

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

In re

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

Debtors.

Case No. 23-90611 (MI)

Chapter 11

(Jointly Administered)

**DEBTORS' THIRD MOTION TO EXTEND
THE DEBTORS' EXCLUSIVE PERIODS TO
FILE A CHAPTER 11 PLAN AND SOLICIT VOTES**

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <http://ecf.txsb.uscourts.gov/> within 21 days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within 21 days from the date this motion is filed. Otherwise, the Court may treat this pleading as unopposed and grant the relief requested.

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



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The above-captioned debtors and debtors in possession (the “**Debtors**”² and, together with their non-Debtor subsidiaries, “**Incora**”) respectfully state as follows.

RELIEF REQUESTED

1. By this motion (the “**Motion**”), Incora seeks entry of an order extending the period during which Incora has the exclusive right to (a) file a chapter 11 plan (the “**Exclusive Filing Period**”) by 120 days, through and including September 23, 2024, and (b) solicit acceptances thereof (the “**Exclusive Solicitation Period**” and, together with the Exclusive Filing Period, the “**Exclusive Periods**”) by an equal number of days, through and including November 22, 2024, pursuant to section 1121(d) of the Bankruptcy Code and Section K of the Procedures for Complex Cases in the Southern District of Texas (the “**Complex Case Procedures**”). A proposed form of order (the “**Proposed Order**”) is attached to this Motion.

2. The principal statutory bases for this Motion are sections 1121(d) and 1125 of the Bankruptcy Code.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. This Motion is a core proceeding under 28 U.S.C. § 157(b). Venue in the Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

PRELIMINARY STATEMENT

4. These Chapter 11 Cases are a tale of two complex restructurings: a restructuring of Incora’s business operations and a restructuring of Incora’s balance sheet. The first of these

² A detailed description of the Debtors and their businesses is set forth in the *Declaration of Raymond Carney in Support of Chapter 11 Petitions and First Day Motions* (the “**First Day Declaration**”) [Docket No. 13], filed with the Debtors’ voluntary petitions for relief filed under title 11 of the United States Code (the “**Bankruptcy Code**”), on June 1, 2023 (the “**Petition Date**”). The Debtors are operating their businesses during the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”) as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. An official committee of unsecured creditors (the “**Committee**”) was appointed on June 16, 2023; no trustee, examiner or other official committee has been appointed. Citations to “Docket No. ___” refer to the docket in the above-captioned main case, while citations to “Adv. Docket No. ___” refer to the docket in the adversary proceeding captioned *Wesco Aircraft Holdings, Inc., et al. v. SSD Invs. Ltd. et al.*, Adv. No. 23-03091 (MI) (Bankr. S.D. Tex) (the “**2022 Financing Adversary Proceeding**”).

restructurings has been a rousing success. Through the tireless efforts of Incora's management team, the Debtors have eliminated their uneconomic long-term contracts with customers, restored vendors' confidence in Incora's finances, improved Incora's working-capital position, and greatly reduced overhead expenses. As a result of the chapter 11 process, Incora is now in a stronger position than ever to chase new business, develop new and innovative solutions for existing customers, and deliver value to its post-bankruptcy shareholders.

5. Although the restructuring of Incora's balance sheet is not complete, Incora has made substantial progress toward that goal. Incora has completed solicitation of votes on a chapter 11 plan that is supported by all but one major constituency. Closing arguments in the 2022 Financing Adversary Proceeding are scheduled to begin in June, and the Court has indicated that the confirmation hearing (currently scheduled for July 1, 2024) may be held soon after the Court rules on key threshold issues.

6. In this context, termination of the Exclusive Periods would unsettle the progress that Incora has made in both of its parallel restructurings. On the balance sheet side, depending on the Court's rulings in the 2022 Financing Adversary Proceeding, termination of the Exclusive Periods would hinder Incora from either (a) advancing toward confirmation of its proposed chapter 11 plan or (b) leading negotiations of amendments to its proposed chapter 11 plan. In either case, the Chapter 11 Cases would suffer if Incora, as fiduciary for the bankruptcy estates, is unable to focus the parties on a single plan process.

7. Perhaps worse, a chaotic process would risk reversing the hard-fought gains that Incora's business has made during these Chapter 11 Cases. There can be no doubt that sophisticated industry participants are watching Incora's restructuring process closely. Incora's management team has been able to show them that the chapter 11 process, though complicated, has remained orderly and efficient. If the Chapter 11 Cases devolve into a fight over competing plans, vendors may insist on tighter payment terms and customers may be reluctant to award new business to Incora.

8. For these reasons, Incora believes that a further extension of the Exclusive Periods is appropriate.

BACKGROUND

I. PRIOR EXTENSIONS

9. On September 29, 2023, Incora filed the *Debtors' Motion to Extend the Debtors' Exclusive Periods to File a Chapter 11 Plan and Solicit Votes* [Docket No. 781] (the “**First Exclusivity Motion**”), which sought to extend the Exclusive Filing Period through and including January 27, 2024, and the Exclusive Solicitation Period through and including March 27, 2024. In the First Exclusivity Motion, Incora reported its efforts to stabilize the business, including its use of post-petition financing to become current on obligations to critical and foreign vendors and to offer incentive and retention programs to rank-and-file employees. *See id.* at ¶ 5. The Court granted the First Exclusivity Motion on November 2, 2023. *See Order Extending the Debtors' Exclusive Period to File a Chapter 11 Plan and Solicit Votes* [Docket No. 911].

10. On January 27, 2024, Incora filed the *Debtors' Second Motion to Extend the Debtors' Exclusive Periods to File a Chapter 11 Plan and Solicit Votes* [Docket No. 1318] (the “**Second Exclusivity Motion**”), which sought to extend the Exclusive Filing Period through and including May 26, 2024, and the Exclusive Solicitation Period through and including July 25, 2024. In the Second Exclusivity Motion, Incora reported that it had successfully used the chapter 11 process to conduct an operational restructuring, including by renegotiating over 100 customer contracts. *See id.* at ¶ 6. At that time, Incora had also begun to solicit votes on a chapter 11 plan of reorganization and had begun trial in the 2022 Financing Adversary Proceeding. *See id.* at ¶¶ 7, 9. The Court granted the Second Exclusivity Motion on February 21, 2024. *See Second Order Extending the Debtors' Exclusive Period to File a Chapter 11 Plan and Solicit Votes* [Docket No. 1455].

11. Absent further extension, the Exclusive Filing Period will expire on May 26, 2024, and the Exclusive Solicitation Period on July 25, 2024.

II. PROGRESS IN THE CHAPTER 11 CASES

12. Throughout these Chapter 11 Cases, Incora has focused on four principal goals: (i) stabilizing business operations; (ii) improving the business by eliminating or renegotiating burdensome customer contracts whose fixed-rate pricing has not kept up with global inflation and supply chain challenges; (iii) resolving litigation concerning the March 2022 bond transactions; and (iv) eliminating a significant amount of net debt from Incora's balance sheet through a chapter 11 plan of reorganization. Since filing the Second Exclusivity Motion, Incora has continued to make significant progress toward achieving each of these goals.

13. **Operations.** Incora has substantially completed its mission to renegotiate or reject burdensome executory contracts. Over the course of the Chapter 11 Cases, Incora has successfully re-negotiated more than 130 long-term customer contracts. Incora expects that these re-negotiated contracts will increase annual revenue by more than \$125 million. Only one significant customer (Gulfstream) did not reach agreement on a long-term service agreement. In that instance, Incora negotiated an amicable settlement, pursuant to which Gulfstream made a substantial cash payment to Incora in exchange for its dedicated inventory and outstanding purchase orders. *See* Docket Nos. 1398 and 1506.

14. Incora's senior management team also used the Chapter 11 Cases as an opportunity to reassess other aspects of the Debtors' operations. Since filing the Chapter 11 Cases, Incora has conducted initiatives to reduce overhead costs, aligned its senior management structure with business operations, and improved back-office processes and its working capital position. These efforts, combined with the contract re-negotiation initiative, have increased EBITDA 36% year-over-year through the first quarter of 2024. Incora's SG&A expense was reduced by over \$30 million in the first quarter of 2024 compared to the three-month period immediately preceding the chapter 11 filing. Additionally, as vendors have allowed Incora to return to normalized payment terms, days payable outstanding (DPO) has improved from 31 days at its low point during these Chapter 11 Cases to 45 days as of March 31, 2024, generating more than \$60 million of liquidity.

15. **Litigation.** Meanwhile, Incora has made substantial progress toward a determination of its prepetition capital structure. When Incora filed its Second Exclusivity Motion, trial had just begun. Now, five months later and after twenty-seven trial days, which have included testimony from seventeen witnesses—as well as parallel negotiations as part of the court-supported mediation—the Debtors are pushing towards a resolution, with closing arguments tentatively scheduled to start in the coming month.

16. Separate from the 2022 Financing Adversary Proceeding, Incora entered into a settlement with the Official Committee of Unsecured Creditors (the “*Committee*”) and other parties regarding a wide-ranging set of claims that the Committee had sought standing to prosecute. The stipulation documenting that settlement remains in effect (and has been extended through July 31, 2024, and is subject to extension), and Incora will seek approval of its settlement in connection with confirmation of the Plan.

17. Throughout the chapter 11 plan process, Incora, the other supporting parties, and the Court have taken a flexible approach to the confirmation schedule, so as to ensure that confirmation does not prevent a full hearing of all relevant issues that have been raised in the 2022 Financing Adversary Proceeding. Consistent with that approach, the Confirmation Hearing has been re-scheduled to July 1, 2024, shortly after the Debtors expect to present closing arguments in the 2022 Financing Adversary Proceeding.

18. Extending the Exclusive Periods will ensure that Incora has a fair chance of gathering consensus around its Plan following any rulings or settlements that emerge from the 2022 Financing Adversary Proceeding. If Incora and other supporting creditors substantially prevail on the capital structure issues, then Incora should be permitted to advance the existing Plan toward confirmation almost immediately. *See* Audio of May 16, 2024 Hr’g at 1:07:02, Adv. Docket No. 1277 (“We’ll go to confirmation once we reach the capital structure decision.”). On the other hand, if the outcome requires Incora to revise or re-negotiate the Plan, then Incora should be permitted to conduct those revisions or re-negotiations without interference from any other party’s competing plan of reorganization. *See* H.R. Rep. No. 95-595, at 231–232 (1978), *reprinted in* 1978

U.S.C.C.A.N. 5963 (noting that Congress intended to give bankruptcy courts great flexibility to allow a debtor to negotiate settlement of debts without interference from other parties in interest).

19. **Plan, Solicitation, and Confirmation.** As stated in the Second Exclusivity Motion, Incora proposed a chapter 11 plan, along with a disclosure statement and proposed solicitation procedures, in mid-November.³ Subsequently, on January 12, 2024, Incora filed a modified chapter 11 plan and disclosure statement, which incorporated agreements with all but one major stakeholder.⁴ With a groundswell of support from those stakeholders, Incora obtained approval of the Disclosure Statement and commenced solicitation of votes on the Plan on January 12, 2024. Incora has also filed multiple supplements to the Plan, which have included schedules of assumed and rejected contracts and detailed information about the post-confirmation capital structure. *See* Docket Nos. 1357, 1564. With the Court's approval, Incora has also disseminated a supplement to the Disclosure Statement that provided updated information to the voting creditors regarding tax-related considerations, financial projections, and liquidation and valuation analyses in light of Incora's settlement with Gulfstream and other developments. *See* Docket No. 1662.

20. Incora has obtained broad support for the Plan, which would eliminate approximately **\$2 billion** of debt from Incora's balance sheet. The Plan is supported by the Committee, by each of the leading 1L and 1.25L noteholders and 2027 unsecured noteholders, by Incora's majority equity holder, and by the vast majority of the unsecured trade creditors that voted on the Plan.

21. Given the considerable progress throughout the Chapter 11 Cases, broad-based support for the Plan, and the status of the 2022 Financing Adversary Proceeding, Incora believes

³ *See Joint Chapter 11 Plan of Wesco Aircraft Holdings, Inc. et al.* [Docket No. 962] (as modified, amended, or supplemented, the "**Plan**"); *Disclosure Statement for the Joint Chapter 11 Plan of Wesco Aircraft Holdings, Inc. et al.* [Docket No. 963] (as modified, amended, or supplemented, the "**Disclosure Statement**"); *Debtors' Motion for Entry of an Order (I) Approving the Disclosure Statement, (II) Approving Solicitation and Voting Procedures, (III) Approving Forms of Ballots, (IV) Scheduling a Confirmation Hearing, and (V) Establishing Notice and Objection Procedures* [Docket No. 964] (the "**Disclosure Statement Motion**").

⁴ *See Modified First Amended Joint Chapter 11 Plan of Wesco Aircraft Holdings, Inc. et al* [Docket No. 1223] (the "**First Modified Plan**"); *Disclosure Statement for the Modified First Amended Joint Chapter 11 Plan of Wesco Aircraft Holdings, Inc. et al.* [Docket No. 1224] (the "**First Modified Disclosure Statement**").

a further extension of the Exclusive Periods is in the best interest of the estate as well as all parties in interest that have been working tirelessly toward emergence.

BASIS FOR RELIEF

I. STATUTORY BASIS

22. Under § 1121(b) of the Bankruptcy Code, Incora has the exclusive right to file a Chapter 11 Plan within the first 120 days from the Petition Date, which in this case fell on September 29, 2023. *See* 11 U.S.C. § 1121(b)⁵ Section 1121(c)(3) of the Bankruptcy Code provides that if a debtor files a plan within that period, it has an exclusive period of 180 days after the commencement of the chapter 11 case to obtain acceptances of its plan. In these Chapter 11 Cases, the Exclusive Filing Period and Exclusive Solicitation Period will expire on May 26, 2024, and July 25, 2024, respectively, absent further order of the Court.

23. The court may extend the Exclusive Periods “for cause” “on request of a party in interest made within the respective periods.” 11 U.S.C. § 1121(d). Specifically, section 1121(d) of the Bankruptcy Code provides that “on request of a party in interest made within the respective periods . . . of this section and after notice and a hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.” *Id.*, § 1121(d). The Bankruptcy Code neither defines the term “cause” for purposes of section 1121(d) of the Bankruptcy Code nor establishes formal criteria for an extension. The legislative history of section 1121 of the Bankruptcy Code indicates, however, that it is intended to be a flexible standard to balance the competing interests of a debtor and its creditors. *See* H.R. Rep. No. 95-595, at 231–232 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5963 (noting that Congress intended to give bankruptcy courts great flexibility to allow a debtor to negotiate settlement of debts without interference from other parties in interest).

⁵ Pursuant to paragraph 30 of the Complex Case Procedures, the filing of this Motion automatically extends the Exclusive Filing Period until the Court rules on the Motion.

24. Indeed, the Court of Appeals for the Fifth Circuit has explained that bankruptcy courts have the discretion to extend exclusivity to promote the orderly, consensual, and successful reorganization of a debtor's affairs. *United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Assocs., Ltd.* (*In re Timbers of Inwood Forest Assocs., Ltd.*), 808 F.2d 363, 372 (5th Cir. 1987) (en banc) (“[A]ny bankruptcy court involved in an assessment of whether ‘cause’ exists should be mindful of the legislative goal behind § 1121.”); *see also In re Mirant Corp.*, No. 4-04-CV-476-A, 2004 WL 2250986, at *2 (N.D. Tex. Sept. 30, 2004) (“In virtually every case where an extension has been granted, the debtor showed substantial progress had been made in negotiations toward reorganization.”).

25. The broad discretion conferred on courts in these circumstances enables courts to consider a variety of factors to assess whether “cause” exists to extend a debtor's exclusivity rights. *See In re Wash.-St. Tammany Elec. Co-op., Inc.*, 97 B.R. 852, 854 (E.D. La. 1989) (noting that the decision to extend exclusivity “rests with the discretion of the Court”); *In re Adelpia Commc'ns Corp.*, 352 B.R. 578, 587 (Bankr. S.D.N.Y. 2006) (identifying factors courts consider in determining whether to extend exclusivity); *In re New Millennium Mgmt., LLC*, No. 13-35719-H3-11, 2014 WL 792115, at *6 (Bankr. S.D. Tex. Feb. 25, 2014) (identifying the *Adelpia* factors as factors to consider in determining whether cause exists to extend exclusivity); *In re Hoffinger Indus., Inc.*, 292 B.R. 639, 643-44 (B.A.P. 8th Cir. 2003) (same); *In re Express One Int'l, Inc.*, 194 B.R. 98, 100 (Bankr. E.D. Tex. 1996) (same).

26. These non-exclusive factors include:

- a. the size and complexity of the debtor's case;
- b. the necessity for sufficient time to permit the debtor to negotiate a chapter 11 plan and prepare adequate information;
- c. the existence of good faith progress towards reorganization;
- d. the fact that the debtor is paying its bills as they become due;
- e. whether the debtor has demonstrated reasonable prospects for filing a viable plan;
- f. whether the debtor has made progress in negotiations with its creditors;

- g. whether the debtor is seeking an extension of exclusivity in order to pressure creditors to submit to the debtor's reorganization demands; and
- h. whether an unresolved contingency exists.

See, e.g., Millennium Mgmt., 2014 WL 792115, at *6; *see also Adelpia*, 352 B.R. at 587 (noting that the factors listed above are “objective factors which courts historically have considered in making determinations of this character”).

27. Not all factors are relevant to every case, and courts tend to use a relevant subset of the above factors in determining whether cause exists to grant an exclusivity extension in a particular chapter 11 case. *See, e.g., In re Express One Int'l, Inc.*, 194 B.R. 98, 100-01 (Bankr. E.D. Tex. 1996) (listing all nine factors later set forth in *Adelpia* but determining “cause” to extend exclusivity existed without finding that every factor was met); *Hoffinger Indus.*, 292 B.R. at 644 (“It is within the discretion of the bankruptcy court to decide which factors are relevant and give the appropriate weight to each.”); *In re Serv. Merch. Co.*, 256 B.R. 744, 751–754 (Bankr. M.D. Tenn. 2000) (finding cause to extend where the debtors established six of the aforementioned factors); *Express One Int'l*, 194 B.R. at 101 (identifying four of the factors as relevant in determining whether “cause” existed to extend exclusivity); *see also In re Dow Corning Corp.*, 208 B.R. 661, 670 (Bankr. E.D. Mich. 1997) (“When the Court is determining whether to terminate a debtor’s exclusivity, the primary consideration should be whether . . . doing so would facilitate moving the case forward. And that is a practical call that can override a mere toting up of the factors.”).

28. Though “the debtor’s burden gets heavier with each extension it seeks as well as the longer the period of exclusivity lasts,” the extensive record of progress set forth above satisfies the cause needed to extend exclusivity as requested herein, particularly given the procedural posture of the cases, and Incora believes extension of the exclusive periods is warranted. *See In re Mirant*, 2004 WL 2250986, at *2 (citation omitted). Incora therefore asserts that the requested extension is warranted under the facts and circumstances of this case and sufficient “cause” exists pursuant to section 1121(d) of the Bankruptcy Code to extend the Exclusive Periods as provided

herein. As set forth below, the relevant factors weigh in favor of a further extension of the Exclusive Periods.

II. “CAUSE” EXISTS TO EXTEND THE EXCLUSIVE PERIODS.

29. As set forth at length in this Motion, the requested extensions of Incora’s Exclusive Periods are appropriate, in the best interest of Incora’s stakeholders, and consistent with the purpose of chapter 11 of the Bankruptcy Code. The requested extension of the Exclusive Periods is necessary and appropriate to preserve the gains that Incora has made in its operations and to move toward implementation of the Plan that it has already proposed. The 2022 Financing Adversary Proceeding, which looms large over the plan process, has lasted as long as it has due to the indisputable complexity of the substantive legal and factual issues, the procedural complications of numerous overlapping complaints and competing standing motions, and unavoidable delays during the course of trial. Nevertheless, the end is near. Depending on the outcome of the ongoing trial, Incora expects to be able to obtain confirmation of the Plan that creditors have already voted on.⁶ Accordingly, the degree of progress in these Chapter 11 Cases demonstrates that ample cause exists to grant a further reasonable extension of the Exclusive Periods as requested by this Motion.

30. The magnitude and complexity of Incora’s businesses and the uncertainty of its capital structure have required Incora to navigate complex issues in their reorganization efforts and further substantiate the need for an extension of the Exclusive Periods. This factor weighs heavily in favor of extending exclusivity, since Incora is on track to emerge from bankruptcy soon after the confirmation hearing. *See In re Timbers of Inwood*, 808 F.2d at 372 (“[A]n occasional Chapter 11 debtor, for example, one with a complex debt structure or multifarious business problems, may require more time.”); *In re Texaco Inc.*, 76 B.R. 322, 326 (Bankr. S.D.N.Y. 1987) (“The large size of the debtor and the consequent difficulty in formulating a plan of reorganization

⁶ If the result of the 2022 Financing Adversary Proceeding forces the Debtors to revisit their Plan, then extension of the Exclusive Periods is perhaps even more strongly warranted, to allow the Debtors an opportunity to engage in negotiations with the relevant stakeholders.

for a huge debtor with a complex financial structure are important factors which generally constitute cause for extending the exclusivity periods.”). The legislative history of section 1121 of the Bankruptcy Code provides that “if an unusually large company were to seek reorganization under chapter 11, the court would probably need to extend the time in order to allow the debtor to reach an agreement.” H.R. Rep. No. 95-595, at 232 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5963.

31. The Chapter 11 Cases were even further complicated by the need to renegotiate major customer contracts, revise the long-term business plan, and address the disputed capital structure, all at the same time. As described above, Incora has made significant progress towards confirming a chapter 11 plan. Incora’s management team stabilized the business and have worked tirelessly to complete modifications to burdensome customer contracts. The 2022 Financing Adversary Proceeding is coming to an end. Having completed nearly all of the foregoing with relative efficiency, Incora is requesting an extension of both the Exclusive Filing Period and the Exclusive Solicitation Period by 120 days so they can see through the reorganization process that they have been vigorously pursuing for the past year. Accordingly, Incora submits that a 120-day extension of the Exclusive Filing Period through September 23, 2024, and a matching extension of the Exclusive Solicitation Period through November 22, 2024, are warranted.

32. This court has granted similar relief in other large and complex restructuring cases. *See, e.g., In re Diamond Sports Grp., LLC*, Case No. 23-90116 (CML) (Bankr. S.D. Tex. Dec. 20, 2023) (granting third request for 120-day extension of the exclusive filing period and the exclusive solicitation period) [Docket No. 1532]; *In re Core Scientific, Inc.*, Case No. 22-90341 (CML) (Bankr. S.D. Tex. Nov. 9, 2023) (granting third request for 60-day extension of the exclusive filing period and the exclusive solicitation period) [Docket No. 1396]; *In re Sorrento Therapeutics, Inc.*, Case No. 23-90085 (DRJ) (Bankr. S.D. Tex. Oct. 4, 2023) (granting third request for 21-day extension of the exclusive filing period and the exclusive solicitation period) [Docket No. 1384]; *In re HONX, Inc.*, Case No. 2290035 (MI) (Bankr. S.D. Tex. Feb. 14, 2023) (granting third request for 181-day extension of the exclusive filing period and a 211-day extension of the exclusive solicitation period) [Docket No. 697]; *In re GWG Holdings, Inc.*, Case No. 22-90032 (MI) (Bankr.

S.D. Tex. Oct. 31, 2022) (granting third request for 7-day extension of the exclusive filing period and the exclusive solicitation period) [Docket No. 958]; *In re Brazos Elec. Power Coop., Inc.*, Case No. 21-30725 (DRJ) (Bankr. S.D. Tex. May 4, 2022) (granting third request for 120-day extension of the exclusive filing period and the exclusive solicitation period) [Docket No. 1757].

33. It is therefore appropriate for the Court to extend the Exclusive Periods to allow Incora to be given a full and fair opportunity to continue their good-faith efforts to close out these efforts without the distraction of competing plan proposals. Termination or expiration of exclusivity would derail this progress. On the other hand, continuation of exclusivity will allow all parties to channel their efforts toward getting over the finish line.

III. INCORA IS NOT USING EXCLUSIVITY TO COERCE CREDITORS TO SUBMIT TO ITS DEMANDS.

34. Incora is not seeking an extension to artificially delay the Chapter 11 Cases or to hold creditors hostage to an unreasonable plan proposal. Incora has used its time in bankruptcy efficiently to obtain financing, advance operational initiatives throughout a vast enterprise, and develop consensus with many creditor constituencies. The size and complexities of the Chapter 11 Cases are apparent, and Incora is now approaching a hearing on confirmation of a plan that has garnered broad support, so the requested extension will not harm any economic stakeholder. Rather, the time will be used to close out the outstanding workstreams toward confirming their chapter 11 plan. Moreover, if future events merit termination or shortening of the extended Exclusive Periods, a party in interest may so move. *See* 11 U.S.C. § 1121(d). In the present situation, exclusivity will allow Incora—and all other parties—a full and fair opportunity to pursue an orderly and value-maximizing conclusion to this restructuring.

IV. INCORA CONTINUES TO PAY ITS BILLS.

35. The extension of exclusivity will permit Incora to continue to operate as responsible stewards of their enterprise. Incora is paying its bills as they come due and will continue to do so. Suppliers and customers can continue to do business with Incora throughout the extended Exclusive Periods, confident in Incora's ability to perform services, deliver goods, and pay bills.

36. For all the reasons set forth above, the facts and circumstances of these Chapter 11 Cases amply demonstrate that cause exists to grant the requested relief.

NOTICE

37. Notice of this Motion will be provided to all parties in interest listed on the master service list maintained by Incora pursuant to paragraph 11 of the Complex Case Procedures. Incora respectfully submits that no further notice is required under the circumstances.

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Upon the foregoing Motion, Incora respectfully requests that the Court (a) enter an order granting this Motion, substantially in the form attached, and (b) grant such other relief as is just and proper.

Dated: May 24, 2024

Respectfully submitted,

/s/ Charles A. Beckham, Jr.

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CERTIFICATE OF SERVICE

I certify that, on May 24, 2024, 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' noticing agent.

/s/ Charles A. Beckham, Jr.

Charles A. Beckham, Jr.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
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Case No. 23-90611 (MI)

Chapter 11

(Jointly Administered)

**THIRD ORDER EXTENDING THE
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Upon the motion (the “*Motion*”),² of the above-captioned debtors (collectively, the “*Debtors*” or “*Incora*”), for entry of an order (this “*Order*”) extending the periods during which Incora has the exclusive right to file a chapter 11 plan and solicit acceptances thereof; and the Court having jurisdiction to decide the Motion and to enter this Order pursuant to 28 U.S.C. § 1334; and consideration of the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, such notice being adequate and appropriate under the circumstances; and after notice and a hearing, as defined in section 102 of the Bankruptcy Code; and the Court having determined that the legal and factual bases set forth in the Motion and in the record establish just cause for entry of this Order; and it appearing that entry of this Order is in the best interests of Incora’s estates; it is hereby **ORDERED** that:

1. Pursuant to section 1121(d) of the Bankruptcy Code, Incora’s Exclusive Filing Period is extended through and including September 23, 2024.
2. Pursuant to section 1121(d) of the Bankruptcy Code, Incora’s Exclusive Solicitation Period is extended through and including November 22, 2024.
3. This Order is without prejudice to Incora’s rights to seek further extensions of the Exclusive Periods consistent with section 1121(d) of the Bankruptcy Code.
4. Notwithstanding any provision of the Bankruptcy Rules or Local Rules, the terms of this Order shall be immediately effective and enforceable upon its entry.
5. Incora and its agents are authorized to take all steps necessary or appropriate to carry out this Order.

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

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

Dated: _____
Houston, Texas

MARVIN ISGUR
UNITED STATES BANKRUPTCY JUDGE