Bartels, the "Directors").

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors otherwise admit the allegations in Paragraph 224.

II. The Governing Indentures

225. To finance the acquisition in January 2020, that led to the 2020 merger between Wesco and Pattonair, the Company sold three debt issuances: (i) $650 million in 2024 Original

Secured Notes; (ii) $900 million in 2026 Original Secured Notes; and (iii) $525 million in unsecured notes due 2027 (the "Unsecured Notes").

ANSWER: The Debtors admit the allegations in Paragraph 225.

226. Platinum could not finance its acquisition of the Company on the terms initially proposed to the market. After Platinum and the Company were unable to obtain a syndicated loan, they turned to the high-yield bond market. By the time the acquisition financing was finalized in the Governing Indentures, it included many terms more favorable to creditors than those initially proposed by the Company. The Governing Indentures were negotiated with purchasers and potential purchasers of the Notes before the issuance and contain protections against position-enhancing transactions of precisely the sort here.

ANSWER: The Debtors admit that the Company's acquisition was originally intended to be financed via term loans. The allegations in Paragraph 226 otherwise assert legal conclusions or purport to characterize the Original Secured and Unsecured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured and Unsecured Indentures for their contents and deny any allegations that are inconsistent therewith. The allegations in Paragraph 226 otherwise assert legal conclusions, to which no response is required.

227. To secure payment of principal and interest on the Original Secured Notes, the Company granted liens (the "Liens") on specifically identified assets of the Company (the "Collateral") to the holders of the Original Secured Notes. The Liens and Collateral are memorialized in the Governing Indentures and an array of security documents, including intercreditor agreements, pledges, deeds, mortgages, and other instruments securing the Notes (together, the "Security Documents"). Additionally, the Guarantor Defendants guaranteed the Company's payment obligations under the Governing Indentures as well as under the indenture for the Unsecured Notes (the "Unsecured Indenture").

ANSWER: The allegations in Paragraph 227 purport to characterize the Original Secured and Unsecured Indentures and related security instruments, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured and Unsecured Indentures and the security documents for their contents and deny any allegations that are inconsistent therewith.

228. The Governing Indentures limit the Company's ability to issue additional 2024 Original Secured Notes or 2026 Original Secured Notes to dilute the rights of existing holders by issuing new debt or creating new liens.

ANSWER: The allegations in Paragraph 228 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith.

229. Specifically, Section 2.01(e) of the Governing Indentures states that the Company's "ability to issue Additional Secured Notes ***shall be subject*** to the Issuer's compliance with Sections 4.09 and 4.12 hereof." (Emphasis added.) The Governing Indentures' definition of "Additional Secured Notes" also refers to Section 2.01(e) and thus, in turn, Section 4.12.[13]

ANSWER: The allegations in Paragraph 229 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. The Debtors admit the allegations in footnote 11.

230. Section 4.12(a) of the Governing Indentures—which pursuant to Section 2.01 is a predicate to the issuance of any Additional Secured Notes—provides that:

> The Issuer ***will not***, and will not permit any Subsidiary Guarantor, if any, to, ***directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind (other than Permitted Liens)***, securing Indebtedness of the Issuer or such Subsidiary Guarantor, if any, on any property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom.

(Emphasis added.).

ANSWER: The allegations in Paragraph 230 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the

[13] All provisions of the 2026 Governing Indenture and 2024 Governing Indenture relevant to these Counterclaims are substantively identical. All references to "Section" herein are to the 2026 Governing Indenture unless otherwise specified.

extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith.

231. Permitted Liens are defined in Section 1.01 of the Governing Indentures to include, *inter alia*, the Liens that secured the Original Secured Notes.

ANSWER: The allegations in Paragraph 231 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith.

232. Section 4.09 of the Governing Indentures—which pursuant to Section 2.01 is also a predicate to the issuance of ***any*** Additional Secured Notes—protects the Original Secured Notes by restricting the incurrence of additional indebtedness other than "Permitted Indebtedness."

ANSWER: The allegations in Paragraph 232 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith.

233. Permitted Indebtedness is defined in Section 4.09(b) of the Governing Indentures to include, *inter alia*, the 2024 Original Secured Notes and 2026 Original Secured Notes.

ANSWER: The allegations in Paragraph 233 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith.

234. As further protection, the Governing Indentures restrict the Company's ability to amend, supplement or waive certain rights without meeting holder consent thresholds.

ANSWER: The allegations in Paragraph 234 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the

extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith.

235. Under Section 9.02 of the Governing Indentures, supermajority consent is required for any amendments or modifications affecting the Liens, Collateral, or Security Documents. It provides in relevant part that, without consent "of at least 66⅔% in aggregate principal amount of the Secured Notes then outstanding . . . no amendment, supplement, or waiver may":

> (1) ***have the effect of releasing all or substantially all of the Collateral from the Liens*** created pursuant to the Security Documents (except as permitted by the terms of this Indenture, the Security Documents or the Intercreditor Agreements) ***or changing or altering the priority of the security interests of the Holders*** of the [Originally] Secured Notes in the Collateral under the ABL Intercreditor Agreement or the Pari Passu Intercreditor Agreement,
>
> (2) ***make any change*** in the Security Documents, the Intercreditor Agreements or the provisions in this Indenture dealing with the application of proceeds of the Collateral that would ***adversely affect the Holders*** of the [Originally] Secured Notes or
>
> (3) ***modify the security Documents or the provisions of this Indenture dealing with Collateral in any manner adverse to the Holders*** of [Originally] Secured Notes in any material respect other than in accordance with the terms if this Indenture, the Security Documents or the Intercreditor Agreements.

(Emphasis and paragraph breaks added.).

ANSWER: The allegations in Paragraph 235 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith.

236. Additionally, the Governing Indentures protect the 2024/2026 Holders' security interests in the Collateral in a variety of other ways. For example, Section 6.01 of the Governing Indentures protects the Liens created for the benefit of the Original Secured Notes. Under Section 6.01, "[e]ach of the following is an 'Event of Default'":

> [A]ny material provision of any Security Document or Intercreditor Agreement with respect to the [Original Secured Notes] ceases to be

> in full force and effect for any reason other than in accordance with the terms of [the Governing Indentures] . . . .
>
> * * *
>
> [A]ny Security Document covering a material portion of the Collateral for any reason (other than pursuant to the terms hereof) ceases to create a valid and perfected first-priority or second-priority Lien, as applicable, on, and security interest in, any material Collateral covered thereby with respect to the [Original Secured Notes].

ANSWER: The allegations in Paragraph 236 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith.

237. Section 9.02 also codifies the 2024/2026 Holders' "sacred rights" under the Governing Indentures, which include, among other rights, a requirement that each affected holder consent to any amendment that "make[s] any change to, or modif[ies], the ranking of the [Notes] in respect of right of payment that would adversely affect the Holders of the [Notes]."

ANSWER: The allegations in Paragraph 237 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith.

238. Finally, Section 3.02 of the Governing Indentures requires that, unless the company redeems 100% of the Original Secured Notes (which it did not do here), any Original Secured Note to be redeemed or purchased must be selected by the indenture trustee either pro rata, by lottery, or by some other "fair and appropriate" method.

ANSWER: The allegations in Paragraph 238 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith.

239. Many of the 2024/2026 Holders purchased their Notes at or near the time of their initial issuance and have continued to hold those Notes through today.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 239.

III. Origins of the Insider Transaction

240. As the Company noted in the Carney Declaration:

> The COVID-19 pandemic in early 2020 devastated the aerospace industry. The Company's business was no exception. Travel restrictions were implemented early in the pandemic and grounded most of the global commercial airline fleet, causing customer demand for parts and services to decrease rapidly. Notably, COVID-19 occurred just as the Company was formed through the consolidation of Wesco and Pattonair . . . .

Carney Decl. ¶ 8.

ANSWER: The Debtors admit the allegations in Paragraph 240.

241. In July 2020, shortly after that consolidation, the Company revealed that the Platinum Fund had been buying Unsecured Notes on the secondary market. Although the Company failed to disclose how many Unsecured Notes the Platinum Fund purchased, or the prices it paid, market data from the relevant time period reveals an average trading price of 69 cents on the dollar. In November 2020, the Company also issued the Platinum-Controlled Parent a $25 million unsecured promissory note.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent." The Debtors admit that in 2020 the Company disclosed that a Platinum-affiliated entity purchased Unsecured Notes. The Debtors further admit that, to aid the Company's liquidity, in November 2020, TopCo provided the Company with a $25 million cash infusion in exchange for a $25 million unsecured promissory note due November 2023. The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained concerning the average trading prices during what Paragraph 241 purports to be the "relevant time period" and therefore deny those allegations. The Debtors otherwise deny the allegations in Paragraph 241, including any insinuation that they had

any contractual or other legal obligation to disclose details concerning the amount and purchase price of the Unsecured Notes purchased by the Platinum Fund.

242. The Platinum Fund's motives for acquiring the Unsecured Notes are now clear. Given the financial straits the Company was facing due to COVID-19, and the likelihood that the Platinum-Controlled Parent's equity stake would be wiped out if the Company continued to struggle, the Platinum Fund, upon information and belief, actively sought a position in the Company's debt structure that it and the Platinum Sponsor could monetize in a restructuring by virtue of the Platinum-Controlled Parent's and the Platinum Sponsor's absolute control over the Company. Had any of the Platinum entities sought to support the Company and its various stakeholders, they could have provided significant debt relief by retiring the Unsecured Notes acquired by the Platinum Fund or by forgiving the $25 million promissory note issued to the Platinum-Controlled Parent. The Platinum Sponsor could also at any time have waived its $7 million annual consulting fee.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent." The Debtors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 242.

243. In late 2021, Platinum and the Company retained advisors and began exploring an out-of-court recapitalization.

ANSWER: The Debtors admit the allegations in Paragraph 243.

244. Upon information and belief, the Platinum Creditors, the Company, and their advisors did not initiate contact with more than one lending group regarding financing opportunities.

ANSWER: The Debtors deny the allegations in Paragraph 244.

245. The Platinum Creditors and the Company did not disclose its exploration of an out-of-court recapitalization to the market, but the news leaked on February 7, 2022.

ANSWER: The Debtors admit that on February 7, 2022 Debtwire published an article reporting on the Company's recapitalization negotiations, which speaks for itself. The Debtors otherwise deny the allegations in Paragraph 245, including any insinuation that they had any obligation, contractual or otherwise, to disclose pre-transaction negotiations.

246. On that date, Debtwire published an article titled "Wesco Aircraft in talks with select holders for priming roll-up and new capital injection." The article reported that discussions were ongoing between certain of the Favored Noteholders and the Company about an out-of-court recapitalization, which would eventually become the Insider Transaction. The article described a framework under which Favored Noteholders would exchange their holdings of Original Secured Notes into a new senior secured debt facility. According to the article, "[s]uch an uptier deal would effectively reduce the economics for existing bondholders by stripping out liens under its bond indentures."

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or characterizing the Participating Noteholders as the "Favored Noteholders." The Debtors admit that on February 7, 2022 Debtwire published an article reporting on the Company's recapitalization negotiations, which speaks for itself.

247. After Debtwire's report, certain Counterclaim Plaintiffs became part of an ad hoc group that held, among other interests, more than one-third of the 2026 Original Secured Notes (the "Ad Hoc Group"). The Ad Hoc Group immediately hired legal and financial advisors and instructed those advisors to prepare alternative financing proposals that would be open to all secured noteholders, not just a subset of them.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 247.

248. Consistent with that mandate, the Ad Hoc Group's advisors submitted a first proposal to the Company on March 6, 2022 (the "First Bid"). The First Bid contemplated liquidity enhancements through an up-front investment and through cash interest savings achieved through an exchange of Original Secured Notes into new payment-in-kind bonds. Additional savings would be achieved if, as contemplated by the First Bid, (i) the Platinum Fund would agree to convert its Unsecured Notes to payment-in-kind bonds and (ii) the Platinum Sponsor would waive its $7 million annual consulting fee.

ANSWER: The Debtors admit that on March 6, 2022, as part of its competitive marketing process in advance of the 2022 Transaction, the Company received a proposal for a liquidity transaction from advisors to the Ad Hoc Group. The Debtors lack knowledge or information sufficient to form a belief as to the truth of allegations that this proposal was consistent with the Ad Hoc Group's mandate to its advisors. The allegations in Paragraph 248 otherwise

purport to characterize the Ad Hoc Group's First Bid, which speaks for itself, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Ad Hoc Group's First Bid for its contents and deny any allegations that are inconsistent therewith.

249. The First Bid was what the market has come to refer to as a "pro rata" proposal, which allowed all holders of Original Secured Notes to participate in the contemplated transaction, thus eliminating any material risk of litigation.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 249, including what "the market" considers a "pro rata proposal." The Debtors deny that the Ad Hoc Group's First Bid did not carry any material risk of litigation. To the extent the allegations in Paragraph 249 otherwise purport to characterize the Ad Hoc Group's First Bid, which speaks for itself, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Ad Hoc Group's First Bid for its contents and deny any allegations that are inconsistent therewith.

250. Subsequently, on March 11, 2022, the Ad Hoc Group's advisors submitted to the Company a second financing proposal (the "Second Bid" and together with the First Bid, the "Bids"), which provided the Company the option of drawing even more capital. The Second Bid was driven by the Company's changing indications to the Ad Hoc Group's advisors of the size of its liquidity need. As with the First Bid, the Second Bid was a pro rata proposal that was open to all holders of Original Secured Notes, did not require a complete overhaul of the Company's capital structure to implement, and did not carry material litigation risk. The Bids did not propose that the Company would have any indemnification obligations.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 250 as to the Ad Hoc Group's motivations for submitting a second financing proposal. The Debtors admit that the Ad Hoc Group's First Bid failed to offer the Company the liquidity it needed to survive as a going concern, and that the Company communicated the First Bid's deficiencies to the Ad Hoc Group. The Debtors deny that the Ad Hoc Group's Second Bid did not carry any material risk of litigation or require an overhaul

of the Debtors' capital structure. To the extent the allegations in Paragraph 250 purport to characterize the Ad Hoc Group's Second Bid, which speaks for itself, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Ad Hoc Group's Second Bid for its contents and deny any allegations that are inconsistent therewith.

251. After delivery of the Ad Hoc Group's Bids, the Ad Hoc Group repeatedly asked the Company for access to material non-public information about the Company to refine its Bids and to help the Company solve its immediate liquidity issues. But then, on March 29, 2022, the Company simply announced the completion of the Insider Transaction without ever formally countering any of the Ad Hoc Group's Bids or sharing with the Ad Hoc Group the details of the Insider Transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors admit that the Ad Hoc Group made requests for access to material non-public information, and that the Debtors never provided a formal counterproposal to the Ad Hoc Group. The Debtors otherwise deny the allegations in Paragraph 251, including any insinuation that the Debtors entered into the 2022 Transaction without considering the Ad Hoc Group's Bids or that the Debtors were under any obligation, contractual or otherwise, to disclose to the Ad Hoc Group any non-public information, including any details concerning the 2022 Transaction.

252. The Company did not "engage[] in good faith negotiations with all its stakeholder groups" from the outset, as it claims. Carney Decl. ¶ 10.

ANSWER: The allegations in Paragraph 252 assert legal arguments or conclusions, to which no response is required. To the extent a response is required, the Debtors deny the allegations in Paragraph 252.

253. Nearly all of the 2024/2026 Holders purchased their Notes before the Insider Transaction, and many of the 2024/2026 Holders purchased their Notes at or around the time of the initial issuance and have continued to hold those Notes through today.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors otherwise lack

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 253.

IV. The Insider Transaction

254. To implement the Insider Transaction on March 28, 2022, the Company and others simultaneously executed at least ten integrated written agreements, including an unauthorized amendment to the Governing Indentures that was artificially labeled as two amendments: the "Third Supplemental Indenture" and the "Fourth Supplemental Indenture" (together, the "Unauthorized Amendments").[14]

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or characterizing the Supplemental Indentures as the "Unauthorized Amendments." The allegations in Paragraph 254 otherwise purport to characterize the Third Supplemental Indentures and Fourth Supplemental Indentures, among other agreements, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Third Supplemental Indentures and Fourth Supplemental Indentures for their contents and deny any allegations that are inconsistent therewith. The allegations in footnote 12 assert legal arguments and conclusions, to which no response is required.

255. Under the Governing Indentures as they existed without the Unauthorized Amendments, the Company could not issue more than approximately $75 million in pari passu first lien secured debt.

[14] The Third Supplemental Indenture and the Fourth Supplemental Indenture are a single, integrated amendment executed simultaneously for a singular purpose and, therefore, the Counterclaims' use of the plural "Unauthorized Amendments" herein is solely for convenience. A Third Supplemental Indenture and Fourth Supplemental Indenture were executed for each of the 2024 Original Secured Note Indenture and the 2026 Original Secured Note Indenture. As with the Governing Indentures, the supplemental indentures for the 2024 Original Secured Notes and the 2026 Original Secured notes are substantially similar to one another for the purposes of these Counterclaims. The Third Supplemental Indenture and Fourth Supplemental Indenture to the 2024 Original Secured Note Indenture were filed as Adv. Pro., Docket Nos. 12-13 and 12-14, respectively. The Third Supplemental Indenture and Fourth Supplemental Indenture to the 2026 Original Secured Note Indenture were filed as Adv. Pro., Docket Nos. 12-10 and 12-11, respectively.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Supplemental Indentures as the "Unauthorized Amendments." The allegations in Paragraph 255 otherwise purport to characterize the Original Secured and Unsecured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured and Unsecured Indentures for their contents and deny any allegations that are inconsistent therewith

256. The Unauthorized Amendments purported to modify the Governing Indentures to allow for the issuance by the Company of $250 million in "Additional Secured Notes"—i.e., the Phantom Notes. Specifically, the Third Supplemental Indenture purported to amend the definition of "Permitted Liens" and "Permitted Debt" to add ***only*** the Phantom Notes but not any other types of liens or debts, such as the New 1L Notes or the New 1.25L Notes.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Additional 2026 Notes as "Phantom Notes" or the Supplemental Indentures as the "Unauthorized Amendments." The allegations in Paragraph 256 otherwise purport to characterize the Third Supplemental Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Third Supplemental Indentures for their contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 256 asserts legal conclusions, no response is required.

257. Under the Governing Indentures, the issuance of Additional Secured Notes was subject to Section 4.12 and therefore could not "***directly or indirectly***" create new liens other than the Permitted Liens.

ANSWER: The allegations in Paragraph 257 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 257 asserts legal conclusions, no response is required.

258. The Third Supplemental Indenture was not consented to by a supermajority of the 2026 Original Secured Notes then outstanding.

ANSWER: The allegations in Paragraph 258 purport to characterize the Third Supplemental Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Third Supplemental Indentures for their contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 258 otherwise asserts legal arguments and conclusions, no response is required.

259. The Company purported to issue the Phantom Notes only to certain Favored Noteholders to dilute the Ad Hoc Group's one-third holding in the 2026 Original Secured Notes to give those Favored Noteholders an artificial supermajority.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Additional 2026 Notes as "Phantom Notes" or characterizing the Participating Noteholders as the "Favored Noteholders." The Debtors admit that the 2022 Transaction, in compliance with all governing agreements, included the issuance of the Additional 2026 Notes to Participating Secured Noteholders. To the extent Paragraph 259 asserts legal arguments and conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 259.

260. The purpose of the Phantom Notes was not to provide the Company with additional liquidity as the Debtors claim. The Phantom Notes, rather, were an unauthorized means of manufacturing feigned supermajority consent to terminating the Security Documents and discharging all of the Counterclaim Plaintiffs' Liens on Collateral.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Additional 2026 Notes as "Phantom Notes." To the extent Paragraph 260 asserts legal arguments and conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 260.

261. New liquidity could have been provided in a much more rational fashion by issuing additional super-priority debt with supermajority consent and thus without breaching the Governing Indentures. Instead, the Company chose subterfuge and favoritism by issuing Phantom

Notes at par and simultaneously exchanging them for New 1L Notes at par, even though the Original Secured Notes were trading as low as 84 cents in the months leading up to the Insider Transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or characterizing the Company's conduct as "subterfuge and favoritism." The Debtors admit that in the months prior to the 2022 Transaction, the 2024 and 2026 Notes traded on the secondary market at a discount to par value, including as low as 84 cents. To the extent Paragraph 261 asserts legal arguments and conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 261.

262. The purported effect of the Unauthorized Amendments—and their purpose—was to "release[], terminate[], and discharge[] in full" all of the Liens securing the Counterclaim Plaintiffs' Notes and issue new unpermitted liens so that the Counterclaim Plaintiffs' Notes, supposedly, "shall represent unsecured obligations of the Company."

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Supplemental Indentures as the "Unauthorized Amendments." The allegations in Paragraph 262 purport to characterize the Fourth Supplemental Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Fourth Supplemental Indentures for their contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 262 otherwise asserts legal arguments and conclusions, no response is required.

263. The apparition-like existence of the Phantom Notes—which were simultaneously issued, voted, exchanged, and cancelled as part of one transaction—confirms that their purpose was to subvert the Counterclaim Plaintiffs' supermajority consent rights in violation of the Governing Indentures and underscores the singular, integrated nature of the interwoven agreements comprising the Insider Transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Additional 2026 Notes as the "Phantom Notes" or as having an "apparition-like existence." To the extent Paragraph 262 asserts legal arguments and conclusions, no response is

required. The Debtors otherwise deny the allegations in Paragraph 263, including any allegations as to the Company's intent in issuing the Additional 2026 Notes.

264. In the Uptier Exchange, certain Favored Noteholders exchanged Original Secured Notes and Phantom Notes, at par, for approximately $1.27 billion of new, first lien secured notes (the "New 1L Notes"), which purportedly rank senior to the Counterclaim Plaintiffs' now unsecured notes.

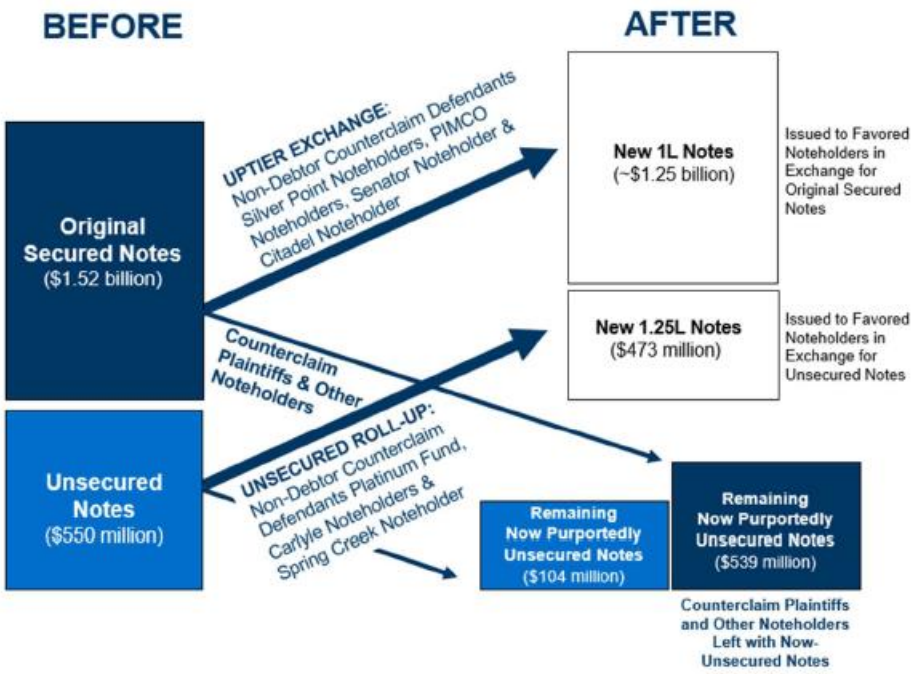
ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Additional 2026 Notes as "Phantom Notes" or characterizing the Participating Noteholders as the "Favored Noteholders." The Debtors admit that, in accordance with the terms of their debt agreements, including the terms of the Fourth Supplemental Indentures and the Exchange Agreement, the Participating Secured Noteholders exchanged their 2024 and 2026 Notes, including the Additional 2026 Notes, for approximately $1.27 billion in 2026 Secured 1L Notes, which are now senior to the Formerly Secured Noteholders' notes. To the extent the allegations in Paragraph 264 otherwise purport to characterize the Original Secured Indentures, the Fourth Supplemental Indentures, or the Exchange Agreement, which speak for themselves, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures, the Fourth Supplemental Indentures, or the Exchange Agreement for their contents and deny any allegations that are inconsistent therewith.

265. In the Unsecured Roll-up, certain Favored Noteholders exchanged Unsecured Notes, together with the $25 million unsecured promissory note held by the Platinum-Controlled Parent, at par, for approximately $473 million of newly issued 1.25 lien secured notes (the "New 1.25L Notes"), which also purportedly rank senior to the Counterclaim Plaintiffs' now-unsecured notes. Prior to the roll-up, the Unsecured Notes were trading at approximately 40 cents on the dollar.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent" or characterizing the Participating Noteholders as the "Favored Noteholders." The Debtors admit that, in accordance with the terms of their debt agreements, including the terms of the Fourth Supplemental Indentures and the

Exchange Agreement, the Participating Unsecured Noteholders exchanged, respectively, Unsecured Notes and the 2023 Promissory Note for 2027 Secured 1.25L Notes, which are now senior to the Formerly Secured Noteholders' notes. The Debtors admit that the Unsecured Notes were trading at approximately 40 cents on the dollar at or near the time of the 2022 Transaction. To the extent the allegations in Paragraph 265 otherwise purport to characterize the Original Unsecured Indenture, the Fourth Supplemental Indentures, or the Exchange Agreement, which speak for themselves, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures, the Fourth Supplemental Indentures, or the Exchange Agreement for their contents and deny any allegations that are inconsistent therewith.

266. A simplified depiction of the Company's debt structure before and after the Insider Transaction is below:



ANSWER: The "simplified depiction" in Paragraph 266 is a demonstrative that does not require a response.

267. The Insider Transaction purported to rank the Favored Noteholders' and the Platinum Creditors' rights to repayment ahead of the Counterclaim Plaintiffs' Notes. Although the New 1L Notes are nominally due in November 2026, by design they would actually mature in October 2024—*before* both the 2024 Original Secured Notes and the 2026 Original Secured Notes—because the indenture for the New 1L Notes contains a "springing maturity" provision whereby those notes would come due in October 2024 if more than $50 million of the 2024 Original Secured Notes remained outstanding as of that date. The 2024/2026 Holders own more than that amount of the 2024 Original Secured Notes, practically ensuring that the provision would be triggered. The New 1L Notes would also be paid before the Original Secured Notes are paid from the Collateral because the New 1L Notes are purportedly secured while the Original Secured Notes are purportedly unsecured.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or characterizing the Participating Noteholders as the "Favored Noteholders." The allegations in Paragraph 267 otherwise purport to characterize Fourth Supplemental Indentures, the Exchange Agreement, and the indentures for the New Notes, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Fourth Supplemental Indentures, the Exchange Agreement, and the indentures for the New Notes for their contents and deny any allegations that are inconsistent therewith.

268. In total, to effectuate the Insider Transaction, the Counterclaim Defendants simultaneously executed at least:

- Six amendments to the notes indentures, including the Unauthorized Amendments to the Governing Indentures and two other supplemental indentures for the Unsecured Notes (*see* Adv. Pro., Docket No. 12-7; 12-8; 12-10; 12-11; 12-13; and 12-14);

- One note purchase agreement pursuant to which the Company issued the Phantom Notes (the "Phantom Note Purchase Agreement") (*see* Adv. Pro., Docket No. 12-15);

- One exchange agreement pursuant to which the Favored Noteholders—including the Platinum Fund and the Platinum-Controlled Parent—exchanged their existing Original Secured Notes (plus the Phantom Notes) and/or their unsecured notes for the New 1L Notes and New 1.25L Notes, respectively (the "Exchange Agreement") (see Adv. Pro., Docket No. 12-18); and

- Two new indentures pursuant to which the Company issued the New 1L Notes and New 1.25L Notes (*see* Adv. Pro., Docket No. 12-16 and 12-17).

(collectively, the "Insider Transaction Documents").

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction," the Additional 2026 Notes as "Phantom Notes," TopCo as the "Platinum-Controlled Parent," the various documents effectuating the 2022 Transaction as the "Insider Transaction Documents," or the Participating Noteholders as the "Favored Noteholders." The Debtors admit that the 2022 Transaction included the agreements identified in Paragraph 268. The allegations in Paragraph 268 otherwise assert legal arguments and conclusions, to which no response is required.

269. All of the Insider Transaction Documents were dated March 28, 2022, but they were prepared (and, upon information and belief, many were executed) in advance of that date.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the various documents effectuating the 2022 Transaction as the "Insider Transaction Documents." The allegations in Paragraph 269 otherwise purport to characterize the various documents effectuating the 2022 Transaction, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Fourth Supplemental Indentures, the Exchange Agreement, and the indentures for the New Notes for their contents and deny any allegations that are inconsistent therewith, including any insinuation that the signatures executing the 2022 Transaction documents were effective in advance of March 28, 2022. To the extent the allegations in Paragraph 269 otherwise assert legal arguments and conclusions, no response is required.

270. Likewise, all of the Insider Transaction Documents were prepared and executed with the understanding that they constituted a single transaction and were prearranged to accomplish one purpose: the Insider Transaction. For example:

- The Favored Noteholders provided authorization letters to consent to the Third Supplemental Indenture and the Fourth Supplemental Indenture that *pre-date* March 28, 2022, the date of the Insider Transaction.

- The authorization letters to consent to the Third Supplemental Indenture "make reference" to both the Third Supplemental Indenture ***and*** the Exchange Agreement.

- The Exchange Agreement specifically recites that it was entered into "in connection with" the Phantom Note Purchase Agreement and "to enter into" the Fourth Supplemental Indenture, and it separately refers to the "Additional 2026 [Original Secured] Notes"—i.e., the Phantom Notes—when reciting the basis for asserting supermajority consent.

- The Favored Noteholders themselves, in their briefing in the First New York Action, labeled the Unauthorized Amendments, and the Insider Transaction, as a "package deal." *SSD Investments Ltd., et al. v. Wilmington Savings Fund Society, FSB, et al.*, Index No. 654068/2022, Docket No. 117, at 14.

- The Company's counsel described the Insider Transaction in open court as "one liquidity transaction," noting that while it consisted of "steps [that] are sequential, they're all part of the same transaction." *See* Transcript of June 6, 2023 Emergency Motion Hearing, Case No. 23-03091, Adv. Pro., Docket No. 38, at 44:13-16.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction," the Additional 2026 Notes as "Phantom Notes," the various documents effectuating the 2022 Transaction as the "Insider Transaction Documents," or the Participating Noteholders as the "Favored Noteholders." The Debtors deny that it was the parties' intent to execute a single, simultaneous agreement, and state that the Fourth Supplemental Secured Indentures expressly stated that the Third Supplemental 2026 Indenture was "effective prior to the execution of this Fourth Supplemental Indenture." The allegations in Paragraph 270 purport to characterize the consent letters provided in connection with the Third Supplemental Indentures and Fourth Supplemental Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the consent letters for their contents and deny any allegations that are inconsistent therewith. The allegations in Paragraph 270 assert legal arguments or conclusions, to which no response is required. The Debtors otherwise admit the allegations in Paragraph 270.

271. The Insider Transaction Documents refer to each other numerous times, and they make no business sense unless they are considered as part of a single, integrated transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the various documents effectuating the 2022 Transaction as the "Insider Transaction Documents." The Debtors admit that there are references between documents in the 2022 Transaction, and respectfully refer the Court to those documents for their contents. The allegations in Paragraph 271 otherwise assert legal arguments and conclusions, to which no response is required.

272. For example, no rational economic holder of the Original Secured Notes would vote to strip themselves of their security interests in the Collateral without being assured by the Company in advance that their Notes would immediately be exchanged for New 1L Notes. Likewise, no rational investor would have purchased the Phantom Notes at or near par but for the precondition that they would be simultaneously exchanged by the Company for the New 1L Notes given that the Original Secured Notes were trading at approximately 84 cents before news leaked of a potential transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Additional 2026 Notes as the "Phantom Notes." The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations as to what "rational economic holder[s]" of any specified debt would do or not do. To the extent the allegations in Paragraph 272 assert legal arguments or conclusions, no response is required.

273. In the Unsecured Roll-up, the Carlyle Noteholders exchanged more than half of all Unsecured Notes for new, secured 1.25L notes at par, even though the Unsecured Notes were trading at approximately 40 cents. The Platinum Sponsor and the Company directed this lucrative benefit to the Carlyle Noteholders because, as the holders of a majority of the Unsecured Notes, their consent was necessary to carry out the other aspects of the integrated Insider Transaction. Notably, the Carlyle Group was a previous owner of the Company.

ANSWER: The Debtors admit that, under the Exchange Agreement, the Carlyle Noteholders exchanged their Unsecured Notes for 2027 Secured 1.25 Notes, and that the Carlyle Noteholders consented to the Third and Fourth Supplemental Unsecured Indentures. The Debtors

admit that at times prior to the 2022 Transaction, the Unsecured Notes traded at approximately 40 cents. The Debtors otherwise deny the allegations in Paragraph 273, including that the Carlyle Group previously owned the Company, or that the Carlyle entity that previously owned one of the Company's predecessor entities held or exchanged any of the Company's unsecured notes.

274. The Platinum Fund's participation in the Unsecured Roll-up had no valid business justification for the Company. That is because the Unsecured Indenture provides that Unsecured Notes held by the Company or its affiliates are disregarded for voting purposes. See Adv. Pro., Docket No. 12-18 at § 9.02. In turn, "Affiliate" is defined to include entities with control over the Company. The Platinum Fund is therefore an Affiliate and its holdings of Unsecured Notes would not count when calculating voting majorities. Because the Platinum Fund and the Company are "Affiliates," as defined by the Unsecured Indenture, they were prohibited from voting their Unsecured Notes in connection with any proposed amendments, supplements, or waivers. Thus, there was no justification for the Company to extend the Platinum Fund the same opportunity as the Carlyle Noteholders to participate in the Unsecured Roll-up. Nevertheless, the Platinum Fund was able to exchange its Unsecured Notes for the vastly more valuable secured New 1.25L Notes.

ANSWER: The allegations in Paragraph 274 purport to characterize the Original Unsecured Indenture, which speaks for itself, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Unsecured Indenture for its contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 274 asserts legal arguments and conclusions, no response is required. The Debtors otherwise deny the allegations contained in Paragraph 274.

275. Similarly, there was no valid business justification for the Company to include the $25 million unsecured promissory note held by the Platinum-Controlled Parent in the Unsecured Roll-up. Upon information and belief, the consent of the Platinum-Controlled Parent under that promissory note was not required to amend the Governing Indentures. Nevertheless, as part of the Unsecured Roll-up, the Platinum-Controlled Parent exchanged its $25 million unsecured promissory note for the vastly more valuable New 1.25L Notes.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent." To the extent the allegations in Paragraph 275 purport to characterize the Exchange Agreement, which speaks for itself, no response is required; to the extent a response is required, the Debtors respectfully refer the Court

to the Exchange Agreement for its contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 275 asserts legal arguments and conclusions, no response is required. The Debtors otherwise deny the allegations contained in Paragraph 274.

276. Moreover, after the Insider Transaction closed, the Company and the Favored Noteholders proceeded to engage in several follow-on exchanges under the Exchange Agreement and the Phantom Note Purchase Agreement that appear to have been done at face value when the Original Secured Notes were generally trading anywhere from 50-70 cents on the dollar, with some exchanges made shortly before the petition date when the notes were trading at less than 12 cents. Through these follow-on exchanges, the Favored Noteholders thus appear to have obtained further windfall and enhanced their position.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction," or characterizing the Additional 2026 Notes as the "Phantom Notes," or the Participating Noteholders as the "Favored Noteholders." The Debtors admit that some exchanges under the Exchange Agreement became effective after the date of the 2022 Transaction, and that trading prices of the Original Secured Notes ranged from approximately 50-70 cents, or as low as 12 cents, between the 2022 Transaction and the petition date of the Chapter 11 Cases. To the extent the allegations in Paragraph 276 purport to characterize the Exchange Agreement, which speaks for itself, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Exchange Agreement for its contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 276 asserts legal arguments and conclusions, no response is required.

V. Breaches of the Governing Indentures

A. Breaches of the 2026 Original Secured Note Indentures

277. Section 2.01(e) of the Governing Indentures requires that the Company's "ability to issue Additional Secured Notes shall be subject to the [Company's] compliance with Sections 4.09 and 4.12 hereof." Section 4.12, in turn, provides that "[t]he [Company] will not, and will not permit any Subsidiary Guarantor, if any, to, ***directly or indirectly***, create, incur, assume or suffer to exist any Lien of any kind (other than Permitted Liens), securing Indebtedness of the Issuer." (Emphasis added.).

ANSWER: The allegations in Paragraph 277 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 277 otherwise asserts legal arguments or conclusions, no response is required.

278. The Insider Transaction violated these provisions of the Governing Indentures by issuing Additional Secured Notes—a.k.a., the Phantom Notes—that "***directly or indirectly***" created new Liens other than Permitted Liens.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction," or characterizing the Additional 2026 Notes as the "Phantom Notes." The allegations in Paragraph 278 purport to characterize the Original Secured Indentures and the Third Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures and the Third Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 278 otherwise asserts legal arguments or conclusions, to which no response is required.

279. The Insider Transaction also violated the Governing Indentures by incurring indebtedness in the form of the New 1L Notes and the New 1.25L Notes that was not Permitted Indebtedness.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The allegations in Paragraph 278 purport to characterize the Original Secured Indentures and the Third and Fourth Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures and the Third and Fourth Supplemental Secured Indentures for their contents and deny

any allegations that are inconsistent therewith. Paragraph 279 otherwise asserts legal arguments or conclusions, to which no response is required.

280. The Phantom Notes were issued by the Company, at the direction of the Platinum- Controlled Parent and the Platinum Sponsor and with the approval of the Board, in breach of the Governing Indentures.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Additional 2026 Notes as the "Phantom Notes." The allegations in Paragraph 280 purport to characterize the Original Secured Indentures and the Third Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures and the Third Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 280 otherwise asserts legal arguments or conclusions, to which no response is required.

281. Additionally, Section 9.02 of the 2026 Original Secured Note Indenture provides that, "without the consent of 66⅔ percent in aggregate principal amount of the 2026 Secured Notes ***then outstanding***"—which the Company *did not* have—"no amendment, supplement or waiver may (1) ***have the effect*** of releasing all or substantially all of the Collateral from the Liens created pursuant to the Security Documents . . . or changing or altering the priority of the security interests of the Holders of the 2026 [Senior] Secured Notes[.]" Section 9.02 also prohibits any amendments that "(2) make any change in the Security Documents, the Intercreditor Agreements or the provisions in this Indenture dealing with the application of proceeds of the Collateral ***that would adversely affect*** the Holders of the 2026 [Senior] Secured Notes or (3) ***modify*** the Security Documents or the provisions of this Indenture dealing with Collateral ***in any manner adverse*** to the Holders of the 2026 [Senior] Secured Notes in any material respect[.]"

ANSWER: The allegations in Paragraph 281 purport to characterize the Original Secured Indentures and the Third and Fourth Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures and the Third and Fourth Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent

therewith. Paragraph 281 otherwise asserts legal arguments or conclusions, to which no response is required.

282. The Phantom Notes could not grant the supermajority consent required to approve the Unauthorized Amendments.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Additional 2026 Notes as the "Phantom Notes." Paragraph 282 otherwise asserts legal arguments or conclusions, to which no response is required.

283. Under the terms of the Governing Indentures, the phrase "***then*** outstanding" can refer only to 2026 Original Secured Notes outstanding ***before*** consent is given. The Phantom Notes were not "then-outstanding" when the Counterclaim Defendants effected the Insider Transaction, which was executed via multiple documents, but are part of a single integrated agreement under applicable New York law. Furthermore, the Phantom Notes were not "then outstanding" when the authorization letters were obtained before March 28, 2022. The Phantom Notes are thus a nullity for purposes of the consent requirement under Section 9.02.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" and characterizing the Additional 2026 Notes as the "Phantom Notes." The allegations in Paragraph 283 purport to characterize the Original Secured Indentures and the Third and Fourth Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures and the Third and Fourth Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 283 otherwise asserts legal arguments or conclusions, to which no response is required.

284. The Company did not have supermajority consent for the Insider Transaction, and thus the Company breached all three disjunctive subsections of Section 9.02 requiring supermajority consent because the Unauthorized Amendments (1) "ha[d] the effect" of "releasing all or substantially all of the Collateral from the Liens created pursuant to the Security Documents . . . or changing or altering the priority of the security interests of the Holders of the 2026 Secured Notes," (2) changed provisions in the relevant documents dealing with the application of proceeds of the Collateral that adversely affected the holders of the Original Secured

Notes, and (3) modified the relevant documents dealing with the Collateral in a manner materially adverse to the holders of the Original Secured Notes.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The allegations in Paragraph 284 purport to characterize the Original Secured Indentures and the Third and Fourth Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures and the Third and Fourth Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 284 otherwise asserts legal arguments or conclusions, to which no response is required.

285. Any interpretation of the Governing Indentures advanced by the Company that would purportedly allow supermajority consent requirements to be circumvented by the issuance of Phantom Notes would render Section 9.02 and Section 4.12 meaningless. For example, if the Company, the indenture trustee, and a simple majority of Original Secured Notes could collude to amend the Governing Indentures so that a simple majority of holders could vote as a purported supermajority that was lacking immediately before their scheme (and obtained only because of their scheme), the supermajority consent requirement is meaningless. This would eviscerate supermajority consent rights and the restrictions on issuing additional notes, which are specifically negotiated by sophisticated market participants to protect against transactions like the Insider Transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" and characterizing the Additional 2026 Notes as the "Phantom Notes." The allegations in Paragraph 285 purport to characterize the Original Secured Indentures and the Third and Fourth Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures and the Third and Fourth Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 285 otherwise asserts legal arguments or conclusions, to which no response is required.

B. Breaches of both the 2024 Original Secured Note Indenture and the 2026 Original Secured Note Indenture

286. Section 9.02 of the Governing Indentures provides that without the consent of each "***affected***" holder—which the Company did not have for the Insider Transaction—it cannot "make any change to, or modify the ranking of the [Original] Secured Notes in respect of right of payment that would adversely affect the Holders of the [Original] Secured Notes[.]"

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The allegations in Paragraph 286 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 286 otherwise asserts legal arguments or conclusions, to which no response is required.

287. The Insider Transaction made a change to or modified the ranking of the Counterclaim Plaintiffs' Original Secured Notes in respect of right of payment, including by purporting to strip the Counterclaim Plaintiffs' Liens and to issue New 1L Notes with a "springing maturity" so that they would come due before the Original Secured Notes. The Insider Transaction thus purported to put the Original Secured Notes at the back of the line for payment, allowing the Favored Noteholders to jump ahead and leave the Counterclaim Plaintiffs holding the proverbial empty bag.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or characterizing the Participating Noteholders as the "Favored Noteholders." The allegations in Paragraph 287 purport to characterize the Original Secured Indentures, the Third and Fourth Supplemental Secured Indentures, and the Exchange Agreement, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures, the Third and Fourth Supplemental Secured Indentures, and the Exchange Agreement for their contents and deny any allegations that are inconsistent therewith. Paragraph 287 otherwise asserts legal arguments or conclusions, to which no response is required.

288. The Company did not have the consent of all holders of the Original Secured Notes "affected" by the Insider Transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." Paragraph 288 otherwise asserts legal arguments or conclusions, to which no response is required.

289. Because the Insider Transaction made a "change to" or "modif[ied]" the "ranking of the Secured Notes in respect of right of payment that would adversely affect the Holder of the Secured Notes" without the consent of all "affected" holders, the Insider Transaction breached both the 2024 Original Secured Note Indenture and the 2026 Original Secured Note Indenture.'

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The allegations in Paragraph 289 purport to characterize the Original Secured Indentures, the Third and Fourth Supplemental Secured Indentures, and the Exchange Agreement, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures, the Third and Fourth Supplemental Secured Indentures, and the Exchange Agreement for their contents and deny any allegations that are inconsistent therewith. Paragraph 289 otherwise asserts legal arguments or conclusions, to which no response is required.

290. Additionally, the Original Secured Notes redeemed or purchased in the Insider Transaction were not selected by the indenture trustee pro rata, by lottery, or by any other "fair and appropriate" method, as required by Section 3.02.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The allegations in Paragraph 290 purport to characterize the Original Secured Indentures and the Exchange Agreement, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures and the Exchange

Agreement for their contents and deny any allegations that are inconsistent therewith. Paragraph 290 otherwise asserts legal arguments or conclusions, to which no response is required.

291. The Bank of New York Mellon Trust Company, N.A. ("BNY") initially served as indenture trustee for the Governing Indentures. Not coincidentally, however, in the run-up to the Insider Transaction, BNY resigned as indenture trustee and was replaced by WSFS with the consent of the Favored Noteholders. Upon information and belief, Platinum and the Favored Noteholders needed a conduit that would violate the Governing Indentures in a manner that favored them and harmed the Counterclaim Plaintiffs. They appointed WSFS.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Participating Noteholders as the "Favored Noteholders." The Debtors admit that, prior to the 2022 Transaction, BNY resigned its role as indenture trustee and was replaced by WSFS. To the extent Paragraph 291 otherwise asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 291.

292. As an initial matter, WSFS was never eligible under the Governing Indentures to serve as indenture trustee. Under Section 7.10 of the Governing Indentures, the indenture trustee must be a "corporation or national banking association organized and doing business under the laws of the United States of America or of any state thereof." WSFS is a federal savings bank organized under the Home Owners' Loan Act. WSFS is thus neither a "corporation" nor a "national association."

ANSWER: The allegations in Paragraph 292 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. The Debtors admit that WSDS is a federal savings bank. Paragraph 292 otherwise asserts legal arguments or conclusions, to which no response is required.

293. The Unauthorized Amendments—which WSFS signed purportedly on behalf of all holders of the Original Secured Notes—are violently detrimental to the rights of those Notes. For example, Section 3(b) of the Fourth Supplemental Indenture purported to release the Liens in the Collateral securing the Counterclaim Plaintiffs' Notes and directs that WSFS as Notes Collateral Agent "take all actions . . . to provide evidence that the Liens shall cease to secure" the Counterclaim Plaintiffs' Notes. Also, Section 2(a) of the Fourth Supplemental Indenture purported

to delete Sections 6.01(9) and (10) of the Governing Indentures, which trigger Events of Default when any material provision of the Security Documents or Intercreditor Agreements cease to be in full force and effect, or if the Liens lose their priority. The Insider Transaction triggered Events of Default under both of those provisions.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" and characterizing the Third and Fourth Supplemental Secured Indentures as the "Unauthorized Amendments" or as "violently detrimental." The Debtors admit that WSFS executed the Third and Fourth Supplemental Indentures. The allegations in Paragraph 293 otherwise purport to characterize the Third and Fourth Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Third and Fourth Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 293 otherwise asserts legal arguments or conclusions, to which no response is required.

294. The Insider Transaction also attempted to entrench WSFS and thereby impede litigation by holders of the Original Secured Notes harmed by the Insider Transaction, such as the Counterclaim Plaintiffs. The Unauthorized Amendments purport to delete the second sentence of Section 7.08(c) of the Governing Indentures, which gives holders with more than 50 percent of each of the 2026 Original Secured Notes and 2024 Original Secured Notes the right to remove and replace any successor trustee (as WSFS was) with a trustee of their choosing within a year of that trustee's appointment. The Insider Transaction did not, however, similarly delete the first sentence of Section 7.08(c), which allows the Company itself to appoint a new successor trustee if WSFS were removed for any reason, including by the majority of holders. And tellingly, the Insider Transaction preserved the rights of the Favored Noteholders to select their own replacement trustee: the indentures for their New 1L Notes and the New 1.25L Notes both include the provision purportedly deleted from Section 7.08(c) of the Governing Indentures.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction," the Third and Fourth Supplemental Secured Indentures as the "Unauthorized Amendments," or the Participating Noteholders as the "Favored Noteholders." The allegations in Paragraph 294 purport to

characterize the Third and Fourth Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Third and Fourth Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 294 otherwise asserts legal arguments or conclusions, to which no response is required.

295. Finally, underscoring the damage that WSFS and the Company set out to inflict upon holders of the Original Secured Notes, the Unauthorized Amendments attempted to remove substantially all protective covenants from the Governing Indentures . . . .

ANSWER: The allegations in Paragraph 295 purport to characterize the Third and Fourth Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Third and Fourth Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 295 otherwise asserts legal arguments or conclusions, to which no response is required.

VI. The Market, Platinum, and the Favored Noteholders Share the Counterclaim Plaintiffs' Interpretation of the Supermajority Protections of the Governing Indentures

296. In February 2022, certain members of the Ad Hoc Group joined together to form a blocking position in response to market rumors about a potential out-of-court restructuring. Through its holdings in the 2026 Original Secured Notes, the Ad Hoc Group (as it was then constituted) sought to block any transaction that would release their security interests in the Collateral without their consent.

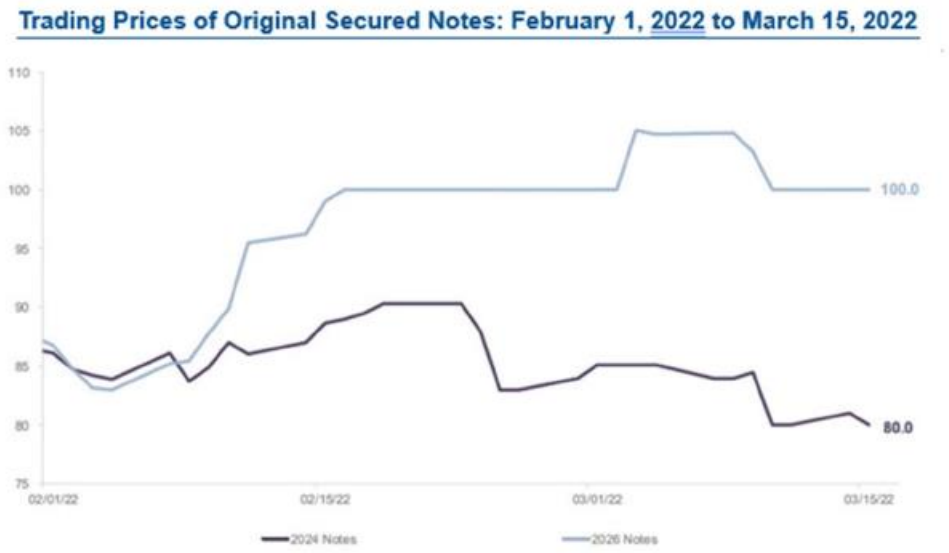
ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 296.

297. Upon information and belief, when certain Favored Noteholders learned of the formation of the Ad Hoc Group and its goal of securing a blocking position of one-third of the outstanding 2026 Original Secured Notes, those Favored Noteholders rushed to acquire enough 2026 Original Secured Notes in the secondary market to overcome the blocking position. Upon information and belief, the Favored Noteholders did so because they knew that a Lien-stripping

transaction of the kind discussed in press reports at the time required the consent of two-thirds of the outstanding 2026 Original Secured Notes.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Participating Noteholders as the "Favored Noteholders." The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 297.

298. As reflected in the chart below, the 2026 Original Secured Notes and 2024 Original Secured Notes were both trading at roughly 85 cents on the dollar on February 7, 2022, when rumors of a potential transaction first leaked. By early March 2022, the market price of 2026 Original Secured Notes reached 105 cents on the dollar, while the market price of 2024 Original Secured Notes (secured by the exact same Collateral and with an earlier maturity date) remained relatively unchanged.



ANSWER: The Debtors admit that in February and March 2022, the trading prices for the 2024 and 2026 Notes ranged from approximately 85 cents to 105 cents. The chart included in Paragraph 298 is a demonstrative to which no response is required.

299. The bidding war for the 2026 Original Secured Notes—to obtain either a one-third blocking position or a two-thirds supermajority position—demonstrated that the Counterclaim Defendants, the Counterclaim Plaintiffs, and the market all understood the supermajority requirements in the 2026 Original Secured Note Indenture required two-thirds consent for the out-of-court restructuring discussed in news reports in February 2022. Said differently, the market and its sophisticated participants correctly understood that a release of Liens

could not be consummated without the consent of, at least, a supermajority of the holders of the Original Secured Notes.

ANSWER: To the extent Paragraph 299 asserts legal arguments or conclusions, no response is required. The Debtors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 299.

300. The Favored Noteholders' scramble to neutralize the Ad Hoc Group by acquiring a supermajority of 2026 Original Secured Notes ultimately failed. By late February 2022, the Ad Hoc Group's aggregate holdings of 2026 Original Secured Notes exceeded one-third of the notes then outstanding. However, upon information and belief, certain Favored Noteholders falsely claimed to other investors, broker-dealers, and the market that they had a supermajority of 2026 Original Secured Notes and could therefore execute a Lien-stripping transaction, again showing that the Counterclaim Defendants understood the importance of holding a supermajority of the 2026 Original Secured Notes.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Participating Noteholders as the "Favored Noteholders." To the extent Paragraph 300 asserts legal arguments or conclusions, no response is required. The Debtors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 300.

301. Upon information and belief, Platinum and the Favored Noteholders understood that the transaction contemplated as of February 7, 2022 could not be completed without obtaining the consent of a supermajority of the 2026 Original Secured Notes outstanding as of that date.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Participating Noteholders as the "Favored Noteholders." To the extent Paragraph 301 asserts legal arguments or conclusions, no response is required. The Debtors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 301.

302. Upon information and belief, the Company and WSFS—like the rest of the market—understood that the Governing Indentures required a supermajority to release the Liens on Collateral securing the Counterclaim Plaintiffs' Notes. Nevertheless, they proceeded with the Insider Transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors admit that the Company and WSFS participated in the 2022 Transaction. The allegations in Paragraph 302 otherwise purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. To the extent that Paragraph 302 asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 302.

303. The Counterclaim Defendants knew that the Insider Transaction would be challenged in court. The terms of the New 1L Notes and 1.25L Notes indentures allowed the Company to issue enough additional New 1.25L Notes to allow it to exchange the Original Secured Notes left outstanding after the Insider Transaction. The main, if not sole, purpose of that provision was apparently to create a "settlement basket" of New 1.25L Notes that could be used to settle claims brought by the Ad Hoc Group or other holders of unexchanged Original Secured Notes. These New 1.25L Notes, however, would be subordinated: they would rank junior to the New 1L Notes issued to Favored Noteholders (who were previously pari passu with the Counterclaim Plaintiffs), and they would rank pari passu with the New 1.25L Notes issued to the participants in the Unsecured Roll-up (who were previously junior to the Counterclaim Plaintiffs).

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or the Participating Noteholders as the "Favored Noteholders." The allegations in Paragraph 303 purport to characterize the New 1L and 1.25 Notes Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the New 1L and 1.25 Notes Indentures for their contents and deny any allegations that are inconsistent therewith. To the extent that Paragraph 303 asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 303.

VII. The Preordained and Self-interested Nature of the Insider Transaction Shows the Counterclaim Defendants' Bad Faith Toward the 2024/2026 Holders

304. Unbeknownst to the Ad Hoc Group, their proposals for alternative financings were futile from the start. The Company had, upon information and belief, determined under the dominion of Platinum to proceed with a transaction favorable to the Platinum Creditors and the other Favored Noteholders.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Participating Noteholders as the "Favored Noteholders." The Debtors otherwise deny the allegations in Paragraph 304.

305. The pre-ordained nature of the Insider Transaction is evidenced by, among other things, the confidentiality agreements that the Company insisted that the Ad Hoc Group's advisors sign before being granted access to limited diligence about the Company (the "Confidentiality Agreements"). The Confidentiality Agreements contained an unusual provision that purported to restrict the Ad Hoc Group's advisors from using—or ever referring to—certain communications in a subsequent litigation, even if those communications did not constitute "Confidential Information" as defined by those Confidentiality Agreements. That same provision also purported to dictate whether certain communications could be introduced as evidence in a subsequent litigation. In hindsight, if the Company had intended to negotiate with the Ad Hoc Group in good faith, there would have been no need for these draconian, unusual, and off-market provisions. The Confidentiality Agreements thus show the Company's expectation that a deal with the Platinum Creditors that excluded the Ad Hoc Group was a foregone conclusion and would lead to litigation.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The allegations in Paragraph 305 purport to characterize certain confidentiality agreements, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to those confidentiality agreements for their contents and deny any allegations that are inconsistent therewith. To the extent that Paragraph 305 asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 305.

306. The lack of engagement by the Company with the Ad Hoc Group makes plain Platinum's and the Board's intention to exclusively pursue the Insider Transaction. The information provided by the Company to the Ad Hoc Group under the Confidentiality Agreements was so limited, and so delayed, as to render such information practically useless.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 306 related to the usefulness of the information provided to the Ad Hoc Group. To the extent that Paragraph 306 asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in paragraph 306.

307. Before and after the Insider Transaction, the Company also failed to implement appropriate governance protocols to counteract Platinum's insider status.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." Paragraph 307 asserts hypothetical facts, to which no response is required. To the extent Paragraph 307 otherwise asserts legal arguments or conclusions, no response is required.

308. For example, instead of taking steps to ensure that an independent Board fulfilled its duties while insolvent, the Board dominated by Platinum appointed only a single "independent" director—Mr. Bartels. And Mr. Bartels was not appointed to the Board of the Company or any of the Guarantor Defendants. He was instead appointed to the board of Wolverine Intermediate, alongside multiple senior executives and officers of the Platinum Sponsor. And it was not Mr. Bartels who approved the Insider Transaction; rather, it appears that the Board of Wolverine Intermediate as a whole (including its *interested* directors) approved the Insider Transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." Paragraph 308 asserts hypothetical facts, to which no response is required. The Debtors admit that Mr. Bartels was appointed to as an independent director of Wolverine Intermediate, and state that the 2022 Transaction was approved by both Mr. Bartels and the Board of Wolverine Intermediate. To the extent Paragraph 307 otherwise asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 308.

309. Mr. Carney's first-day declaration suggests, at paragraph 79, that the entire Board (of all but one insider), that merely included Mr. Bartels, approved the Insider Transaction, stating:

> The board of directors, including Mr. Bartels as an independent director, carefully considered each proposal Incora received in light of all circumstances. Ultimately, the board determined that the best financing terms came from the Majority Noteholders.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors admit that the 2022 Transaction was approved by both Mr. Bartels and the Board of Wolverine Intermediate.

310. Although Mr. Bartels had been tasked with overseeing the Company's increasingly urgent efforts to raise liquidity, upon information and belief, he was not provided with independent legal and financial advisors to advise him in the exercise of his duties. Mr. Bartels was therefore required to rely on the legal and financial advisors engaged by the Company, Wolverine Intermediate, and/or its "interested" directors in approving the Insider Transaction.

ANSWER: The Debtors admit that Mr. Bartels' responsibilities included oversight of the Company's urgent effort to raise liquidity and that he did not have separate legal and financial advisors in his review and approval of the 2022 Transaction. The Debtors otherwise deny the allegations in Paragraph 310.

311. Furthermore, the Company never engaged in a *bona fide* bidding process for a restructuring. Mr. Bartels was contacted about service as an independent director for a potential transaction as early as November 1, 2021. And yet, at no point did the Company or its advisors reach out to the minority holders. Instead, upon information and belief, the Company negotiated with the Platinum Creditors (who were acting through their agent, the Platinum Sponsor) and the other Favored Noteholders behind closed doors until news of a potential transaction leaked in February 2022, more than three months later.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Participating Noteholders as the "Favored Noteholders." The Debtors state that the Company engaged Mr. Bartels on February 8, 2022, and admit that they did not initiate contact with all of the debt constituencies with which the Company negotiated in advance of the 2022 Transaction. The Debtors further state that the Company reviewed a competitive bids in advance of the 2022 Transaction. The Debtors otherwise deny the allegations in Paragraph 311, including the insinuation that they were obligated, contractually or otherwise, to negotiate in public.

312. The Company's failure to undertake a fair and competitive financing process aimed at achieving the highest and best proposal can be explained only by Platinum's dominance over the Company and Platinum's desire to ensure that it protected its own interests through the Insider Transaction to the direct detriment of the 2024/2026 Holders.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors lack information or information sufficient to form a belief as to the truth of allegations as to Platinum's desires. To the extent Paragraph 312 asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 312.

313. Platinum, upon information and belief, used its control and insider status to ensure the defeat of any proposal put forward by the Ad Hoc Group as an alternative to the Insider Transaction. Platinum at all times preferred the Insider Transaction because, in contrast to the Ad Hoc Group's Bids, the Insider Transaction gave (i) the Platinum Fund the ability to exchange its Unsecured Notes for newly issued secured notes, and (ii) the Platinum-Controlled Parent the ability to exchange its unsecured promissory note for those same newly issued secured notes, each time for no valid consideration to the Company because the Platinum Fund's votes as an "Affiliate" were not counted and because, upon information and belief, the consent of the Platinum-Controlled Parent under its separate promissory note was not required.[15]

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or TopCo as the "Platinum-Controlled Parent." The Debtors lack information or information sufficient to form a belief as to the truth of allegations as to Platinum's preferences. To the extent Paragraph 313 asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 313, including those in footnote 13.

314. The Ad Hoc Group's Bids were less beneficial for each of the Platinum entities but sufficient for the Company to meet its projected liquidity needs at the time, which the Company initially told the Ad Hoc Group were around $200 million. Subsequently, the Company revised its liquidity needs to $250 million, without providing the Ad Hoc Group with the underlying data to justify such a change. Under the Ad Hoc Group's Bids, the Company would have had access to the needed liquidity through a combination of new capital, cash interest savings, and minor

[15] The waiver by the Platinum Sponsor of its management fee was insignificant in comparison to the lucrative benefits bestowed upon the Platinum Fund and the Platinum-Controlled Parent (the exchange of unsecured notes for secured notes).

concessions from the Platinum Sponsor—including its waiver of the $7 million annual consulting fee.

ANSWER: The Debtors admit that the Company provided revised liquidity needs to the Ad Hoc Group. The allegations in Paragraph 314 otherwise purport to characterize the Ad Hoc Group's Bids, which speaks for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Ad Hoc Group's Bids for their contents and deny any allegations that are inconsistent therewith. The Debtors otherwise deny the allegations in Paragraph 314.

315. The Company knew that litigation was the inevitable outcome of the Insider Transaction and, indeed, was specifically warned of such by counsel for the Ad Hoc Group in writing before doing it. That knowledge is further demonstrated by the Company's attempt to entrench a successor indenture trustee of its choosing, the off-market provisions in the Confidentiality Agreements, and the "settlement basket" in the new indentures.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors admit that counsel to the Ad Hoc Group stated their intention to challenge the 2022 Transaction. To the extent the allegations in Paragraph 315 purport to characterize the Amended Indentures or certain confidentiality agreements, which speak for themselves, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Amended Indentures and those confidentiality agreements for their contents and deny any allegations that are inconsistent therewith. To the extent that Paragraph 315 asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 315.

316. Yet, knowing this very litigation was certain, the Board controlled by Platinum made the litigation exponentially more expensive for the Company, and more favorable to the Platinum Creditors and other Favored Noteholders, by choosing the self-interested proposal that purported to indemnify each of the Platinum entities and the Favored Noteholders in the Exchange Agreement, including for legal fees and expenses arising from the Insider Transaction. That is to say, the Insider Transaction purports to require the Debtors to not only bear their own legal fees and expenses but those for the Platinum Sponsor, the Platinum Creditors, and the other Favored Noteholders.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction" or the Participating Noteholders as the "Favored Noteholders." To the extent the allegations in Paragraph 315 purport to characterize the Exchange Agreement, which speaks for itself, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Exchange Agreement for its contents and deny any allegations that are inconsistent therewith. To the extent that Paragraph 316 asserts legal arguments or conclusions, no response is required. The Debtors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 316.

317. Indemnity provisions are not common in high-yield notes indentures, and they are not included in the Governing Indentures, nor were they part of the Ad Hoc Group's Bids. The addition of indemnification provisions to the indentures of the New 1L Notes and New 1.25L Notes by incorporating the indemnity provisions of the Exchange Agreement is further evidence of the Counterclaim Defendants' bad faith.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 317 related to what is "common in high-yield notes." The allegations in Paragraph 317 otherwise purport to characterize the Ad Hoc Group's Bids, which speaks for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Ad Hoc Group's Bids for their contents and deny any allegations that are inconsistent therewith. Paragraph 317 otherwise asserts legal arguments or conclusions, and no response is required.

318. The Debtors now repeatedly refer to the costs associated with litigation as one of the driving causes of their bankruptcy filings. *See, e.g.*, Carney Decl. ¶ 89 (claiming that the New York litigation "ha[s] placed considerable strain on the Debtors"); Adv. Pro., Docket No. 1 ¶¶ 8, 9; Docket No. 3 ¶ 30. The indemnity does not apply, however, to the willful misconduct of an indemnified person.

ANSWER: The Debtors admit that Paragraph 318 accurately states Mr. Carney's Declaration and their adversary complaint [ECF No. 1]. To the extent the allegations in Paragraph

318 purport to characterize the Exchange Agreement, which speaks for itself, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Exchange Agreement for its contents and deny any allegations that are inconsistent therewith. Paragraph 318 otherwise asserts legal arguments or conclusions, to which no response is required.

319. Platinum and the Debtors were unwilling to make any concessions and were so intent on completing the Insider Transaction that, upon information and belief, they never seriously considered the Ad Hoc Group's Bids that were open to all secured noteholders, which would have reduced, if not altogether avoided, the litigation risk.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors otherwise deny the allegations in Paragraph 319.

320. Rather, Platinum, the Platinum-controlled Board, and the Debtors favored the Insider Transaction that benefitted the Platinum Creditors and the Platinum Sponsor. Indeed, except for Mr. Bartels, every other Board member was a senior executive and/or employee of the Platinum Sponsor. Eventually, the entire Board, including these interested directors, approved the Insider Transaction. Hence, upon information and belief, all members of the Board, including Mr. Bartels, knew the harm the Insider Transaction would inflict upon the Counterclaim Plaintiffs: that is, moving hundreds of millions of dollars of value from the Counterclaim Plaintiffs to Platinum and the Favored Noteholders.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction," TopCo as the "Platinum-Controlled Parent," or the Participating Noteholders as the "Favored Noteholders." The Debtors admit that, in addition to the independent director Mr. Bartels, the Board approved the 2022 Transaction. To the extent Paragraph 320 asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 320.

321. The Debtors' bad faith, moreover, did not end with the Insider Transaction. After the Insider Transaction closed, the Debtors refused the Ad Hoc Group's request to provide the agreements prepared in connection with the transaction (commonly referred to as a "closing set") and a list of fiduciaries involved in the transaction's approval.

ANSWER: Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." The Debtors admit that the Debtors did not provide the 2022 Transaction closing set to the Ad Hoc Group. The Debtors deny that they had any obligation, contractual or otherwise, to do so. To the extent Paragraph 321 asserts legal arguments or conclusions, no response is required.

VIII. The "No-Action" Provision is Not a Barrier to the Counterclaims

322. The consent rights of the 2024/2026 Holder that were breached by the Insider Transaction are unique to each such holder and exempted under applicable law from the Governing Indentures' no-action provision. Furthermore, and apart from that governing principle, even if the so-called "no-action" provision in the Governing Indentures otherwise applied to the 2024/2026 Holders' claims, which it does not under established law, adherence here would be futile.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." To the extent the allegations in Paragraph 322 purport to characterize the Original Secured Indentures, which speak for themselves, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 322 otherwise asserts legal arguments or conclusions, to which no response is required.

A. WSFS

323. The Company appointed WSFS as successor trustee, and it assumed that role just two weeks before the Insider Transaction closed on March 28, 2022.

ANSWER: The Debtors admit the allegations in paragraph 323.

324. WSFS succeeded to the role of indenture trustee for the Original Secured Notes knowing that the Company intended to strip the Liens securing the payment of those Notes.

ANSWER: The Debtors admit that WSFS succeeded to the role of indenture trustee. The Debtors lack knowledge or information sufficient to form a belief with respect to the

allegations contained in Paragraph 324 asserting WSFS's purported knowledge of the Company's intentions. The Debtors otherwise deny the allegations in Paragraph 324.

325. WSFS allowed the 2024/2026 Holders' Liens on the Collateral to be released and transferred to Platinum and other Favored Noteholders without the requisite consent of affected holders. The Ad Hoc Group members who held over one-third of all such votes for the 2026 Original Secured Notes did not consent to the release of their Liens. Nor did all affected holders consent to a modification in the ranking of their rights of payment. The Insider Transaction was therefore not permitted. Yet WSFS and the Company effected the Insider Transaction by issuing additional secured notes in violation of Section 4.12, stripping the Liens without requisite consent in violation of Section 9.02 of the Governing Indentures, and redeeming or purchasing Notes in violation of Section 3.02.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction," or the Participating Noteholders as the "Favored Noteholders." The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations as to the Ad Hoc Group's holdings at the time of the 2022 Transaction. The allegations in Paragraph 325 purport to characterize the Original Secured Indentures and the Fourth Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures and the Fourth Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 325 otherwise asserts legal arguments or conclusions, to which no response is required.

326. Additionally, WSFS entrenched itself as indenture trustee in an attempt to shield itself and the other Counterclaim Defendants from litigation by removing the provision in Section 7.08(c) of the Governing Indentures that would permit the 2024/2026 Holders, now as majority holders of the 2026 Original Secured Notes, to remove and replace WSFS, as successor trustee, with a trustee of their own choosing at any time within the first year of WSFS's tenure. This not only evinces a guilty conscience on the part of WSFS and the Company but was plainly intended to impose a barrier for the Counterclaim Plaintiffs to appoint a new trustee of their choosing that would, in furtherance of its duties under the Governing Indentures, sue the Counterclaim Defendants, including WSFS, to repair the damage done to the holders of the remaining Original Secured Notes.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 326 that assert WSFS's purported intentions or mental state. The allegations in Paragraph 326 purport to characterize the Fourth Supplemental Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Fourth Supplemental Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 326 otherwise asserts legal arguments or conclusions, to which no response is required.

327. On or about May 16, 2023, the Company missed its scheduled interest payments under the Original Secured Notes and other funded indebtedness, and it entered a 30-day grace period under its operative agreements, including the Governing Indentures.

ANSWER: The allegations in Paragraph 327 purport to characterize the Amended Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Amended Indentures for their contents and deny any allegations that are inconsistent therewith. The Debtors otherwise admit the allegations in Paragraph 327.

328. On May 21, 2023, certain 2024/2026 Holders (among others) wrote to the Company and WSFS to notify them that they were terminating WSFS as trustee of the Original Secured Notes. The 2024/2026 Holders did so pursuant to Section 7.08(b).

ANSWER: The Debtors state that the Company received a letter from certain noteholders on May 21, 2023. The allegations in Paragraph 328 purport to characterize the letter dated May 21, 3023 and the Amended Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the letter and the Amended Indentures for their contents and deny any allegations that are inconsistent therewith.

329. The writing explained to the Company that its financial distress, as reflected by the missed interest payment, underscored the conflicts of interest in WSFS purporting to serve as trustee for all or most of the Company's debt instruments.

ANSWER: The allegations in Paragraph 329 purport to characterize the letter dated May 21, 3023, which speaks for itself, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the letter for its contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 329 otherwise asserts legal arguments or conclusions, no response is required.

330. In that letter, the Company and WSFS were also notified that UMB Bank N.A. ("UMB") had expressed that it was ready, willing, and able to serve as successor trustee to WSFS for the Notes under the Governing Indentures. The letter further provided the contact information for a person at UMB.

ANSWER: The allegations in Paragraph 330 purport to characterize the letter dated May 21, 3023, which speaks for itself, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the letter for its contents and deny any allegations that are inconsistent therewith. To the extent Paragraph 330 otherwise asserts legal arguments or conclusions, no response is required.

B. BOKF.

331. On May 30, 2023, counsel for the 2024/2026 Holders that commenced the First New York Action met and conferred with counsel for WSFS about discovery in the First New York Action. Counsel for WSFS did not inform counsel for the 2024/2026 Holders that WSFS had ceased by then to serve as indenture trustee for the 2024/2026 Notes.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 331.

332. On June 1, 2023, however, the Debtors' filings in this Court revealed that BOKF had succeeded to the role of indenture trustee for the 2024 Original Secured Notes, the 2026 Original Secured Notes, and the Unsecured Notes on May 26, 2023.

ANSWER: The Debtors admit that BOKF succeeded to the role of the indenture trustee and admit the allegations in Paragraph 331 to the extent they reflect that the Debtors' filings with this Court on June 1, 2023.

333. After learning that BOKF had succeeded to the role of indenture trustee for the Original Secured Notes, counsel for the 2024/2026 Holders informed counsel for BOKF that there was a conflict between the interests of the Original Secured Notes and the Unsecured Notes.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 333.

334. Counsel for BOKF stated that it had not determined whether there was a conflict between the Original Secured Notes and the Unsecured Notes.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 334.

335. Upon information and belief, the Company chose not to appoint UMB as successor trustee for the Original Secured Notes in order to deprive the 2024/2026 Holders of their choice of successor trustee.

ANSWER: The Debtors deny the allegations in Paragraph 335.

336. The Company appointed BOKF as successor trustee for the Original Secured Notes and the Unsecured Notes knowing that there was an actual or likely conflict between the previously secured Original Secured Notes and the never-secured Unsecured Notes.

ANSWER: The allegations in Paragraph 336 assert legal arguments or conclusions, to which no response is required. The Debtors otherwise deny the allegations in Paragraph 336.

337. Upon information and belief, the Company chose to appoint the same successor trustee for the Original Secured Notes and the Unsecured Notes because of (not in spite of) the conflict, and the disclosure of BOKF's appointment as successor trustee was delayed in order to impede the 2024/2026 Holders' ability to appoint a successor trustee.

ANSWER: To the extent the allegations in Paragraph 337 assert legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 337.

338. In sum, the Counterclaim Defendants purported to amend the Governing Indentures via the Unauthorized Amendments so that the Company could always choose a fox (i.e., a conflicted Trustee beholden to the Company) to guard the hen house (i.e., the Original Secured Notes that have now been stripped of their Liens).

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Supplemental Indentures as "Unauthorized Amendments." The allegations in Paragraph 338 otherwise purport to characterize the Third Supplemental Indentures and Fourth Supplemental Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Third Supplemental Indentures and Fourth Supplemental Indentures for their contents and deny any allegations that are inconsistent therewith. The Debtors otherwise deny the allegations in Paragraph 338.

339. The Governing Indentures' "no-action" provision in Section 6.06 is inapplicable and unenforceable here.

ANSWER: The allegations in Paragraph 339 assert legal arguments or conclusions, to which no response is required.

FIRST CAUSE OF ACTION
DECLARATORY JUDGMENT
(Against All the Counterclaim Defendants)

340. The Counterclaim Plaintiffs repeat, reallege, and incorporate by reference herein the allegations of paragraphs 114 through 339.

ANSWER: The Debtors repeat, reallege, and incorporate by reference the foregoing responses, as though fully set forth in this paragraph.

341. The Company, the Guarantor Defendants, and WSFS are parties to the Governing Indentures. The Counterclaim Plaintiffs who hold the Original Secured Notes are also parties to the Governing Indentures. In the alternative, the Counterclaim Plaintiffs are third-party beneficiaries of the Governing Indentures.

ANSWER: The Debtors admit that they are parties to the Governing Indentures. Paragraph 341 otherwise asserts legal arguments or conclusions, to which no response is required.

342. In their form prior to the Insider Transaction, the Governing Indentures were valid and enforceable agreements.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." Paragraph 342 asserts legal arguments or conclusions, to which no response is required.

343. The Counterclaim Plaintiffs have performed all their obligations under the Governing Indentures.

ANSWER: Paragraph 343 asserts legal arguments or conclusions, to which no response is required.

344. The Unauthorized Amendments, the Phantom Note Purchase Agreement, the Super Senior Indentures, and the Exchange Agreements comprise a single, integrated instrument that is part of the single, integrated Insider Transaction. These agreements were preordained and executed on or before the date on which they all became effective: March 28, 2022. They are interwoven, interdependent, were executed by substantially the same parties, and were designed to effectuate one purpose.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing Supplemental Indentures as the "Unauthorized Amendments," the 2022 Transaction as the "Insider Transaction," or the Additional 2026 Notes as the "Phantom Notes." The Debtors admit that the agreements comprising the 2022 Transaction were drafted before March 28, 2022, the date on which they became effective at distinct times. To the extent Paragraph 344 asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 344, including that the various agreements comprising the 2022 Transaction were executed by the same parties or that they served a single purpose.

345. The Company, the Guarantor Defendants, and WSFS did not have the consent of all necessary holders for the Insider Transaction.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." To the extent Paragraph 345 asserts legal arguments or conclusions, no response is required. The Debtors otherwise deny the allegations in Paragraph 345.

346. Through the Insider Transaction, the Company, the Guarantor Defendants, and WSFS breached the Governing Indentures, including Sections 3.02, 4.09, 4.12, and 9.02.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." Paragraph 346 asserts legal arguments or conclusions, to which no response is required.

347. Alternatively, even if the Company, the Guarantor Defendants, and WSFS did not breach the Governing Indentures—which they did—then the Company, the Guarantor Defendants, WSFS, and the Favored Noteholders holding the Original Secured Notes breached the implied covenant of good faith and fair dealing in executing the Unauthorized Amendments to the Governing Indentures and effectuating the Insider Transaction, because, *inter alia*, their actions were exercised in bad faith to deny the Counterclaim Plaintiffs the fruits of their contractual rights and/or constituted an arbitrary and bad-faith exercise of contractual discretion.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Participating Noteholders as the "Favored Noteholders," the Supplemental Indentures as the "Unauthorized Amendments," or the 2022 Transaction as the "Insider Transaction." Paragraph 347 otherwise asserts legal arguments or conclusions, to which no response is required.

348. Individual creditors such as the Counterclaim Plaintiffs have direct standing to bring claims that are based on injury that is (i) specific and personal to those creditors only and (ii) independent of any injury to the debtor. Here, the Counterclaim Plaintiffs' Causes of Action seek redress for injuries that are unique to a subset of the Debtors' creditors, including the Counterclaim Plaintiffs, and do not arise from an injury to the Debtors.

ANSWER: Paragraph 348 asserts legal arguments or conclusions, to which no response is required.

349. Pursuant to Section 2201 of the Declaratory Judgment Act, 28 U.S.C. § 2201, this Court has the authority to issue declaratory judgments where the facts alleged, under all the circumstances, show that there is an actual controversy, between parties having adverse legal interests, of sufficient immediacy and reality, to warrant the issuance of declaratory judgment.

ANSWER: Paragraph 349 asserts legal arguments or conclusions, to which no response is required.

350. The Counterclaim Plaintiffs seek a judicial declaration that: a. The Counterclaim Plaintiffs have direct standing for these Counterclaims; b. The Debtors and WSFS breached the Governing Indentures as set forth herein or, alternatively, they breached the covenant of good faith and fair dealing implied by the Governing Indentures; and c. Such judicial determination is necessary and appropriate at this time and under these circumstances for the Parties to ascertain their rights and obligations.

ANSWER: Paragraph 350 asserts legal arguments or conclusions, to which no response is required.

SECOND CAUSE OF ACTION
EQUITABLE LIEN
(Against the Company, the Guarantor Defendants, the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders)

351. The Counterclaim Plaintiffs repeat, reallege, and incorporate by reference herein the allegations of paragraphs 114 through 350.

ANSWER: The Debtors repeat, reallege, and incorporate by reference the foregoing responses, as though fully set forth in this paragraph.

352. By the Governing Indentures, the Counterclaim Plaintiffs, the Debtors, and indenture trustee entered into, or in the alternative the Counterclaim Plaintiffs are third-party beneficiaries of, an express agreement which granted Liens for the benefit of the Counterclaim Plaintiffs to secure obligations arising under the Governing Indentures, and thus demonstrated a clear intent to create a security interest to secure the obligation between them.

ANSWER: The allegations in Paragraph 352 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 352 otherwise asserts legal arguments or conclusions, to which no response is required.

353. The parties, and any third-party beneficiaries, to the Governing Indentures intended for those Liens to be granted on specific assets of the Debtors, as defined and identified in the Governing Indentures as the "Collateral."

ANSWER: The allegations in Paragraph 353 purport to characterize the Original Secured Indentures, which speak for themselves, and therefore no response is required; to the

extent a response is required, the Debtors respectfully refer the Court to the Original Secured Indentures for their contents and deny any allegations that are inconsistent therewith. Paragraph 353 otherwise asserts legal arguments or conclusions, to which no response is required.

354. As a result of the Insider Transaction, the Favored Noteholders converted their Original Secured Notes and the Unsecured Notes into far more valuable New 1L Notes and/or New 1.25L Notes, as the case may be, which are purportedly secured by the exact same "Collateral." The Platinum-Controlled Parent similarly converted its $25 million unsecured promissory note into New 1.25L Notes secured by the "Collateral." WSFS was appointed as indenture trustee and compensated for its services.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent," the 2022 Transaction as the "Insider Transaction," or the Participating Noteholders as the "Favored Noteholders." The Debtors admit that, prior to the 2022 Transaction, WSFS was appointed as indenture trustee, a compensated position. The allegations in Paragraph 354 otherwise purport to characterize the Exchange Agreement, which speaks for itself, and therefore no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Exchange Agreement for its contents and deny any allegations that are inconsistent therewith.

355. All of these Counterclaim Defendants were enriched at the expense of the Counterclaim Plaintiffs.

ANSWER: Paragraph 355 asserts legal arguments or conclusions, to which no response is required.

356. The Insider Transaction was an illegal and inequitable scheme, and it would be against equity and good conscience for the Counterclaim Defendants to be permitted to retain the fruits of this scheme, including their profits, at the expense of the 2024/2026 Holders.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." Paragraph 356 otherwise asserts legal arguments or conclusions, to which no response is required.

357. Absent relief sought herein, there exists no adequate remedy at law to restore the Counterclaim Plaintiffs to their rightful position as secured creditors prior to the Insider Transaction and avoid an unjust result.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the 2022 Transaction as the "Insider Transaction." Paragraph 357 asserts legal arguments or conclusions, to which no response is required.

358. Individual creditors such as the Counterclaim Plaintiffs have direct standing to bring claims that are based on injury that is (i) specific and personal to those creditors only and (ii) independent of any injury to the debtor. The Counterclaim Plaintiffs' Cause of Action for equitable lien seeks redress for injuries that are unique to a subset of the Debtors' creditors, including the Counterclaim Plaintiffs, and do not arise from an injury to the Debtors.

ANSWER: Paragraph 358 asserts legal arguments or conclusions, to which no response is required.

359. Under principles of equity, the Counterclaim Plaintiffs are entitled to equitable liens on the Collateral (as such term is defined in the Governing Indentures) with priority over any liens purportedly held by the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders by virtue of the New 1L Notes and New 1.25L Notes.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent" or the Participating Noteholders as the "Favored Noteholders." Paragraph 359 otherwise asserts legal arguments or conclusions, to which no response is required.

THIRD CAUSE OF ACTION
EQUITABLE SUBORDINATION
(Against the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders)

360. The Counterclaim Plaintiffs repeat, reallege, and incorporate by reference herein the allegations of paragraphs 114 through 359.

ANSWER: The Debtors repeat, reallege, and incorporate by reference the foregoing responses, as though fully set forth in this paragraph.

361. The Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders engaged in inequitable conduct by participating in the Insider Transaction, through

which they intentionally sought to gain an unfair advantage to the detriment of the Counterclaim Plaintiffs.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent," the Participating Noteholders as the "Favored Noteholders," or the 2022 Transaction as the "Insider Transaction." Paragraph 361 otherwise asserts legal arguments or conclusions, to which no response is required.

362. The Platinum-Controlled Parent and the Platinum Fund (collectively, the Platinum Creditors) are insiders of the Debtors. The Platinum-Controlled Parent's insider status is evidenced by, among other things; (i) its 100% indirect ownership of the Company and its subsidiaries; (ii) its status as a person in control of the Company and its subsidiaries; and (iii) it and the Company being under the common control of the Platinum Sponsor, including via the Platinum-related directors appointed to the Board of Wolverine Intermediate. The Platinum Fund's insider status is evidenced by, among other things: (i) its, upon information and belief, indirect ownership of the Company (through the Platinum-Controlled Parent); (ii) it and the Company being under the common control of the Platinum Sponsor; and (iii) its status as an insider of the Platinum-Controlled Parent by reason of its, upon information and belief, direct or indirect ownership or control over more than 20% of the voting shares of the Platinum-Controlled Parent. The conduct of the Platinum-Controlled Parent and the Platinum Fund, as insiders, is subject to rigorous scrutiny.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent." The Debtors admit that TopCo is an indirect owner of the Company and its subsidiaries, and that the Board of Wolverine Intermediate contains individuals who are employees and/or partners at Platinum Equity Advisors, LLC. The Debtors further admit that the Platinum Fund owns of approximately 20% of the voting shares of TopCo. Paragraph 362 otherwise asserts legal arguments or conclusions, to which no response is required.

363. Upon information and belief, the Platinum Creditors dominated and controlled the actions of the Debtors and their Board, including through their agent, the Platinum Sponsor, so that the Platinum Creditors could gain an unfair advantage over the Counterclaim Plaintiffs by causing the release of the Counterclaim Plaintiffs' Liens, and the exchange of the Platinum Creditors' unsecured debt for vastly more valuable New 1.25L Notes, which now rank ahead of the Counterclaim Plaintiffs' Original Secured Notes.

ANSWER: The Debtors lack knowledge or information sufficient to form a belief as to the truth of allegations as to the intentions of the Platinum Fund or TopCo. To the extent the allegations in Paragraph 363 purport to characterize the Exchange Agreement, which speaks for itself, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Exchange Agreement for its contents and deny any allegations that are inconsistent therewith. Paragraph 363 otherwise asserts legal arguments or conclusions, to which no response is required.

364. Upon information and belief, the Platinum Creditors, including through their agent, the Platinum Sponsor, further exerted their influence over the Company to, for example: (i) procure an off-market indemnification for themselves (and the other Favored Noteholders) in the Exchange Agreement, including for legal fees and expenses arising from the Insider Transaction, and (ii) refuse serious consideration of the Ad Hoc Group's proposals. The Platinum Creditors' inequitable conduct and unfair advantage is further evidenced by their acquisitions—only belatedly revealed to the market—of Unsecured Notes and a $25 million unsecured promissory in 2020, later exchanged for New 1.25L Notes, which on information and belief the Platinum Creditors acquired to attain a monetizable position in the Company's debt structure as part of a potential restructuring over which the Platinum entities could exercise control.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Participating Noteholders as the "Favored Noteholders" or the 2022 Transaction as the "Insider Transaction." The Debtors lack knowledge or information sufficient to form a belief as to the truth of allegations as to the intentions of the Platinum Fund or TopCo. To the extent the allegations in Paragraph 364 purport to characterize the Exchange Agreement, which speaks for itself, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Exchange Agreement for its contents and deny any allegations that are inconsistent therewith. Paragraph 364 otherwise asserts legal arguments or conclusions, to which no response is required.

365. The Favored Noteholders engaged in inequitable conduct by colluding with the Platinum-dominated Debtors to circumvent the protections afforded to the Counterclaim Plaintiffs by the Governing Indentures. Certain Favored Noteholders purchased the Phantom Notes in bad faith to thwart the Counterclaim Plaintiffs' blocking position in the Original Secured 2026 Notes.

These Favored Noteholders then used their feigned supermajority of such notes to consent to the release of all of the Counterclaim Plaintiffs' Liens on their Collateral, and locked in their advantage over the Counterclaim Plaintiffs by exchanging the Phantom Notes for New 1L Notes, which rank ahead of Original Secured Notes. The Carlyle Noteholders separately engaged in inequitable conduct by consenting to the Insider Transaction and exchanging their Unsecured Notes for vastly more valuable New 1.25L Notes, which likewise rank ahead of the Original Secured Notes, without providing any consideration other than their consent and without providing any new money to the Company.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing the Participating Noteholders as the "Favored Noteholders," the Additional 2026 Notes as the "Phantom Notes," or the 2022 Transaction as the "Insider Transaction." The Debtors lack knowledge or information sufficient to form a belief as to the truth of allegations as to the intentions of the Participating Noteholders or the Carlyle Noteholders. To the extent the allegations in Paragraph 365 purport to characterize the Exchange Agreement, which speaks for itself, no response is required; to the extent a response is required, the Debtors respectfully refer the Court to the Exchange Agreement for its contents and deny any allegations that are inconsistent therewith. Paragraph 365 otherwise asserts legal arguments or conclusions, to which no response is required.

366. Individual creditors such as the Counterclaim Plaintiffs have direct standing to bring claims that are based on injury that is (i) specific and personal to those creditors only and (ii) independent of any injury to the debtor. The Counterclaim Plaintiffs suffered a personal and particularized injury from the inequitable conduct of the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders that is independent of any injury to the Debtors. The Insider Transaction stripped the Counterclaim Plaintiffs of their bargained-for Liens and subordinated the Counterclaim Plaintiffs' to more than $1.7 billion in new senior secured debt. No other class or group of the Debtors' creditors were similarly harmed. As a result of those actions, the claims of the Favored Noteholders and the Platinum-Controlled Parent are poised to be repaid before the Counterclaim Plaintiffs receive payment under the Original Secured Notes.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent," the Participating Noteholders as the "Favored Noteholders.," or the 2022 Transaction as the "Insider Transaction." The Debtors admit that, as part of the 2022 Transaction, the liens previously securing the Counterclaim Plaintiffs'

Notes were permissibly released and that the Participating Noteholders now hold secured debt. Paragraph 366 otherwise asserts legal arguments or conclusions, to which no response is required.

367. Under principles of equitable subordination, in equity and good conscience, any and all claims of the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders should be subordinated for purposes of distribution, pursuant to Sections 510(c) and 105(a) of the Bankruptcy Code, to the claims of the Counterclaim Plaintiffs.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent" or characterizing the Participating Noteholders as the "Favored Noteholders." Paragraph 367 otherwise asserts legal arguments or conclusions, to which no response is required.

368. Equitably subordinating the claims of the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders is not inconsistent with the Bankruptcy Code because the equitable subordination requested is necessary to offset the harm to the Counterclaim Plaintiffs.

ANSWER: The Debtors state that no response is required to the argumentative rhetoric characterizing TopCo as the "Platinum-Controlled Parent" or characterizing the Participating Noteholders as the "Favored Noteholders." Paragraph 368 otherwise asserts legal arguments or conclusions, to which no response is required.

GENERAL DENIAL

Except as otherwise previously admitted in paragraphs 114-368, the Debtors deny each and every allegation contained in paragraphs 114-368 of the Countercomplaint, including, without limitation, the headings, subheadings, footnotes, and prayers for relief. The Debtors expressly reserve the right to amend and/or supplement this Answer.

FIRST AFFIRMATIVE DEFENSE

The Formerly Secured Noteholders have failed to state a claim on which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The Formerly Secured Noteholder lack standing to bring Counts I, II and III of their counterclaims.

THIRD AFFIRMATIVE DEFENSE

The Formerly Secured Noteholders claims are barred or reduced by the Formerly Secured Noteholders' bad faith, misconduct, and/or unclean hands.

FOURTH AFFIRMATIVE DEFENSE

The Formerly Secured Noteholders are barred from bringing their counterclaims by Section 6.06 of the Governing Indentures.

RESERVATION OF RIGHTS

The Debtors reserve the right to assert any and all affirmative defenses when and if they become appropriate, known, or available in this action, including during or after discovery. The assertion of any affirmative defense does not assume the burden of proof as to which applicable law places the burden on other parties

Dated: July 9, 2023

QUINN EMANUEL URQUHART & SULLIVAN, LLP

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Proposed Special Litigation and Conflicts Counsel to the Debtors and Debtors in Possession

CERTIFICATE OF SERVICE

I certify that, on July 9, 2023, a true and correct copy of the foregoing document was served through the 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: July 9, 2023

/s/ *Christopher D. Porter*
Christopher D. Porter