Docket #0966 Date Filed: 09/21/2020

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
AVIANCA HOLDINGS S.A., *et al.*,[1]	:	Case No. 20-11133 (MG)
Debtors.	:	(Jointly Administered)

DECLARATION OF JOHN E. LUTH IN SUPPORT OF (I) DEBTORS' MOTION FOR ENTRY OF AN ORDER (A) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION FINANCING, (B) GRANTING SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, AND (C) GRANTING RELATED RELIEF, AND (II) DEBTORS' MOTION FOR ENTRY OF AN ORDER (A) AUTHORIZING DEBTORS' ENTRY INTO A SECURITIES PURCHASE AGREEMENT; AND (B) GRANTING RELATED RELIEF

I, John E. Luth, make this declaration under 28 U.S.C. § 1746:

1. I am the Executive Chairman of Seabury International Corporate Finance LLC and Chairman, President and Chief Executive Officer of Seabury Securities LLC (together with their subsidiaries and affiliates, collectively "Seabury"), the investment banker to the debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the "Debtors" or the

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

"Company"). I submit this Declaration in support of the *Debtors' Motion for an Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Grant Superpriority Administrative Expense Claims and (II) Granting Related Relief* (the "DIP Motion"),[2] and the *Debtors' Motion for Entry of an Order (I) Authorizing Debtors' Entry into Securities Purchase Agreement, and (II) Granting Related Relief* (the "Sale Motion"), each filed contemporaneously herewith.

2. Except as otherwise indicated, all statements in this Declaration are based on my personal knowledge of the Debtors' operations and finances gained throughout Seabury's engagement by the Debtors; my discussions with the Debtors' senior management, other members of the Seabury team, and the Debtors' other advisors; and my review of relevant documents and/or my opinion based upon my experience. If called to testify, I would testify to each of the facts set forth herein based on such personal knowledge, discussions, review of documents, or my opinions based upon my related professional experience.

3. I am not being specifically compensated for this testimony other than through payments received by Seabury as a professional retained by the Debtors. I am over the age of 18 and authorized to submit this declaration on behalf of the Debtors.

BACKGROUND AND QUALIFICATIONS

4. Since founding Seabury in 1995, I have overseen over 1,500 engagements for more than 300 clients in over 50 countries. I have advised on more than $125 billion of equity, debt and lease placements/restructurings at Seabury and negotiated or restructured over $250 billion of new aircraft purchase agreements. Among other airline restructurings and transactions, I have advised Republic Airways in its successful chapter 11 reorganization; secured a $450M equity investment

[2] Capitalized terms used but not defined herein have the meanings ascribed to them in the DIP Motion.

for Azul Airlines from HNA Airlines Group; led liquidity capital raises for Air Canada ($1 billion) and US Airways ($1.1 billion) amidst the global credit crisis in 2008-2009; led Northwest Airlines' financial restructuring by securing $750 million of new equity and $1.2 billion of exit debt financing and restructuring of over $10 billion of liabilities; advised Air Canada on its CCAA reorganization; led Avianca Holdings' $4.6 billion out-of-court debt and lease restructuring (2019) and advised America West Airlines, Continental Airlines, Chautauqua Airlines, and Frontier Airlines on their respective out-of-court restructurings/liquidity programs. In the wake of 9/11, I also led a number of high-profile airline restructurings including successfully reorganizing Air Canada, America West, Northwest Airlines and US Airways.

5. Before Seabury, I was the CFO and CIO for Continental Airlines Inc. and its parent company. Before working at Continental, I served as vice president of syndications at Manufacturers Hanover Trust Company and served in the Corporate Finance Division of Exxon Corporation. I hold an A.B. *magna cum laude* in Economics from the College of the Holy Cross and an M.B.A. in Finance from the Wharton Graduate School of the University of Pennsylvania.

SEABURY'S RETENTION

6. The Debtors retained Seabury in April 2020 to act as their investment banker in connection with a potential restructuring to be completed either in court or outside of a chapter 11. The Seabury team, under my supervision, worked closely with the Debtors' management and other professionals retained by the Debtors with respect to these issues and came to understand the Debtors' capital structure, liquidity needs, and business operations. Through this process, it became clear that the Debtors would need to file for chapter 11 protection and to obtain debtor-in-possession financing for their operations.

7. Seabury worked with key members of the Company, including, but not limited to, members of the finance, financial planning and analysis, fleet and other groups to evaluate and

understand the Debtors' cash flows, capital structure, fleet strategy, and operations. As part of an evaluation of the Debtors' liquidity position, the Debtors' advisors assisted in the development of rolling 13-week cash forecasts (updated weekly), as well as a full set of long-term forecasts of the Debtors' future profitability, cash flows and balance sheets. These forecasts take into account anticipated cash receipts and disbursements during the projected period and consider the effects of the chapter 11 filing, including: incremental administrative costs of a complex chapter 11 filing with a large number of stakeholders; required operational payments; and cost-saving initiatives already undertaken and contemplated to be undertaken by the Debtors. They also take into account the unprecedented adverse market conditions facing the airline industry during and as a result of the global COVID-19 pandemic, and the impact of those macro conditions on the Debtors' current and future business.

THE DEBTORS' EFFORTS TO OBTAIN POSTPETITION FINANCING

8. In any chapter 11 case, it is critical for the debtors to maintain or obtain liquidity sufficient to finance the case. Certainty of financing to maintain confidence in the viability of a company is particularly critical for a successful chapter 11 case, especially during a global pandemic where it is extremely difficult to forecast future revenues. Such uncertainties impact the ability of the Debtors to ensure that they will have access to cash to pay operational expenses should revenue remain suppressed in the near to medium term. The Debtors and their advisors analyzed the funding requirements necessary for debtor-in-possession financing based on the forecast of the Debtors' management, and concluded that the Debtors will require approximately $1.2 billion in new money financing for the duration of these chapter 11 proceedings. Seabury worked with the Company's network planning and FP&A teams to develop an extensive six-year operating plan and profitability forecast which was fed into a cash forecast developed by Seabury

and which served as the basis for the DIP sizing. The proposed DIP financing amount allows the company to maintain operational cash requirements, while ensuring the Company's projected cash balance remains robust in downside scenarios.

9. Similar to other airlines, the Debtors sought support from various Latin American governments that could have helped them avoid a chapter 11 filing, or could have helped finance the chapter 11 cases. The Debtors engaged in extensive negotiations with the governments of the Republic of Colombia ("RoC"), the Republic of Ecuador, and the Republic of El Salvador both before the Petition Date and post-filing, with a focus on the RoC where the Debtors have over a 50% market share in the domestic airline market and roughly 75% of their employees on a go forward basis.

10. Beginning shortly after the airline was grounded by certain governments in their efforts to slow the spread of COVID-19, the Debtors began discussions with the RoC to provide financial support to the airline. Governments throughout the world began providing support to their countries' respective airlines, and Avianca believed government support was particularly justified since it was unable to operate in Colombia—which represents approximately 70% of its operations, and where it holds approximately 50% market share—as a result of governmental restrictions that closed down domestic and international passenger flights within, to, and from the country.

11. While the Debtors continued to seek DIP financing support from the RoC, Seabury also approached the private loan market in an effort to realize the best possible financing terms. Beginning in April 2020, Seabury began developing a post-COVID business plan, in conjunction with the Debtors' FP&A group, to demonstrate to prospective lenders the cash needs of Avianca and the potential future performance of the business. Seabury and Avianca also worked

extensively on developing a financing structure that accommodated both private market and government financing and addressed the Company's lack of available collateral. The Debtors had previously completed a comprehensive financial and operational restructuring in late 2019 in which they had pledged virtually all of their unencumbered collateral to a group of lenders under an approximately $375 million secured convertible loan facility (the "Stakeholder Facility") and for approximately $484 million of 9.00% Senior Secured Notes due 2023 (the "Existing Notes") which were issued in 2019 under an exchange offer for a prior unsecured bond issuance due 2020. The lack of readily available unencumbered collateral made reliance on private market DIP financing especially challenging.

12. As a first step, the Debtors and Seabury negotiated with a group of key prepetition lenders under the Stakeholder Facility which included Kingsland Holdings S.A. ("Kingsland") and United Airlines Inc. ("United") as well as an affiliate of Citadel Advisors LLC ("Citadel"), and certain Latin American investors including Caoba Capital (collectively, the "Stakeholder Facility Lenders"), which together had loaned the Debtors $375 million of financing in December 2019/January 2020 as part of the Debtors' highly-successful, out-of-court restructuring in the second half of 2019. The Debtors and Seabury engaged in negotiations with the Stakeholder Facility Lenders to obtain their agreement to anchor an effort to raise approximately $1.2 billion of new money financing. As part of these negotiations, the Stakeholder Facility Lenders agreed in principle to (i) roll-up their approximately $386 million of outstanding loans under the Stakeholder Facility (including $11 million of payment-in-kind ("PIK") interest) into a subordinated DIP loan tranche and (ii) potentially lend some or all of the $316 of new money that would, if fully subscribed, aggregate to $722 million in a subordinated structure (collectively, the "Tranche B DIP Loans"). Critically, the Stakeholder Facility Lenders also agreed in principle to

release their liens (subject to certain conditions) on valuable collateral securing the pre-petition Stakeholder Facility, which consisted principally of (i) the Debtors' 70% equity interest in their loyalty program company, LifeMiles Ltd.—one of the largest airline loyalty programs in Latin America—and (ii) a pledge over Avianca's affiliates representing its cargo freighter operations and (iii) a pledge over certain Colombian peso-denominated credit card receivables (collectively, the "Stakeholder Facility Collateral").

13. Given the near certainty that some or all of the Stakeholder Facility Lenders would participate in the DIP financing, and further, that the Avianca Holdings S.A. ("AVH") Board of Directors (the "Board") included designees of the stakeholders (e.g., United and Kingsland), the Board, on advice of counsel, implemented measures to make certain that those directors did not receive information, or participate in the deliberations regarding issues that might advantage the participating Stakeholder Facility Lenders in any negotiations with the Debtors. Specifically, the independent directors of the Board negotiated with the participating Stakeholder Facility Lenders on behalf of the Debtors, and the applicable designees on the Board were excluded from any discussions during the DIP process that the independent directors determined, with advice of counsel, might provide the participating Stakeholder Facility Lenders with an advantage in negotiations with the Debtors.

14. With an initial agreement in place with the Stakeholder Facility Lenders, Seabury formally launched in early June 2020 a solicitation process for raising a $900 million senior DIP loan tranche (the "Tranche A DIP Loans"). Seabury also continued to solicit interest from other lenders in the Tranche B DIP Facility to provide the necessary new money thereunder or to serve as alternative lenders for the full $700 million of Tranche B DIP Loans. Seabury contacted over 100 potential lenders that Seabury believed might be interested in, and capable of, entering into a

DIP financing transaction. These potential investors included banks, private equity firms, hedge funds and the Debtors' prepetition lenders. Seabury established a data room to provide detailed financial and business information about the Debtors to potential investors, including the high-level business plan and a detailed DIP lender presentation. Over 35 parties signed non-disclosure agreements with the Debtors to obtain access to the data room. Throughout June, Seabury held extensive discussions with potential investors regarding the Debtors' business and worked closely with the Debtors to refine a financing structure and respond to due diligence inquiries from investors.

15. Also during the month of June, the Debtors' discussions with the RoC had progressed to the point where the RoC felt that it would be constructive to hire outside financial and legal advisors to assist in the analysis of a potential financing. On June 30, 2020, the Debtors filed a motion for authority to reimburse the fees and expenses of up to an aggregate cap of $3 million of the RoC's professionals (including Arnold & Porter and Perella Weinberg Partners) in connection with their evaluation of various DIP financing proposals. That motion was initially approved on July 16, 2020 (as amended by a subsequent order of the Court on August 17, 2020).

16. Around the same time, the Debtors sought to hire Goldman Sachs Lending Partners LLC ("GS") to assist with their efforts to obtain support from the RoC due to GS's long history of working with both the private and public sectors on a variety of financing transactions in Colombia. The Debtors wished to engage GS to explore and identify options with respect to both a potential DIP financing facility and an exit facility, in each case with the involvement of the RoC. The Debtors filed a motion on July 15, 2020 (which was granted on July 27, 2020) for authority to indemnify GS, as arranger of a potential DIP financing facility for the Debtors, and reimburse its legal fees and expenses subject to an aggregate cap of $1 million.

17. Seabury's initial solicitation process for the $900 million of senior Tranche A DIP Loans and the $700 million Tranche B DIP Loans using solely private capital sources resulted in submission of indications of interest by over 10 parties, including the Stakeholder Facility Lenders, that reflected strong interest for the Tranche B DIP Loans but less so for the Tranche A DIP Loans. The feedback Seabury received after this initial round of Tranche A DIP solicitation was that (i) the Debtors did not have sufficient unencumbered collateral with which to secure a DIP financing that would be adequate to meet the Debtors' liquidity needs and (ii) that the funding and subordination structure of the Tranche B DIP Loans as originally proposed was not acceptable to potential Tranche A lenders. Due to the nature and limited amount of the available collateral, including the complexity of financing transactions related to the fleet of aircraft, the universe of potential transaction partners was extremely limited. Moreover, not a single party was willing to provide financing on an unsecured basis. In order to remedy these deficiencies, the Debtors sought to materially improve the collateral supporting the potential DIP Facility.

18. First, Seabury successfully negotiated with the Stakeholder Facility Lenders a revised subordination and funding agreement whereby they would, as Tranche B DIP Lenders, agree that (i) their collateral interests would become immediately subordinated (not over time), and (ii) they would agree to fund pro rata new money loans proportionate to their overall DIP loan commitments, rather than being backloaded, as was the case with the initial Tranche A solicitation.

19. Second, in order to free up additional assets to pledge as collateral for the DIP Facility, the Debtors, Seabury and Milbank engaged in negotiations with an ad hoc group of holders (the "Ad Hoc Group") of the Debtors' Existing Notes. The Existing Notes are secured by important collateral of the Debtors, including the Debtors' trademarks, intellectual property, and certain aircraft (the "Shared Collateral"). After extensive arms-length negotiations, as described

more fully below, the Ad Hoc Group agreed to allow the prepetition liens to be primed on the Shared Collateral so that such collateral could be pledged for the benefit of **all** potential DIP lenders. The noteholders who are part of the Ad Hoc Group also agreed to enter into a Restructuring Support Agreement and a commitment agreement to provide Tranche A DIP Loans that include the following terms: (i) a consensual priming of the Shared Collateral in support of the Tranche A and Tranche B DIP Loans; (ii) agreement to concede that in connection with the Debtors' ultimate restructuring and plan of reorganization, the approximately $484 million Existing Notes secured by the Shared Collateral would be satisfied by a roll-up of only $220 million of Tranche A DIP Loans; and (iii) an agreement to backstop a minimum of $200 million of new Tranche A DIP Loans, the latter providing a "anchor investor group" for the renewed solicitation of the $900 million of Tranche A new money loans.

20. Third, also in an effort to further obtain additional unencumbered collateral to secure a potential DIP facility, the Debtors, Seabury and Milbank also engaged in negotiations with certain affiliates of Advent International Colombia S.A.S. ("Advent"), the owners of a 30% minority stake in LifeMiles. In light of the economic value of Advent's minority stake in LifeMiles, as well as the incremental value of the Debtors' owning an undivided 100% equity stake in LifeMiles,[3] the Debtors determined that the purchase of Advent's minority stake would be in the best interests of the Debtors, their estates, and their DIP solicitation process to the extent

[3] The LifeMiles entity is governed by a shareholders agreement as between Avianca and Advent (the "Shareholders Agreement"), which will be amended as part of the DIP Facility transactions. It is my belief that the amendment, and ultimate prospect of ultimate elimination, of the Shareholders Agreement and its corresponding minority protections increases today the value of the Debtors' 70% stake, as does the consolidation of 100% ownership (inclusive of the future effect of the Call Option) with the Debtors. Among other minority protections, Advent has various consent rights under the Shareholders Agreement—including with respect to any attempt by Avianca to pledge its 70% stake. Advent and Avianca are also parties to a pre-petition put agreement, whereby the Debtors must purchase Advent's 30% stake for fair market value at Advent's election in October 2023. Contemporaneously herewith, AV Loyalty Bermuda, Ltd. (the entity holding Avianca's 70% stake) will file for chapter 11 and be incorporated into the Debtors' jointly administered cases.

it could be obtained at a reasonable cost. The Debtors and Advent subsequently engaged in extensive arms-length negotiations regarding the terms of a potential securities purchase (including between Milbank and Weil, Gotshal & Manges LLP, as counsel to Advent). The Debtors and Advent agreed that the Debtors, subject to Bankruptcy Court approval, will purchase (i) 19.9 percentage points of Advent's 30% minority stake in exchange for cash and Tranche A DIP Loans in the aggregate amount of $195 million,[4] and (ii) a call option for the remaining 10.1 percentage points of Advent's 30% minority stake which the Debtors may exercise upon payment of $5 million in cash (the "Call Option"), in each case as more fully described in the securities purchase agreement with Advent ("SPA") and the Sale Motion.

21. As a result of the SPA, the Debtors will be able to immediately pledge the additional 19.9% of LifeMiles equity and the Call Option as collateral for the DIP Facility. The remaining equity stake in LifeMiles is a valuable asset which, pursuant to the SPA, the Debtors will be acquiring on terms beneficial to the estates. Based on my experience and my discussions with valuation experts, I believe that the value of LifeMiles 89.9% equity plus the Call Option is approximately $1.6 billion to $2.6 billion. Therefore, the US $195 million purchase price for the 19.9% LifeMiles equity stake and the $5 million Call Option for the remaining 10.1% is eminently reasonable, and allows the Debtors to take advantage of a discount that would likely not otherwise exist absent the impact of the COVID-19 pandemic on the airline industry, the general uncertainty of Avianca's chapter 11 cases, and the resulting difficulty of Advent attempting to sell its minority stake to any other potential purchaser. The purchase by the Debtors of this minority equity stake is a crucial element to allow the Debtors to secure the full $1.2 billion of new money under the

[4] The Debtors shall pay either (i) $187.5 million in Tranche A DIP Loans plus $7.5 million in cash, or (ii) $168.5 million in Tranche A DIP Loans plus $26.5 million in cash (the "Advent Election"), which election shall be made prior to the hearing.

Tranche A and Tranche B DIP Loan facilities and will thereby support the necessary liquidity to continue running their businesses.

22. Based on the aforementioned negotiations with Advent, the Stakeholder Facility Lenders, and the Ad Hoc Group, the Debtors were able to develop a path forward whereby they would be able to re-approach the market to solicit interest in a DIP facility that would be secured by a substantial amount of newly available collateral. The Debtors, Seabury and Milbank also completed several rounds of further negotiations to improve the economic terms of the agreements with Advent, the Stakeholder Facility Lenders (as future Tranche B DIP Lenders), and the Ad Hoc Group, including with Paul Hastings LLP and Evercore Group LLC, as advisors to the Ad Hoc Group, Cadwalader, Wickersham & Taft LLP, as counsel to Kingsland, and Weil, Gotshal & Manges LLP, as counsel to Advent. During this time, the Debtors were able to obtain additional concessions from each of Advent, the Stakeholder Facility Lenders, and the Ad Hoc Group regarding the economic and non-economic terms of a potential DIP facility.

23. While the Debtors were able to fill their entire Tranche B facility, the Debtors still required approximately $700 million in additional Tranche A new money commitments to combine with the new money being provided by the Ad Hoc Group to reach $900 million of new Tranche A funding. To ensure maximum success in syndicating the Tranche A DIP Loans to private investors, the Debtors and Seabury engaged in discussions with GS and JPMorgan Chase Bank N.A. ("JPM") with respect to GS and JPM acting as "co-arrangers" (the "Co-Arrangers") for the Tranche A DIP Loans, with Seabury, as the Debtors' investment banker, providing overall guidance and marketing and investor due diligence support to the Co-Arrangers, while also serving as the exclusive advisor with respect to the placement of the Tranche B DIP Loans. A motion for approval of the Debtors' engagement of the Co-Arrangers and the payment of their fees was filed

with the Bankruptcy Court on August 11, 2020, and the Court approved the motion on August 19, 2020.

24. Working together with Seabury, the Co-Arrangers contacted nearly 300 DIP lender prospects, some of which (approximately 40 parties) were already engaged in substantial due diligence efforts directly with the Seabury team. These efforts, in conjunction with the 100-plus additional parties contacted by Seabury (bringing the total parties contacted by Seabury and the Co-Arrangers to approximately 425), resulted in over 250 parties conducting due diligence through the Debtors' public and private data rooms. The "re-launch" of the Tranche A and Tranche B DIP solicitation process yielded a fully-funded DIP Facility from more than 120 institutions providing final commitment bids (over 40 with commitments in excess of $1 million), arranged through a roll-up of prepetition lender facilities as well as new monies provided by existing lenders, private equity firms, and hedge funds.

25. The Debtors' "re-launch" of their DIP solicitation process, in light of the collateral release/priming commitments from the Stakeholder Facility Lenders and the Ad Hoc Group (and the agreement to purchase Advent's minority stake in LifeMiles), resulted in the Debtors securing financing commitments from private lender parties with total aggregate commitments of approximately $881 million (inclusive of $226.8 million from the Ad Hoc Group and other 2023 Noteholders). The Debtors have also included a mechanism in the DIP Facility whereby a governmental entity (i.e., an "Additional Lender" as defined in the DIP Credit Agreement) may participate in the DIP Facility in the amount of up to approximately $250 million. This funding will be backstopped by other DIP Lenders to ensure that the Debtors have sufficient funding regardless of whether any such Additional Lender participates in the DIP Facility. The terms of this backstop commitment are set forth in the DIP Credit Agreement and the Backstop

Commitment Letter (a copy of which is annexed to the DIP Motion as Exhibit F), and are a critical component of the proposed DIP Facility.

26. Without the release and/or sale of significant collateral by the Stakeholder Facility Lenders, the Ad Hoc Group, and Advent, these additional DIP lenders would not have participated in the DIP Facility because there would have been too little material collateral against which to lend, and the Debtors thus would not have been able to raise sufficient liquidity to fund their businesses and these chapter 11 cases.

27. The Debtors selected the financing proposed by DIP Lenders as the best bid for postpetition financing secured by the available collateral based on multiple factors, including the size and certainty of the committed amount, flexibility to draw or not draw the commitment, the applicable upfront fees and commitment fees on any undrawn amount, the applicable interest rate on drawn amounts, the reasonableness of conditions precedent and applicable financial covenants, and the other contractual commitments to which the DIP Lenders have agreed. Importantly, the Debtors did not receive alternate proposals.

28. The DIP Facility is critical to providing the liquidity necessary for the Debtors to survive and operate successfully, and to prosecute their chapter 11 cases to completion. Especially given the uncertainty in the airline industry and the ongoing development of a business plan, the Debtors must secure financing immediately in an amount sufficient to continue weathering the storm that is affecting airlines across the world. Based on over thirty years of experience in restructuring as both a principal and advisor, I believe the process the Debtors have undertaken to secure the debtor-in-possession financing has been both comprehensive and exhaustive, and in seeking approval of the DIP Facility, the Debtors are seeking approval of the best financing

available to the Debtors given the circumstances. A chart illustrating the finalized key terms of each agreement with the foregoing parties under the proposed DIP Facility is below:

Party	Total DIP Commitment	New Money Commitment	Prepetition Collateral to be Made Available	Roll Up of Prepetition Debt (or Consideration to be Paid)
Tranche A				
Ad Hoc Group of Existing Notes	$446,821,000	$226,821,000[5]	Debtors' trademarks, intellectual property, and certain aircraft	$220,000,000 of the Existing Notes (*pro rata* for all participating holders)
Advent International	Either $187,500,000 or $168,500,000 depending on the Advent Election	$0	19.9% equity stake in LifeMiles to be sold to Debtors, with Call Option for remaining 10.1%[6]	$200,000,000 to be paid by Debtors in the form of (i) $195 million in cash and Tranche A DIP Loans, and (ii) $5 million for remaining 10.1% payable upon the exercise of the Call Option
Third Party Lenders	$654,179,000	$654,179,000[7]	N/A	N/A
Total	**$1,288,500,000**	**$881,000,000**	**N/A**	**N/A**
Tranche B				
Stakeholder Facility Lenders	$722,319,509	$335,919,509	Debtors' 70% equity stake in LifeMiles, certain COP-denominated receivables	$386,409,016,[8] representing all principal and interest outstanding under Stakeholder Facilities
Total	**$722,319,509**	**$335,919,509**	**N/A**	**$386,409,016**

[5] Derived from $200,000,000 backstop from the Ad Hoc Group, plus up to $26,821,000 of additional monies from other participating bondholders.

[6] Exercise of Call Option requires an additional payment of $5 million.

[7] Inclusive of the $250 million backstop from the Backstop Lenders, which will be funded to the extent the Additional Lender (as defined in the DIP Credit Agreement) does not become a DIP Lender.

[8] As of September 30, 2020, such amount to further increase by the PIK interest on the Stakeholder Facility until the Closing Date.

THE PROPOSED DIP FACILITY IS NECESSARY AND SUFFICIENT TO MEET THE DEBTORS' LIQUIDITY NEEDS

29. Seabury worked closely with the Debtors' management team and other advisors to assess the Debtors' cash needs for their businesses and chapter 11 cases. Based on the extensive work of Seabury to assess the Debtors' immediate and projected liquidity needs, I believe that the DIP Facility will provide necessary and sufficient liquidity for the Debtors to fund their operations during the pendency of these chapter 11 cases and to fund the administration of these chapter 11 cases.

30. The abrupt and acute downturn in the airline industry since the onset of the COVID-19 pandemic has severely depleted the Debtors' liquidity. As of the date hereof, the Debtors' unrestricted cash on hand is approximately $150 million. Even with the commencement of commercial passenger operations which began as of September 1, 2020, the Debtors are projected to have negative operating cash flow over the coming eight to ten months of these chapter 11 cases, even before including professionals' fees and other restructuring expenses, as the Debtors work to rebuild their business within the COVID-19 environment afflicting the industry.

31. Without immediate access to sufficient DIP financing, the Debtors will be unable to continue their operations throughout the pendency of these chapter 11 cases. The Debtors need the DIP Facility to fund working capital, make capital expenditures, cover payroll obligations, pay suppliers, cover overhead costs, and make any other payments that are essential for the continued management, operation, and preservation of the Debtors' business. The ability to make these payments when due is essential to the continued operation of the Debtors' business during the pendency of these cases. The funds that would be made available to the Debtors under the DIP Facility are therefore necessary to preserve the value of the Debtors' estates for the benefit of all stakeholders.

32. If the Debtors cannot quickly access the DIP Facility, based on the Debtors' financial forecasts, the Debtors will not be able to continue to operate their business beyond early- to the latter part of October 2020. This would negatively impact the Debtors' revenue, jeopardize the Debtors' stakeholders' confidence in the Debtors' business, and harm the value of the Debtors' estates to the detriment of all stakeholders. Based on the Debtors' financial forecasts, the liquidity provided by the DIP Facility will allow the Debtors to implement their business plan and weather industry headwinds related to macroeconomic uncertainty associated with the global COVID-19 pandemic and the current challenges facing the aviation industry.

33. The size of the DIP Facility, combined with access to receipts, is calculated to permit the Debtors to maintain the minimum amount of liquidity sufficient to sustain operations during these chapter 11 cases. Because the Debtors' expect that in the context of the COVID-19 pandemic their operating cash flow will be negative in the majority of weeks in the coming six to eight months, the borrowings under the DIP Facility will enable the Debtors to continue to maintain a minimum cash balance of at least $500 million (versus the $400 million minimum cash covenant in the DIP credit agreement) and provide sufficient liquidity to fund the remainder of these chapter 11 cases. Based on the Debtors' projected operating cash flow, a DIP Facility funding new money of approximately $1.2 billion is necessary in order to maintain that minimum liquidity requirement. This amount addresses the Debtors' predicted liquidity needs and enables the Debtors to account for potential fluctuations over time, such as changes in fuel costs, as well as other developments that may occur related or unrelated to the COVID-19 pandemic.

34. I believe that the work done in evaluating the Debtors' cash needs was reasonable. The Debtors' estimated cash needs reflect the result of modeling along with various stress tests assuming a number of different valuations, and the size of the DIP Facility is reasonable under the

circumstances. Based on current forecasts, the Debtors' operational needs during the course of these proceedings are expected to far exceed the amount of cash on hand and, as of the date hereof, the Debtors are not projected to be able to maintain the minimum liquidity thresholds needed to run their business without the risk of potential disruption, unless the proposed financing is approved. Given the volatility of the current environment, particularly accounting for the uncertainties regarding how the COVID-19 pandemic may affect the Debtors and their operations in the near and medium term, it is essential for the Debtors to have access as soon as possible to a financing facility that will provide them sufficient liquidity.

35. The proceeds of the DIP Facility provide the Debtors with needed stability and sufficient liquidity to continue to operate their business in the normal course, provide comfort to their employee, customer, and vendor constituencies, and fund the administration of these chapter 11 cases. The ability of the Debtors to obtain sufficient working capital and liquidity through the DIP Facility is vital to the preservation and maintenance of the going concern value of the Debtors.

THE DIP FACILITY HAS BEEN NEGOTIATED
AT ARMS-LENGTH AND IN GOOD FAITH

36. Since engaging with their key stakeholders regarding potential debtor-in-possession financing in the weeks leading up to the filing, and continuing after the filing, the Debtors and their advisors have engaged in extensive negotiations with the DIP Lenders and their advisors regarding the proposed DIP Facility.

37. The DIP Lenders and the Debtors have exchanged numerous drafts of term sheets and debtor-in-possession loan documents with respect to the proposed DIP Facility and have conducted hours of intense negotiations over the telephone and on video conference. Paul Hastings LLP and Evercore Group LLC, as advisors to the Ad Hoc Group; Cadwalader, Wickersham & Taft LLP, as counsel to Kingsland, Weil, Gotshal & Manges LLP, as counsel to Advent, and the

Co-Arrangers and their counsels, Simpson Thatcher and Clifford Chance, as well as Milbank and Seabury, as advisors to the Debtors, were fully engaged in this process, exchanging significant diligence information through a virtual data room, participating in countless conference calls, videoconferences, and negotiations to work toward finalizing debtor-in-possession financing terms and final documentation. This process involved, among other things, extensive evaluation and testing of the Debtors financial forecasts by the Debtors' and the DIP Lenders' financial advisors. The negotiations culminated in the proposed DIP Facility, as documented in the DIP Credit Agreement, the approval of which is sought on a final basis in the DIP Motion.

38. Over the course of these negotiations, the Debtors materially improved the terms of the financing as compared to those originally offered. Notably, the lenders in the Ad Hoc Group have agreed to execute a Restructuring Support Agreement with the Debtors and have agreed to vote in favor of the Debtors' eventual chapter 11 plan (subject to the fulfillment of certain conditions). By agreeing to vote in favor of such a plan, the Ad Hoc Group has substantially furthered the Debtors' ability to exit these cases through a smooth reorganization and plan process.

39. While Kingsland is a holder of equity interests in Avianca Holdings S.A. as well as certain seats on the Board, and United is in the process of foreclosing on common shares of AVH held by BRW Aviation LLC,[9] both also hold significant economic interests as secured creditors within the $375 million pre-petition senior secured Stakeholder Facility. The DIP Facility has been properly evaluated and vetted by the Debtors' independent members of the Board. As set forth above, the Board implemented procedures early in the process to address any conflicts of interest. To my knowledge, no "back channel" discussions occurred between and among management and

[9] As further described in the *Declaration of Adrian Neuhauser in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 20], at ¶¶ 80-81.

the directors designated by any of the Stakeholder Facility Lenders, and all relevant representatives and employees of the Stakeholder Facility Lenders were specifically excluded from any calls or meetings that would have given them an advantage or might adversely influence the Debtors' ability to negotiate at arms' length. While the directors designated by Kingsland and Kingsland (in its capacity as a third party irrevocably designated by United in the structuring of its loan to BRW in 2018) did receive general updates relating to the affairs of the Debtors, including general updates related to the Debtors' efforts to raise DIP financing, any matters relating to those lenders' role in the DIP Financing, as well as other sensitive information (including the terms of competing offers), were always discussed outside of those directors' presence. Moreover, no Stakeholder Lender had any involvement on behalf of the Debtors in the Debtors' negotiation or approval of the Tranche B DIP Financing in which the Stakeholder Facility Lenders are participating as lenders.

40. Based upon my observations and involvement in the negotiation of the DIP Facility in this matter, the negotiations with the potential lenders have at all times been conducted at arm's length and in good faith.

THE EXIT EVENT TRANSACTIONS ARE FAIR AND REASONABLE

41. The Exit Event Transactions (as defined in the DIP Credit Agreement) are fair and reasonable components of the DIP Facility, and provide the Debtors with flexibility for their eventual restructuring and emergence from chapter 11. With respect to the Tranche B DIP Facility, the Debtors shall have the option to either (i) repay the Tranche B DIP Facility (including the Tranche B Back-end Fee) in cash, or (ii) repay the entire $722.3 million Tranche B DIP Facility (plus all accrued fees and interest during the term of Tranche B Loan which may total as much as approximately $910 million through the maturity date of the DIP Facility) with common shares of the reorganized Debtors, which shall constitute no less than 72% of the aggregate common equity

on a fully diluted basis (i.e., the "Equity Floor"). If the Debtors so elect, the right of the Tranche B DIP Lenders to subscribe to such equity securities shall include an 8.5% discount to the pre-money plan equity valuation of the reorganized Debtors, which discount is very favorable to the Debtors relative to similar equity discounts provided in comparable transactions.

42. The Tranche B equity conversion option preserves the Debtors' liquidity, lowers the barriers to exiting chapter 11, and was a key concession of the prepetition Stakeholder Facility Lenders (who are also Tranche B DIP Lenders) in their negotiations with the Debtors. The equity conversion option is critical not only to the Debtors and their ability to maintain flexibility in structuring their plan of reorganization, but also to the Tranche A DIP Lenders since many of the Tranche A DIP Facility Lenders' commitments to fund were based on the Debtors' ability to eventually equitize the Tranche B DIP Facility, inclusive of accrued fees and PIK interest.

43. The Debtors' decision to exercise the equity conversion option (and all aspects of the conversion, including the 72% equity floor and 8.5% discount) will be subject to a robust marketing process to be conducted by the Debtors and Seabury prior to seeking confirmation of the Debtors' plan of reorganization by the Court, as well as the Court's further review and approval of that process. Further, such decision to exercise the option to convert Tranche B loans into equity will be subjected to the Committee's right to object, along with other parties in interest, in connection with confirmation of the Debtors' eventual chapter 11 plan. Additionally, the Exit Event Transactions shall be subject to (i) the approval of the Debtors' disinterested and independent directors who are not affiliated with any of the Tranche B DIP Lenders, and (ii) further market testing (in consultation with the Committee) to determine whether any equity conversion is in the best interests of the Debtors' estates. As section 2.10(d) of the DIP Credit Agreement

specifically provides, "The Tranche B Lenders acknowledge that the Borrower intends to solicit other equity financing proposals and may accept any such proposals."

THE ASSUMPTION OF CONTRACTS WITH LIFEMILES AND UNITED AIRLINES IS A SOUND EXERCISE OF BUSINESS JUDGMENT

44. As part of the negotiations with Advent and United, each of which are DIP Lenders under the Tranche A and Tranche B DIP facilities, respectively, the Debtors have agreed to assume (i) certain contracts with LifeMiles, which shall be assumed upon the closing of the DIP Facility or at confirmation (as applicable), as set forth in further detail in the Sale Motion and the SPA, and (ii) certain contracts with United, which shall be amended and assumed upon entry of the Final Order and subsequently amended and/or assumed at confirmation, all as set forth in more detail in the Assumption Notice (as defined herein). In connection with the *Order (I) Authorizing and Approving Procedures to Reject or Assume Executory Contracts and Unexpired Leases and Abandon Certain Aircraft and Equipment and (II) Granting Related Relief* [Docket No. 261]), the Debtors have filed that certain *Notice of Assumption of Certain Executory Contracts (As Amended) in Connection with Its Continued Relationship with United Airlines, Inc.* contemporaneously herewith (the "Assumption Notice") which, among other things, lists the contracts with United to be assumed and amended pursuant to that certain *Omnibus Amendment to Certain Commercial Arrangements Among United, Avianca and Certain of Its Affiliates*, dated September 21 (the "United Omnibus Amendment"), a copy of which is attached to the Assumption Notice.

45. With respect to the LifeMiles agreements that the Debtors have agreed to assume under the SPA with Advent, the Debtors' assumption of these agreements will ensure the continued success of Avianca's LifeMiles loyalty program, which is one of the largest and most recognized coalition loyalty programs in Latin America—particularly in Avianca's core markets of Colombia and Central America, with approximately 9.7 million members as of December 31, 2019, and 586

active commercial partners. Frequent flyer programs such as the LifeMiles program build and maintain a loyal customer base, especially among business travelers who pay higher fares than do leisure travelers. Prior to COVID-19, approximately 32% of the Debtors' total passenger revenues were generated from passengers who are members of the LifeMiles program. LifeMiles generated revenues in excess of $337 million in 2019, with approximately 70% of its cash receipts coming from non-Avianca sources. The LifeMiles program is an important source of revenues for the Debtors, enhances the loyalty of the Debtors' most valued customers, and ensures that the Debtors can effectively compete with other major airlines that offer their own loyalty programs. Additionally, with respect to any amounts that may be due under the LifeMiles agreements being assumed at closing, no cash, other than the application of cashless netting, or any other consideration shall be required to be paid by the Debtors at closing to satisfy the cure obligations pursuant to section 365 of the Bankruptcy Code (as more fully set forth in the proposed order for the Sale Motion). In light of the foregoing, I believe that the assumption of the contracts with LifeMiles as set forth in the SPA is a sound exercise of the Debtors' business judgment.

46. With respect to United, which has a principal amount of approximately $154 million of prepetition loans outstanding under the Stakeholder Lender Facility (through September 30, 2020) which are designated to roll up into the subordinated Tranche B Loans, the Debtors have agreed to assume and amend pursuant to the United Omnibus Amendment ten total agreements (as amended) with United comprised of five bilateral alliance agreements, two codeshare agreements, two frequent flyer program agreements, and one special prorate agreement (an interline agreement in which the distribution of fees and the settlement of ticket costs between carriers are precisely defined) (collectively, the "Assumed United Agreements"). Together, these Assumed United Agreements and the United Omnibus Amendment govern the Debtors' important business

relationship with United—including in their capacities as members of the Star Alliance, the world's largest global airline alliance—and the assumption of the Assumed United Agreements will inure to the Debtors' benefit upon their emergence from chapter 11 by preserving this relationship.

47. Prior to seeking assumption, the Debtors agreed with United to amend each of the Assumed United Agreements under the United Omnibus Amendment to provide for a three-year term from the assumption date and no-termination provision for the Debtors (with an exception permitting termination in the case of an uncured material breach by United or certain adverse events with respect to the Debtors' air operator's certificates).

48. The Debtors' go-forward relationship with United is subject to certain terms and conditions in connection with the DIP Facility. As part of its agreement to participate in the subordinated Tranche B DIP facility, United sought to ensure a long-term business relationship with Avianca incorporated into the United Omnibus Amendment. Accordingly, at confirmation the Debtors will agree to (i) further amend the Assumed United Agreements to provide for an incremental seven-year extension and no-termination provision for the Debtors (with an exception permitting termination in the case of an uncured material breach by United or certain adverse events with respect to the Debtors' air operator's certificates), thus extending those agreements until September 2030, and (ii) amend and assume the Joint Business Agreement with United and other parties thereto (the "JBA"), which governs revenue sharing, services integration, and pricing/scheduling coordination among Avianca, United and Compañía Panemeña de Aviación, S.A. ("Copa") on routes between the United States and Central and South America (excluding Brazil, Mexico and the Caribbean), which is still inactive as the parties have not yet filed for regulatory approval. Such amendment will provide for a two-year period of good faith

negotiations so as to modify the JBA for the benefit of all parties to accommodate post-COVID-19 conditions. If the parties cannot come to agreement within that two-year period, any party to the JBA may terminate the JBA without triggering any damage claims. If the Debtors do not meet the foregoing conditions or otherwise fail to comply with the terms of the United Omnibus Amendment, then (a) the repayment of United's Tranche B DIP Loans in cash or equity shall be at United's option, and (b) the Debtors will pay liquidated damages of $35 million to United, which damages shall be afforded administrative expense priority in the Debtors' chapter 11 cases (the "UA Liquidated Damages Claim").[10]

49. United and Avianca have reached a reasonable solution to resolve the uncertainty surrounding the JBA. While the JBA is expected to provide Avianca with $35 million to $50 million in incremental annual revenue, the JBA was designed prior to the parties being impacted by COVID-19. As such, the parties (including Copa) need time to re-evaluate the optimal structure of the JBA in the new post-COVID world and, if a mutual agreement cannot be reached, the parties would not be bound to move forward with the JBA (and Avianca would not be liable for damages).

50. The Debtors' proposed modifications and the two-step process of adding non-cancelable terms to the United Assumed Agreements are reasonable given that the Debtors likely will wish to assume the contracts as part of their eventual chapter 11 plan for the reasons outlined below. What is more, the UA Liquidated Damages Claim provision limits the Debtors' exposure in the event that a competing offer arises.

51. United has long been a key partner to Avianca, and their business relationship as Star Alliance partners has operated under the Assumed United Agreements and predecessor

[10] If the Debtors are not able to assume the JBA as amended, the Debtors are permitted to reject the JBA and enter into a separate 2-year agreement with United with terms similar to the proposed amendments, without incurring the UA Liquidated Damages Claim.

contracts for over ten years. Each of the Assumed United Agreements are arm's length in nature and mutually beneficial to the parties. Furthermore, Avianca ran a vigorous competitive process in 2016-2017 in order to select a long-term partner, which competition was won by United based upon the best set of economic contributions likely to be made to Avianca over the following 10-year period (from 2018-2028). The current framework of the Avianca-United relationship is the product of that competitive process.

52. Avianca has derived over $90 million in annual incremental revenues from its relationship with United and other Star Alliance members in the years 2017-2019, and expects to continue to derive similar benefits during the ten-year term of the Assumed United Agreements. If the JBA is consummated and the requisite regulatory approvals are obtained, Avianca would likely enjoy significant incremental annual revenues during its term (as much as $35 million to $50 million per year).

53. Replacing United with another major airline partner, if viable at all, will require significant investment in systems, relationships, network redesign, etc. and will put in jeopardy the entire relationship with Star Alliance, of which United is a charter member and a driving force. Also, maintaining Avianca's relationship with the broader Star Alliance—and therefore United—is key to the loyalty business of LifeMiles and to its value, both in the short-term as collateral for the DIP loans and cash flow for Avianca's business, and in the long-term as a critical revenue/profit source and strategic component to Avianca's business.

54. For the foregoing reasons, I believe that the assumption of the United Assumed Agreements and entry into the United Omnibus Amendment is a sound exercise of the Debtors' business judgment.

THE DIP FACILITY IS THE BEST OPTION
CURRENTLY AVAILABLE TO THE DEBTORS

55. The DIP Facility is attractive for several reasons. First, the DIP Lenders have agreed to several contractual undertakings and, in the case of the Ad Hoc Group, to sign a Restructuring Support Agreement and to agree to support the Debtors' eventual chapter 11 plan. Second, the Tranche B DIP Lenders have agreed to accept repayment in a manner that will preserve the Debtors' liquidity; namely, the Debtors will have the option at emergence, subject to satisfying certain conditions precedent, to convert the total obligations outstanding on the Tranche B DIP Loans into equity of the reorganized Debtors. Third, and as discussed more fully above, each of the Stakeholder Facility Lenders, Advent, and the Ad Hoc Group have agreed to release, sell, or have primed, respectively, a material portion of collateral so that such collateral can be made available to all DIP Lenders. Without these agreements in place, the Debtors would not be able to raise sufficient liquidity as evidenced by the Debtors' first foray into the marketplace. The Debtors are not aware of any financing being available on equal or better terms from other lenders.

56. In an effort to obtain the most attractive financing available to the Debtors, an extensive marketing process was launched immediately after the Petition Date. Moreover, upon reaching agreements with their prepetition stakeholders for the release of substantial collateral, the Debtors re-launched a second marketing process with revised terms. As described above, over 425 parties were contacted in order to seek proposals for the Debtors' $1.2 billion of new money DIP financing need. Over the course of this DIP marketing process, approximately 225 parties accessed information about Avianca through virtual data rooms established and managed by

Seabury and the Co-Arrangers. The DIP Facility is critical to providing the liquidity necessary for the Debtors to survive and operate successfully, and is the best financing facility available to the Debtors at the conclusion of this process.

57. Seeking the approval of the DIP Facility on a secured basis is reasonable since it is not expected the Debtors could secure financing on a unsecured basis due to a number of considerations, including the severe negative impact the global COVID-19 pandemic has had on the Debtors' revenue streams and cash flows and in light of the general current market conditions. As set forth above, Seabury has not received any interest in, or proposals for, an unsecured facility. Based on my experience, unsecured financing would not be a viable option given the current state of the airline industry and the Company's current financial position.

58. With respect to the partial roll up of the Existing Notes and the full roll up of the Stakeholder Facilities (the "Roll-Up DIP Loans"), as well as the Debtors' full release of the Stakeholder Facility Lenders in the proposed DIP order, the Debtors determined that this component of the DIP Facility is appropriate and necessary under the circumstances. The Roll-Up DIP Loans are a material component of the DIP Facility required by both the Ad Hoc Group lenders and the Stakeholder Facility Lenders as a condition to their commitment to provide postpetition financing and to release the collateral securing their prepetition debt so that it may be pledged to secure the DIP Facility. Without the additional protections and compensation offered by the Roll-Up DIP Loans, neither the Ad Hoc Group lenders nor the Stakeholder Facility Lenders would be willing to finance the DIP Facility. Additionally, as discussed above, the Debtors conducted an extensive marketing process and were unable to obtain postpetition financing on better or similar terms that did not provide for repayment of prepetition obligations. Moreover, based on my experience and my discussions with valuation experts, the aggregate value of the

collateral securing the obligations under the Existing Notes (i.e., the Shared Collateral) exceeds the aggregate amount of the Roll-Up DIP Loans being used to satisfy the Existing Notes obligations, and the aggregate value of the collateral securing the obligations under the Stakeholder Facilities exceeds the aggregate amount of the Roll-Up DIP Loans used to satisfy the outstanding obligations under the Stakeholder Facilities. The market shares this valuation assessment as evidenced by the amount of the DIP commitments received post the addition of this supplemental collateral to the DIP Loan collateral package.

59. Based on my thirty years of experience in restructuring, I believe the process the Debtors have undertaken, and continue to undertake, in order to secure additional DIP financing, has been a comprehensive and exhaustive solicitation process. Additionally, based on my experience and knowledge of the market, the fees and expenses in the proposed DIP Facility and in the related fee and engagement letters, and the other economic terms of the DIP Facility, are fair and reasonable under the circumstances and are within the market for comparable debtor in possession financings. I am confident that the Debtors would be unable to obtain this level of credit on more attractive terms, and that on the whole, the DIP Facility is the best financial option currently available to the Debtors.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: September 21, 2020
New York, New York

John E. Luth
Chairman, President and Chief Executive Officer of Seabury Securities LLC and Executive Chairman of Seabury International Corporate Finance LLC