IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: AVENGER FLIGHT GROUP, LLC, *et al.*, Debtors.[1]	Chapter 11 Case No. 26-10183 (___) (Joint Administration Requested)

MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION CLAIMS OF CRITICAL VENDORS, FOREIGN VENDORS, 503(b)(9) CLAIMANTS, AND LIEN CLAIMANTS; (II) GRANTING ADMINISTRATIVE EXPENSE PRIORITY TO ALL UNDISPUTED OBLIGATIONS ON ACCOUNT OF OUTSTANDING ORDERS; (III) AUTHORIZING ALL FINANCIAL INSTITUTIONS TO HONOR ALL RELATED PAYMENT REQUESTS; AND (IV) GRANTING RELATED RELIEF

The above-captioned debtors and debtors-in-possession (the "Debtors" or "AFG") file this motion (the "Motion") for the entry of an interim order on an expedited basis, substantially in the form attached hereto as **Exhibit A** (the "Proposed Interim Order") and, following a final hearing to be set by the Court (the "Final Hearing"), entry of a final order, substantially in the form attached hereto as **Exhibit B** (the "Proposed Final Order"): (a) authorizing, but not directing, the Debtors to pay (i) certain prepetition claims (each a "Critical Vendor Claim" and, collectively, the "Critical Vendor Claims") of certain essential vendors and service providers (each, a "Critical Vendor" and, collectively, the "Critical Vendors") on an interim basis not to exceed $85,000.00 (the "Interim Critical Vendor Cap"), representing the critical expenditures the Debtors will need to make to

[1] The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers are: Avenger Flight Group, LLC (1216); AFG Dallas III, LLC (5615); AFG Dallas IV, LLC (5558); AFG Dallas, LLC (3418); AFG EU Operations Corp. (9406); AFG FLL, LLC (6470); AFG Latam Holding Corp. (6475); AFG Latam Sim Holdings II, LLC (0473); AFG Latam Sim Holdings III, LLC (2592); AFG Latam Sim Holdings IV, LLC (0093); AFG Latam Sim Holdings, LLC (6475); AFG Latam, LLC (9545); AFG Mexico Corp. (1402); AFG Orlando, LLC (8409); AFG Sanford, LLC (6661); AFG Sim Holding Corp. (3325); Avenger Flight Group Europe, Corp. (5908); Avenger Flight Group Topco, LLC (5643); Avenger Flight Training, LLC (5640); Avenger Flight Group Mexico II, S. de R.L. de C.V, (N/A); and Papi Flight Training, LLC (6206). The location of the Debtors' corporate headquarters and the Debtors' service address is Avenger Flight Group LLC, 1450 Lee Wagener Blvd., Fort Lauderdale, FL 33315.

Critical Vendors during the first three weeks of these Chapter 11 Cases (as defined below), and, on a final basis, not to exceed $150,000 (the "Final Critical Vendor Cap"); (ii) certain prepetition claims of Foreign Vendors (as defined below) on an interim basis not to exceed $10,000.00 (the "Interim Foreign Vendor Cap"), representing the critical expenditures the Debtors will need to make to Foreign Vendors during the first three weeks of these Chapter 11 Cases, and, on a final basis, not to exceed $15,000.00 (the "Final Foreign Vendor Cap"); (iii) 503(b)(9) Claimants (as defined below); and (iv) certain prepetition claims of Lien Claimants (as defined below), including facility and equipment repair and other contractors, on an interim basis not to exceed $10,000.00 (the "Interim Lien Claimant Cap"), representing the critical expenditures the Debtors will need to make to Lien Claimants during the first three weeks of these Chapter 11 Cases, and, on a final basis, not to exceed $30,000.00 (the "Final Lien Claimant Cap"); (b) granting administrative expense priority to all undisputed obligations on account of Outstanding Orders (as defined below); (c) authorizing CAE, Inc. (collectively with its affiliates and subsidiaries, "CAE") to continue to apply accrued pre-petition credits to critical SIM (defined below) components provided to the Debtors pre- and post-petition in the ordinary course of business, (d) authorizing applicable banks and other financial institutions to honor and process related checks and transfers; (e) approving the form of agreement that may be used by the Debtors, substantially in the form attached to the Proposed Interim Order as Exhibit 1 (the "Vendor Agreement"); and (f) granting related relief. In support of this Motion, the Debtors rely upon and refer this Court to the *Declaration of Lawrence Perkins in Support of the Debtors' Chapter 11 Petitions and First Day Relief* (the "First Day Declaration"), incorporated herein by reference.[2] In further support of this Motion, the Debtors respectfully represent as follows:

[2] A capitalized term used but not defined herein shall have the meaning ascribed to it in the First Day Declaration.

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution. The Debtors confirm their consent, pursuant to Rule 9013-1(f) of the Local Rules, to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are sections 105(a) and 363 of Title 11 of the United States Code (the "Bankruptcy Code"), Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules").

BACKGROUND

A. The Chapter 11 Cases

4. On the date hereof (the "Petition Date"), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the "Chapter 11 Cases"). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee

or examiner has been made in the Chapter 11 Cases, and no committees have been appointed or designated.

5. Avenger Flight Group, LLC ("AFG LLC") and its affiliates (collectively, "Avenger" or the "Company") is a global leader in the commercial aviation simulation and training business. Avenger provides a full suite of advanced flight simulator training solutions to their customers, which include blue-chip passenger airlines, regional airlines, charter operators, and training operators. As of the Petition Date, the Company operates 50 full-flight simulators (collectively, the "SIMs") and 15 flight training devices (collectively, the "FTDs") across 11 training centers in 4 countries. As more fully discussed in the First Day Declaration, the SIMs operated by the Debtors support the Debtors' core business operations and include SIMs for specific aircraft platforms manufactured by Boeing, Airbus, Honeywell, Embraer, Axis, and ATR, which must be impeccably maintained and operational to meet stringent operational and regulatory requirements and to ensure sufficient availability to maintain the Debtors' customer relationships.

6. A more detailed description of the Debtors' business and facts precipitating the filing of the Debtors' chapter 11 proceedings are set forth in the First Day Declaration.

B. The Critical Vendors

7. The Debtors' business relies on continuing access to and relationships with various vendors and service providers, who largely provide SIM and/or FTD components, parts, software, and related maintenance and repair service and support. Any disruption in the Debtors' access to the provision of critical hardware, software, and related service and support to the Debtors would have a far-reaching and adverse economic and operational impact on their business.

8. The bulk of the goods and services that the Debtors depend on are provided by a limited network of vendors and service providers that, for the most part, conduct business with the

Debtors on an invoice-by-invoice or purchase order-by-purchase order basis, and not pursuant to long-term contracts. These vendors typically supply their customers with services and products on trade terms based on their experience with and perceived risk of conducting business with such customers. The Debtors believe that it would be extremely difficult, if not impossible in certain instances, to replace the Critical Vendors within a reasonable time without severe disruption to the Debtors' businesses, in particular given the niche nature of the SIMs, FTDs, and specialty aviation parts and software. Such harm and disruptions would likely far outweigh the cost of payment of the Critical Vendor Claims. As a result, it is essential to the success of the Debtors' goals in the Chapter 11 Cases that they be able to maintain the flow of goods and services to their business.

9. The Debtors undertook a process to identify the Critical Vendors using the following criteria: (i) whether certain specifications prevent the Debtors from obtaining a vendor's goods or services from alternative sources within a reasonable timeframe; (ii) if a vendor is not a sole-source, limited-source, or primary provider of services or products, whether the Debtors can continue to operate in the ordinary course while a replacement vendor is secured; and (iii) whether the Debtors can compel performance from a vendor pursuant to an applicable contract. As a result of their critical review and evaluation, the Debtors have identified a narrow subset of vendors as Critical Vendors.

10. As of the Petition Date, the Debtors will owe amounts to certain Critical Vendors (a) that have been billed and invoiced or (b) that have accrued immediately prior to the Petition Date for which they have not yet been invoiced or payment is not yet due. The Debtors anticipate the total amount of Critical Vendor Claims will not exceed $150,000.00, of which $85,000.00 is being requested on an interim basis.

11. Given the importance of the goods and services provided by the Critical Vendors, as well as the limited number of suppliers and services providers in this space, it is imperative that the Debtors be granted, on an emergency basis, the flexibility and authority to satisfy the prepetition claims of the Critical Vendors up to the Interim Critical Vendor Cap and, if approved on a final basis, the Final Critical Vendor Cap.

C. The Foreign Vendors

12. The Debtors' SIM and FTD operations are supported by a limited number of foreign vendors (collectively, "Foreign Vendors"). In the ordinary course of business, the Debtors incur obligations to a limited number of suppliers of goods and services whose assets are located outside of the United States. The Foreign Vendors generally supply the Debtors SIM and FTD components, software, instrumentation, and other hardware and related support.

13. Maintaining existing relationships with the Foreign Vendors is critical to continuing the Debtors' business. Replacing these Foreign Vendors would be time-consuming, impracticable (and potentially impossible), and cost-prohibitive.

14. Foreign Vendors often have skeptical reactions to United States bankruptcy cases because many of them are unfamiliar with the chapter 11 process. Short of severing their relations with the Debtors, nonpayment of prepetition claims may cause the Foreign Vendors to take other precipitous actions, including delaying shipments or the provision of services, or initiating a lawsuit in a foreign court to obtain a judgment against the Debtors to collect prepetition amounts owed to them. Although the automatic stay applies to protect the Debtors' assets wherever they are located in the world, the Foreign Vendors may erroneously believe that they are not subject to the automatic stay of section 362 of the Bankruptcy Code. Moreover, attempting to enforce the Bankruptcy Code in foreign countries may be uneconomical.

15. As of the Petition Date, the Debtors will owe amounts to certain Foreign Vendors (a) that have been billed and invoiced or (b) that have accrued immediately prior to the Petition Date for which they have not yet been invoiced or payment is not yet due (the "Foreign Vendor Claims"). The Debtors anticipate the total amount of Foreign Vendor Claims will not exceed $15,000.00, of which $10,000.00 is being requested on an interim basis.

16. Given the importance of the goods and services provided by the Foreign Vendors, it is imperative that the Debtors be granted, on an emergency basis, the flexibility and authority to satisfy the prepetition claims of the Foreign Vendors up to the Interim Foreign Vendor Cap and, if approved on a final basis, the Final Foreign Vendor Cap.

D. The 503(b)(9) Claims

17. Certain vendors (the "503(b)(9) Claimants"), including potential Critical Vendors, may have delivered goods, generally various SIM and FTD components and parts, to the Debtors within 20 days prior to the Petition Date. The Debtors estimate that there are approximately $70,000.00 in section 503(b)(9) claims as of the Petition Date, exclusive of other amounts requested herein.

18. Section 503(b)(9) of the Bankruptcy Code provides that such claims (the "503(b)(9) Claims") hold administrative expense priority against the applicable Debtor's estate. Therefore, such 503(b)(9) Claims must be paid in full to confirm a plan of reorganization. *See* 11 U.S.C. § 1129(a)(9)(A) (requiring payment in full of claims entitled to priority). Consequently, payment of such claims now only provides such parties with what they would be entitled to receive under a confirmed plan. Moreover, the Bankruptcy Code does not prohibit a debtor from paying administrative claims prior to confirmation. The Debtors believe that this relief is in the best

interest of the Debtors' estates and will prevent detrimental changes to trade terms or a refusal to do business together, thereby preserving the Debtors' liquidity and businesses.

19. The Debtors' ongoing ability to obtain materials and products as provided herein is necessary to preserve the value of their estates. Absent the payment of the 503(b)(9) Claims at the outset of the Chapter 11 Cases—which may merely accelerate the timing of payment and not the ultimate treatment of such claims—the Debtors could be denied access to materials and products necessary to maintain the Debtors' businesses and maximize the value of the Debtors' estates.

20. Instead of satisfying the 503(b)(9) Claims after confirmation of a plan of reorganization (at which time such payments may be too late to benefit the Debtors' estates), the Debtors seek authority to pay these claims in the ordinary course of business, while such payments can still induce 503(b)(9) Claimants to adhere to favorable trade terms and do business with the Debtors on a go-forward basis. Failure to honor these claims in the ordinary course of business may also cause the Debtors' vendor base to withhold support for the Debtors during the chapter 11 process. Such vendors could accelerate or eliminate favorable trade terms. The payment of 503(b)(9) Claims is in the best interests of the Debtors' estates because favorable trade terms will prevent material disruptions to the Debtors' businesses, and failure to make such payment could impair the Debtors' ability to stabilize their businesses and maintain uninterrupted operations at this critical juncture to the detriment of all stakeholders.

E. <u>The Outstanding Purchase Orders</u>

21. Additionally, in the ordinary course of business, the Debtors may have ordered goods prior to the Petition Date that were not, or will not be, delivered until after the Petition Date (the "<u>Outstanding Orders</u>"). In the mistaken belief that they would be general unsecured creditors of the Debtors' estates with respect to such goods, certain suppliers may refuse to ship or transport

such goods (or may recall such shipments) with respect to such Outstanding Orders unless the Debtors issue substitute purchase orders postpetition—potentially disrupting the Debtors' businesses and requiring the Debtors to expend substantial time and effort in issuing substitute orders. As set forth in greater detail below, because the Outstanding Orders are administrative expenses of the Debtors' estates, the Debtors request that the Court confirm the administrative expense priority under section 503(b) of the Bankruptcy Code to all undisputed obligations of the Debtors arising from the postpetition acceptance of goods subject to Outstanding Orders and authorize the Debtors to pay amounts due on account of Outstanding Orders in the ordinary course of business and subject to the limitations set forth in the Proposed Interim Order and Proposed Final Order.

F. The Lien Claims

22. The Debtors transact business with third parties who may assert various common law and statutory liens (the "Lien Claimants") against the Debtors and their property if the Debtors fail to pay for the services rendered (the "Lien Claims" and, together with the Critical Vendor Claims, the Foreign Vendor Claims, and the 503(b)(9) Claims, the "Trade Claims," and the holders of Trade Claims, collectively, the "Vendors"). The Lien Claimants include expediters and shippers, as well as certain other repairmen and other contractors who service the Debtors' facilities, SIMs, FTDs, and other equipment. The Lien Claimants may be able to assert liens on goods or estate property within their possession or mechanics' or other statutory liens, all pursuant to non-bankruptcy law.

23. To the extent that any Lien Claimant has perfected a lien on any of the Debtors' property or, in the Debtors' estimation, could assert and perfect a lien on any such property, it is imperative that the Debtors be authorized to pay such Lien Claimants, regardless of whether their

claims arose before or after the Petition Date. Such payment will secure the release of any such lien and the Debtors' continued uninterrupted access to the goods and services provided by the Lien Claimants to the extent necessary. Further, if amounts owed to the Lien Claimants are not paid, certain of the Lien Claimants may be able to assert and perfect liens against certain of the Debtors' goods or property, notwithstanding the automatic stay imposed by section 362 of the Bankruptcy Code. Accordingly, the Debtors respectfully request the authority to pay Lien Claims in their discretion.

24. As of the Petition Date, the Debtors will owe amounts to certain Lien Claimants (a) that have been billed and invoiced or (b) that have accrued immediately prior to the Petition Date for which they have not yet been invoiced or payment is not yet due. The Debtors anticipate the total amount of Lien Claims will not exceed $30,000.00, of which $10,000.00 is being requested on an interim basis.

G. The CAE Credits

25. In connection with the acquisition of certain SIMs by the Debtors from the manufacturer thereof, CAE, the Debtors accrued certain credits held by CAE (the "CAE Credits") pursuant to the terms of applicable *Simulator Purchase Agreements* and other agreements with CAE. The CAE credits are utilized by the Debtors in the ordinary course of business to purchase replacement parts and components necessary to maintain, repair, and/or operate 22 SIMs and 5 FTDs manufactured by CAE or which use CAE software. When an order is placed with CAE by the Debtors, the cost of such order is deducted from the Debtors' available balance of credits, eliminating or reducing, as appliable, the Debtors' obligation to make cash outlays to CAE. As of the Petition Date, the Debtors have approximately $1.3 million in accrued but not yet utilized CAE Credits.

26. As the OEM manufacturer of the majority of the Debtors' SIMs, CAE provides critical support to the Debtors operations by providing the parts, components, and other support required by the Debtors to maintain continuous and compliant SIM operations. Many of the parts required to continue to maintain and operate the CAE manufactured SIMs may only be obtained from CAE. As such, CAE is the Debtors' single largest supplier of critical parts, instruments, and other SIM components to keep the Debtors' CAE manufactured SIMs fully operational without interruption during the course of these Chapter 11 Cases.

27. Accordingly, the Debtors are seeking authority, out of an abundance of caution, to continue to utilize the CAE Credits on an uninterrupted basis and apply the CAE credits on a cash-free basis to any outstanding invoices, whether issued pre- or post-petition, in the ordinary course of business. As of the Petition Date, the Debtors estimate that there are approximately $115,000.00 in outstanding orders with CAE to which CAE may have not yet applied the CAE Credits. The ability to continue to apply the CAE credits will avoid costly and unanticipated disruptions to the Debtors' operations and will avoid the Debtors' expenditure of their limited liquidity during these Chapter 11 Cases.

H. <u>The Proposed Conditions to Payment of Trade Claims</u>

28. Subject to the Court's approval, the Debtors intend to pay the Trade Claims only to the extent necessary to preserve their business as a going concern. To that end, in return for paying the Trade Claims, the Debtors propose that they be authorized to require that Vendors provide favorable terms for the postpetition delivery of goods and services. Specifically, the Debtors may choose to condition the payment of the Trade Claims upon the Vendors' agreement to continue supplying goods and services to the Debtors in accordance with terms at least as favorable as those practices and programs (including credit limits, pricing, timing of payments, availability, and other

terms) in place twelve months prior to the Petition Date, or such other trade terms that are acceptable to the Debtors in their discretion (the "Customary Trade Terms").

29. In addition, the Debtors request that, regardless of whether a Vendor enters into a Vendor Agreement (as defined below), if a Vendor accepts payment pursuant to the relief requested by this Motion and thereafter does not continue to provide goods or services on Customary Trade Terms when requested by the Debtors, then: (a) the Debtors may take any and all appropriate steps to cause such Vendor to repay payments made to it on account of its prepetition claims to the extent that such payments exceed the postpetition amounts then owing to such Vendor; (b) upon recovery by the Debtors, any prepetition claim of such party shall be reinstated as if the payment had not been made; and (c) if there exists an outstanding postpetition balance due from the Debtors to such party, the Debtors may elect to re-characterize and apply any payment made pursuant to the relief requested by the Motion to such outstanding postpetition balance, and such Vendor will be required to repay to the Debtors such paid amounts that exceed the postpetition obligations then outstanding, without the right of any setoffs, claims, provisions for payment of any claims, or otherwise.

RELIEF REQUESTED

30. By this Motion, the Debtors seek entry of the Proposed Interim Order and Proposed Final Order, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively: (a) authorizing, but not directing, the Debtors to pay (i) Critical Vendor Claims in the ordinary course of business up to the Interim Critical Vendor Cap and, if approved on a final basis, the Final Critical Vendor Cap; (ii) claims of Foreign Vendors in the ordinary course of business up to the Interim Foreign Vendor Cap and, if approved on a final basis, the Final Foreign Vendor Cap; (iii) 503(b)(9) Claimants; and (iv) Lien Claimants; (b) granting administrative expense priority to

all undisputed obligations on account of Outstanding Orders; (c) authorizing CAE to continue to apply the CAE Credits to the Debtors' orders in the ordinary course of business, irrespective of whether such orders arose pre- or post-petition;(d) authorizing applicable banks and other financial institutions to honor and process related checks and transfers; (d) approving the form of the Vendor Agreement; and (e) granting related relief. In addition, the Debtors request that the Court schedule a final hearing within approximately twenty-one (21) calendar days of the commencement of the Chapter 11 Cases to consider approval of this Motion on a final basis.

BASIS FOR RELIEF

A. The Vendor Payments Are Necessary to Preserve the Debtors' Estates

31. Courts have recognized that it is appropriate to authorize the payment of prepetition obligations where necessary to protect and preserve the estate, including an operating business's going-concern value. *See, e.g.*, *In re Coser, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002); *see also In re Just for Feet, Inc.*, 242 B.R. 821, 826 (D. Del. 1999) (finding that payment of prepetition claims to certain trade vendors was "essential to the survival of the debtor during the chapter 11 reorganization"); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) ("The ability of a Bankruptcy Court to authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept."); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983). In so doing, these courts acknowledge that several legal theories rooted in sections 105(a) and 363(b) of the Bankruptcy Code support the payment of prepetition claims as provided herein.

32. Pursuant to section 363(b) of the Bankruptcy Code, payment of prepetition obligations may be authorized where a sound business purpose exists for doing so. *See Ionosphere*

Clubs, 98 B.R. at 175 (noting that section 363(b) provides "broad flexibility" to authorize a debtor to honor prepetition claims where supported by an appropriate business justification). Indeed, courts have recognized that there are instances when a debtor's fiduciary duty can "only be fulfilled by the preplan satisfaction of a prepetition claim." *CoServ*, 273 B.R. at 497.

33. In addition, the Court may authorize payment of prepetition claims in appropriate circumstances based on section 105(a) of the Bankruptcy Code, which codifies the Court's inherent equitable powers to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Under section 105(a), courts may authorize pre-plan payments of prepetition obligations when essential to the continued operation of a debtor's business. *See Just for Feet*, 242 B.R. at 825. Specifically, the Court may use its power under section 105(a) to authorize payment of prepetition obligations pursuant to the "necessity of payment" rule (also referred to as the "doctrine of necessity"). *Ionosphere Clubs*, 98 B.R. at 176.

34. Indeed, the United States Court of Appeals for the Third Circuit recognized the "necessity of payment" doctrine in *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981). The Third Circuit held that a court could authorize the payment of prepetition claims if such payment was essential to the continued operation of the debtor. *See id.* (stating that courts may authorize payment of prepetition claims when there "is the possibility that the creditor will employ an immediate economic sanction, failing such payment"); *see also In re Penn Cent. Transp. Co.*, 467 F.2d 100, 102 n.1 (3d Cir. 1972) (holding that the necessity of payment doctrine permits "immediate payment of claims of creditors where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims have been paid"); *Just for Feet*, 242 B.R. at 824–25 (noting that, in the Third Circuit, debtors may pay

prepetition claims that are essential to the continued operation of their business); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (same).

35. This flexible approach is particularly critical where, as here, prepetition creditors are crucial to the preservation of the Debtors' going concern value. In *In re Structurlite Plastics Corp.*, the bankruptcy court recognized that "a bankruptcy court may exercise its equity powers under section 105(a) of the Bankruptcy Code to authorize payment of prepetition claims where such payment is necessary 'to permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately.'" 86 B.R. 922, 931 (Bankr. S.D. Ohio 1988) (citations omitted). The court explained that "a *per se* rule proscribing the payment of prepetition indebtedness may well be too inflexible to permit the effectuation of the rehabilitative purposes of the [Bankruptcy] Code." *Id.* at 932.

36. Allowing the Debtors to pay the Trade Claims, pursuant to some or all of the above-referenced provisions, is especially appropriate where, as here, doing so is consistent with the "two recognized policies" of chapter 11 of the Bankruptcy Code—preserving going concern value and maximizing the value of property available to satisfy creditors. *See Bank of Am. Nat'l Trust & Savs. Ass'n v. 203 N. LaSalle St. P'Ship*, 526 U.S. 434, 453 (1999).

37. Indeed, reflecting the recognition that payment of prepetition claims of certain essential suppliers and vendors is, in fact, both critical to a debtor's ability to preserve going concern value and maximize creditor recovery—thereby increasing prospects for a successful reorganization—courts in this district regularly grant relief consistent with what the Debtors seek in this Motion. *See, e.g.*, *In re Marelli Auto. Lighting USA LLC*, No. 25-11034 (CTG) (Bankr. D. Del. July 11, 2025) (authorizing debtors to pay prepetition claims of foreign vendors, lien claimants, 503(b)(9) claimants and critical vendors); *In re Am. Tire Distribs.*, Inc., No. 24-12391

(CTG) (Bankr. D. Del. Nov. 18, 2024) authorizing debtors to pay prepetition claims of foreign vendors, lien claimants, 503(b)(9) claimants, critical vendors, and confirming administrative expense priority of outstanding order); *In re Amyris, Inc.,* No. 23-11131 (TMH) (Bankr. D. Del. Sept. 15, 2023) [Docket No. 299] (authorizing payments to critical vendors, foreign vendors, 503(b)(9) claimants, and lien claimants); *In re Mallinckrodt PLC*, No. 20-12522 (JTD) (Nov. 14, 2020) [Docket No. 465] (authorizing payments to critical vendors and foreign vendors); *In re Akorn, Inc*., No. 20-11177 (KBO) (June 11, 2020) [Docket No. 161] (authorizing payments to critical vendors, foreign vendors, 503(b)(9) claimants, and lien claimants); *In re Bluestem Brands, Inc.*, No. 20-10566 (MFW) (Mar. 30, 2020) [Docket No. 151] (authorizing payments to foreign vendors, 503(b)(9) claimants, and lien claimants); *In re BL Rests. Holding, LLC*, No. 20-10156 (MFW) (Bankr. D. Del. Jan. 28, 2020 and Feb. 26, 2020) [Docket Nos. 49, 181] (interim and final orders allowing payments of up to $2 million and $5 million respectively); *In re Dura Auto. Sys., LLC*, No. 19-12378 (KBO) (Nov. 19, 2019) [Docket No. 337] (authorizing payments to critical vendors, foreign vendors, 503(b)(9) claimants, and lien claimants); *In re Hosp. Acquisition LLC*, No. 19-10998 (BLS) (Bankr. D. Del. May 8, 2019 and May 29, 2019) [Docket Nos. 45, 167] (interim and final orders authorizing payment of up to $1.5 million and $3 million, respectively, on account of claims held by critical vendors); *In re Hexion Holdings LLC*, No. 19-10684 (KG) (Bankr. D. Del. Apr. 2, 2019 and May 1, 2019) [Docket Nos. 102, 293] (interim and final orders authorizing payment of up to $27.1 million and $39.5 million, respectively, on account of claims held by critical vendors); *In re VER Techs. Holdco LLC*, No. 18-10834 (KG) (Bankr. D. Del. Apr. 6, 2018 and May 4, 2018) [Docket Nos. 69, 220] (interim and final orders authorizing payment of up to $12.7 million and $14 million, respectively, on account of claims held by critical vendors); *In re Claire's Stores, Inc.*, No. 18-10584 (MFW) (Bankr. D. Del. Mar. 20, 2018 and

Apr. 17, 2018) [Docket Nos. 98, 279] (interim and final orders authorizing payment of up to $7.9 million and $11.7 million, respectively, on account of claims held by critical vendors).

38. As described above, the Debtors require continued access to ordinary goods and services from the Vendors in order to ensure the smooth operation of their business. Without such access, the Debtors may be able to continue to operate as a going concern, thereby severely jeopardizing their ongoing efforts in the Chapter 11 Cases. Moreover, given the niche nature of the Debtors' operations and the stringent requirements to maintain the SIMs and FTDs in their operations, the Debtors in many instances have few if, any, alternative suppliers, underscoring the need to maintain relationships with the Vendors to avoid costly and time consuming disruptions to their operations at this critical juncture.

39. Additionally, if the Debtors do not pay certain of the Foreign Vendor Claims, they may simply refuse to do business with the Debtors unless and until they receive payment on account of their prepetition claims. The Foreign Vendors may take other precipitous actions in foreign jurisdictions against the Debtors based on the incorrect belief that they are not bound by the automatic stay. As a result, the Debtors would be unable to procure products and services, potentially causing harm and disruptions to the Debtors' estates.

40. Therefore, the Debtors request that the Court to authorize them to satisfy the Vendors' obligations.

B. <u>The Court Should Authorize the Payment of 503(b)(9) Claims</u>

41. Section 503(b)(9) of the Bankruptcy Code provides administrative priority for the "value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which goods have been sold to the debtor in the ordinary course of such debtor's business." 11 U.S.C. § 503(b)(9). These claims must be paid in full for the Debtors to

confirm a chapter 11 plan. *See* 11 U.S.C. § 1129(a)(9)(A). Consequently, payment of such claims now only provides such parties with what they would be entitled to receive under a chapter 11 plan. Moreover, the timing of such payments also lies squarely within the Court's discretion. *See In re Global Home Prods., LLC*, No. 06-10340 (KG), 2006 WL 3791955, at *3 (Bankr. D. Del. Dec. 21, 2006) (agreeing with parties that "the timing of the payment of that administrative expense claim is left to the discretion of the Court"); 4 Collier on Bankruptcy ¶ 503.16[3] (Richard Levin & Henry J. Sommer eds., 16th ed.) ("[P]rior to confirmation bankruptcy courts have discretion to determine when section 503(b)(9) claims should be paid.").

42. The Debtors' ongoing ability to obtain goods as provided herein is key to their survival and necessary to preserve the value of their estates. Absent payment of the 503(b)(9) Claims at the outset of these Chapter 11 Cases—which merely accelerates the timing of payment and not the ultimate treatment or recovery of such claims—the Debtors could be denied access to the goods necessary to maintain the Debtors' businesses and maximize the value of the Debtors' estates.

43. Moreover, the Bankruptcy Code does not prohibit a debtor from paying such claims prior to confirmation. As administrative claims incurred in the ordinary course of business, the Debtors believe that they may pay such claims in accordance with their business judgment pursuant to section 363(c)(1) of the Bankruptcy Code. *See, e.g.*, Transcript of Hearing held on Oct. 31, 2006 at 49, *In re Dura Auto. Sys., Inc.*, No. 06-11202 (KJC) (Bankr. D. Del. Nov. 6, 2006) ("THE COURT: I think arguably the debtor could pay its 503(b)(9) claimants without court approval."). The timing of such payments lies squarely within the Court's discretion. *See In re Glob. Home Prods., LLC*, No. 06-10340 (KG), 2006 WL 3791955, at *3 (Bankr. D. Del. Dec. 21, 2006).

44. Courts in this district have routinely authorized the payment of claims arising under section 503(b)(9) of the Bankruptcy Code in the ordinary course of business. *See, e.g.*, *In re Akorn, Inc.*, No. 20-11177 (KBO) (June 11, 2020) [Docket No. 161] (authorizing payments to 503(b)(9) claimants, among others); *In re TPC Grp. Inc.*, No. 22-10493 (CTG) (June 7, 2022) [Docket No. 341] (same); *In re Gold Standard Baking, LLC*, No. 22-10559 (JKS) (July 18, 2022) [Docket No. 136] (same).

C. Failure to Pay Certain of the Trade Claims (and Especially Lien Claimants) Could Subject the Debtors' Assets to the Perfection of Statutory Liens

45. As noted above, certain potential Lien Claimants may be entitled under applicable non-bankruptcy law to assert certain possessory or other statutory liens on the Debtors' goods or equipment (notwithstanding the automatic stay under section 362 of the Bankruptcy Code) in an attempt to secure payment of their prepetition claims.

46. Without payment, the potential Lien Claimants may may be entitled to assert statutory lien rights because doing so may convert their claims against the Debtors from secured to unsecured. Pursuant to section 362(b)(3) of the Bankruptcy Code, the act of perfecting certain statutory liens, to the extent consistent with section 546(b) of the Bankruptcy Code, is expressly excluded from the automatic stay. As a result, the Debtors anticipate that certain of the potential Lien Claimants may assert or seek to perfect liens.

47. The relief requested in this Motion is appropriate under sections 363(b) and 105(a) of the Bankruptcy Code, represents a sound exercise of the Debtors' business judgment, and is necessary for the preservation of the Debtors' estates. Payment of the potential Lien Claimants as they become due in the ordinary course of business will avoid any disruptions or potential disruptions associated with the assertion of statutory lien rights and ultimately maximize the value of the Debtors' estates.

48. Courts in this district have routinely granted relief similar to the relief requested herein. *See, e.g.*, *In re TPC Grp. Inc.*, No. 22-10493 (CTG) (June 7, 2022) [Docket No. 341] (authorizing payment of lien claimants, among others); *In re Akorn, Inc.*, No. 20-11177 (KBO) (June 11, 2020) [Docket No. 161] (same); *In re Bluestem Brands, Inc.*, No. 20-10566 (MFW) (Mar. 30, 2020) [Docket No. 151] (same); *In re Dura Auto. Sys., LLC*, No. 19-12378 (KBO) (Nov. 19, 2019) [Docket No. 337] (same).

D. The Court Should Confirm that Outstanding Orders Are Administrative Expense Claims and that Payment of Such Claims is Authorized

49. Pursuant to section 503(b) of the Bankruptcy Code, most obligations that arise in connection with the postpetition delivery of goods and services, including goods ordered prepetition, are administrative expense priority claims because they benefit the estate prepetition. *See* 11 U.S.C. § 503(b)(1)(A) (providing that the "actual [and] necessary costs and expenses of preserving the estate" are administrative expenses); *see also In re John Clay & Co.*, 43 B.R. 797, 809–10 (Bankr. D. Utah 1984) (holding that goods ordered prepetition but delivered postpetition are entitled to administrative priority). Thus, the granting of the relief sought herein with respect to the Outstanding Orders will not provide the suppliers with any greater priority than they would otherwise have if the relief requested herein were not granted, and such relief will not prejudice any other party in interest.

50. However, absent such relief the Debtors may be required to expend substantial time and effort reissuing or otherwise addressing the Outstanding Orders to provide certain suppliers with assurance of such administrative priority. The attendant disruption and delay to the continuous and timely flow of goods and services to the Debtors could further disrupt the Debtors' businesses and lead to a loss of revenue, all to the detriment of the Debtors and their creditors.

51. Courts in this jurisdiction routinely grant the type of relief requested herein. *See, e.g.*, *In re Akorn, Inc.*, No. 20-11177 (KBO) (June 11, 2020) [Docket No. 161] (granting administrative expense priority to all undisputed obligations on account of outstanding orders); *In re 24 Hour Fitness Worldwide, Inc.*, No. 20-11558 (KBO) (July 13, 2020) [Docket No. 539] (same).

E. Cause Exists to Authorize Applicable Banks and Financial Institutions to Honor Checks and Electronic Funds Transfers Related to the Trade Claims

52. In order to stabilize the Debtors' businesses and to transition smoothly into chapter 11, it is imperative that the Debtors maintain their ability to perform their most basic functions. The Debtors request that all applicable banks and other financial institutions should be authorized, when requested by the Debtors in their discretion, to receive, process, honor, and pay any and all checks and electronic funds transfer requests made by the Debtors related to the Trade Claims, whether such checks or electronic funds transfer requests were submitted before or after the Petition Date. Any such financial institution may rely on the representations of such Debtors as to which checks and electronic funds transfer requests are made and authorized to be paid in accordance with this Motion without any duty of further inquiry and without liability for following the Debtors' instructions. The Debtors also seek authority to issue new postpetition checks, or effect new electronic funds transfers, to replace any prepetition checks or electronic funds transfer requests that may be dishonored or rejected as a result of the commencement of these Chapter 11 Cases with respect to amounts owed in connection with the Trade Claims.

F. Bankruptcy Rule 6003 is Satisfied Because the Requested Relief is Necessary to Avoid Immediate and Irreparable Harm

53. Under Bankruptcy Rule 6003, the court may grant a motion to "use . . . property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition," within 21 days after the commencement of a chapter 11 case to the extent that the "relief

is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003. Here, the relief requested is necessary to avoid immediate and irreparable harm to the Debtors and their estates, as set forth in the First Day Declaration, and is therefore appropriate under Bankruptcy Rule 6003.

54. As discussed above, the urgency of the relief requested justifies immediate relief. To ensure that the relief requested is implemented immediately, the Debtors request that the Court waive the notice requirements under Bankruptcy Rule 6004(a), if applicable, and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

RESERVATION OF RIGHTS

55. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' rights to dispute any claim, or an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code. If the Court grants the relief requested in this Motion, any authorized payment is not an admission of the validity of any claim or a waiver of the Debtors' or any other party's right subsequently to dispute such claim. In addition, authorization to pay the claims described in this Motion will not be deemed a direction to the Debtors to pay such claims.

NOTICE

56. The Debtors will provide notice of this Motion to: (a) the Office of the U.S. Trustee for the District of Delaware, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware, 19801, Attn: Jon Lipshie, Esq. (jon.lipshie@usdoj.gov); (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to the DIP Lenders and the Prepetition Term Loan Lenders (i) Proskauer Rose LLP, Eleven Times Square, New York, New York 10036 (Attn: David M. Hillman (dhillman@proskauer.com) and Matthew R. Koch (mkoch@proskauer.com)), and (ii) Landis Rath & Cobb LLP, 919 Market Street, Suite 1800,

Wilmington, Delaware 19801 (Attn: Matthew B. McGuire (mcguire@lrclaw.com)); (d) counsel to the DIP Agent, Alston & Bird LLP, 90 Park Avenue, New York, New York 10016 (Attn: William Hao (william.hao@alston.com) and Dylan S. Cassidy (dylan.cassidy@alston.com)); (e) the United States Attorney's Office for the District of Delaware; (f) the state attorneys general for all states in which the Debtors conduct business; and (g) any party that requests service pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"). As this Motion is seeking "first day" relief, within two business days of the hearing on the Motion, the Debtors will serve copies of the Motion and any order entered in respect to this Motion as required by Local Rule 9013-1(m).

NO PRIOR REQUEST

57. The Debtors have not made any prior request for the relief sought herein to this Court or any other court.

CONCLUSION

WHEREFORE, the Debtors respectfully request the entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, granting the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: February 11, 2026

PACHULSKI STANG ZIEHL & JONES LLP

/s/ Mary F. Caloway

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Proposed Counsel to the Debtors and Debtors-in-Possession

EXHIBIT A

Proposed Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
AVENGER FLIGHT GROUP, LLC, *et al.*,	Case No. 26-10183 (___)
Debtors.[1]	(Joint Administration Requested)
	Related Docket No. [ ]

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION CLAIMS OF CRITICAL VENDORS, FOREIGN VENDORS, 503(b)(9) CLAIMANTS AND LIEN CLAIMANTS; (II) GRANTING ADMINISTRATIVE EXPENSE PRIORITY TO ALL UNDISPUTED OBLIGATIONS ON ACCOUNT OF OUTSTANDING ORDERS; (III) AUTHORIZING ALL FINANCIAL INSTITUTIONS TO HONOR ALL RELATED PAYMENT REQUESTS, AND (IV) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of an interim order (this "Interim Order"): (a) authorizing, but not directing, the Debtors to pay certain prepetition claims of (i) Critical Vendor Claims up to the Interim Critical Vendor Cap; (ii) Foreign Vendors up to the Interim Foreign Vendor Cap; (iii) 503(b)(9) Claimants; and (iv) Lien Claimants up to the Interim Lien Claimant Cap; (b) granting administrative expense priority to all undisputed obligations on account of Outstanding Orders; (c) authorizing CAE, Inc. (collectively with its affiliates and subsidiaries, "CAE") to continue to apply accrued pre-petition credits to critical SIM (defined below) components provided to the Debtors pre- and post-petition in the ordinary course of

[1] The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers are: Avenger Flight Group, LLC (1216); AFG Dallas III, LLC (5615); AFG Dallas IV, LLC (5558); AFG Dallas, LLC (3418); AFG EU Operations Corp. (9406); AFG FLL, LLC (6470); AFG Latam Holding Corp. (6475); AFG Latam Sim Holdings II, LLC (0473); AFG Latam Sim Holdings III, LLC (2592); AFG Latam Sim Holdings IV, LLC (0093); AFG Latam Sim Holdings, LLC (6475); AFG Latam, LLC (9545); AFG Mexico Corp. (1402); AFG Orlando, LLC (8409); AFG Sanford, LLC (6661); AFG Sim Holding Corp. (3325); Avenger Flight Group Europe, Corp. (5908); Avenger Flight Group Topco, LLC (5643); Avenger Flight Training, LLC (5640); Avenger Flight Group Mexico II, S. de R.L. de C.V, (N/A); and Papi Flight Training, LLC (6206). The location of the Debtors' corporate headquarters and the Debtors' service address is Avenger Flight Group LLC, 1450 Lee Wagener Blvd., Fort Lauderdale, FL 33315.

[2] A capitalized term used but not defined herein shall have the meaning ascribed to it in the Motion.

business; (d) authorizing applicable banks and other financial institutions to honor and process related checks and transfers; (e) approving the form of Vendor Agreement attached to this Interim Order as **Exhibit 1**; and (f) granting related relief, all as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at an interim hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an **interim** basis as set forth herein.

2. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2026 at __:00 _.m. (Eastern Time). Any objections or responses to entry of a final order on the Motion shall be filed with the Court and served so as to be received by the Notice Parties (as defined in the Motion) on or before _____, 2026 at 4:00 p.m. (Eastern Time). In the event that no

objections to entry of a final order on the Motion are timely received, this Court may enter such final order without need for the Final Hearing.

3. The Debtors are authorized, but not directed, to pay the Critical Vendor Claims; *provided* that such payments shall not exceed $85,000.00 in the aggregate on an interim basis unless otherwise ordered by the Court after notice and a hearing.

4. The Debtors are authorized, but not directed, to pay the Foreign Vendor Claims; *provided* that such payments shall not exceed $10,000.00 in the aggregate on an interim basis unless otherwise ordered by the Court after notice and a hearing.

5. The Debtors are authorized, but not directed, to pay the Lien Claims; *provided* that such payments shall not exceed $10,000.00 in the aggregate on an interim basis unless otherwise ordered by the Court after notice and a hearing.

6. The Debtors are authorized, but not directed, to pay the 503(b)(9) Claims as the Debtors determine to be necessary or appropriate, up to the amount of $70,000.00 in the aggregate on an interim basis unless otherwise ordered by the Court.

7. The Debtors are authorized, but not directed, to pay the Lien Claims as the Debtors determine to be necessary or appropriate.

8. CAE shall be authorized to continue to apply the CAE Credits to any orders placed by the Debtors with CAE, whether pre- or post-petition, in the ordinary course of business, consistent with historical practices and entitlements.

9. All undisputed obligations relating to the Outstanding Orders are granted administrative expense priority in accordance with section 503(b)(1)(A) of the Bankruptcy Code.

10. The Vendor Agreement, substantially in the form attached hereto as **Exhibit 1**, is approved in its entirety. A Vendor Agreement, once agreed to and accepted by the applicable

Vendor, shall be the legally binding contractual relationship between the parties governing the commercial trade relationship as provided therein.

11. The Debtors are authorized, but not directed, to pay the Trade Claims, in whole or in part, upon such terms and in the manner authorized in this Interim Order regardless of whether a Vendor has executed a Vendor Agreement; *provided that*, if any Vendor accepts payment hereunder and does not continue supplying goods or services to the Debtors in accordance with trade terms at least as favorable to the Debtors as those practices and programs (including credit limits, pricing, cash discounts, timing of payments, allowances, availability, and other programs) in place within the twelve (12) months prior to the Petition Date, or such other trade terms that are acceptable to the Debtors (collectively, the "Customary Trade Terms"), then: (a) the Debtors may take any and all appropriate steps to cause such Vendor to repay payments made to it on account of its prepetition claim to the extent that such payments exceed the postpetition amounts then owing to such Vendor; (b) upon recovery by the Debtors, any prepetition claim of such party shall be reinstated as if the payment had not been made; and (c) if there exists an outstanding postpetition balance due from the Debtors to such party, the Debtors may elect to re-characterize and apply any payment made pursuant to the relief requested by the Motion to such outstanding postpetition balance, and such supplier or vendor will be required to repay to the Debtors such paid amounts that exceed the postpetition obligations then outstanding, without the right of any setoffs, claims, provisions for payment of any claims, or otherwise.

12. If any Vendor accepts payment on account of a Trade Claim and thereafter does not continue to provide goods or services to the Debtors on Customary Trade Terms, (*provided that* any such Vendor shall be provided a reasonable opportunity to contest whether it continued to provide goods or services to the Debtors on Customary Trade Terms), then any such payment

shall be deemed an unauthorized avoidable postpetition transfer under section 549 of the Bankruptcy Code that the Debtors may either: (a) recover from the Vendor in cash or goods; or (b) at the Debtors' option, apply against any outstanding administrative expense claim held by such Vendor. Upon recovery by the Debtors, the claim shall be reinstated as a prepetition claim in the amount so recovered, less the Debtors' reasonable costs to recover such amounts. The Debtors are hereby authorized to obtain written verification before issuing payment to a Vendor that such Vendor will continue to provide goods and services to the Debtors on Customary Trade Terms for the remaining term of the Vendor's agreement with the Debtors; *provided, however*, that the absence of such written verification will not limit the Debtors' rights hereunder.

13. The Debtors are authorized and empowered to execute and deliver such documents, and to take and perform all actions necessary, to implement and effectuate the relief granted in this Interim Order.

14. In accordance with this Interim Order (or other order of this Court), each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion are authorized to: (a) receive, process, honor, and pay all checks presented for payment and to honor all funds transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts; and (b) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of this Court, whether such checks, drafts, wires, or transfers are dated before, on, or subsequent to the Petition Date, without any duty to inquire otherwise and without any liability for following the Debtors' instructions.

15. Nothing herein shall impair or prejudice the Debtors' ability to contest, in their discretion, or any other party's ability to contest, the extent, perfection, priority, validity, or amounts of any claims held by any Vendor. Nothing herein shall be construed as requiring the Debtors to make a payment to a particular creditor or claimant.

16. Nothing in this Interim Order, or the Debtors' payment of any claims pursuant to this Interim Order, shall be construed as: (i) an admission as to the validity, priority, enforceability, or perfection of any claim against any Debtor or the existence of any lien against the Debtors' properties; (ii) an implication, admission, or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in this Interim Order; (iii) a waiver of the Debtors' or any other party in interest's rights to dispute any claim or lien on any grounds; (iv) a promise to pay any claim; (v) an implication or admission that any particular claim would constitute an allowed claim; (vi) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; or (vii) a limitation on the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to this Interim Order.

17. No payments shall be made hereunder to any professionals or insiders, as that term is defined in section 101 (31) of the Bankruptcy Code, absent further order of the Court.

18. The Debtors shall maintain a matrix summarizing (i) the name of each Vendor paid on account of its Trade Claim; (ii) the amount paid by each Debtor payor to each Vendor on account of its Trade Claim, and (iii) the nature of the Trade Claim paid. On a monthly basis, the Debtors shall deliver an updated copy of the matrix to the United States Trustee, counsel to the Prepetition Term Lenders, and any statutory committee appointed in these chapter 11 cases.

19. Notwithstanding anything to the contrary in this Interim Order, the Motion or its attachments, the priority status of a creditor's claim, including that of claims arising under § 503(b)(9) of the Bankruptcy Code, shall not be affected unless such creditor executes a Trade Agreement which expressly addresses the priority of such creditor's claims, or provides services or goods to the Debtors under Customary Trade Terms, or as otherwise ordered by the Court.

20. Subject to the Approved Budget (as defined in the *Interim Order (I) Authorizing the Debtors to Obtain Senior Secured Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* (the "Interim DIP Order") or the Final Order (as defined in the Interim DIP Order), as applicable), the Debtors are authorized, but not directed, to pay the amounts authorized herein.

21. The requirements set forth in Bankruptcy Rule 6003(a) are satisfied.

22. The requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.

23. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

24. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

25. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Exhibit 1 to Interim Order

Form of Vendor Agreement

_____

_____, 20__

TO: [Vendors]
[Name]
[Address]

Dear Valued Supplier:

As you are aware, Avenger Flight Group, LLC and certain of its affiliates (the "Company") filed voluntary petitions for relief under chapter 11 of Title 11 of the United States Bankruptcy Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Case" and the "Bankruptcy Court," respectively) on February [●], 2026 (the "Petition Date"). On the Petition Date, the Company requested the Bankruptcy Court's authority to pay the pre-bankruptcy claims of certain suppliers in recognition of the importance of the Company's relationship with such suppliers and its desire that the Bankruptcy Case has as little effect on the Company's ongoing business operations as possible. On [●], the Bankruptcy Court entered an order (the "Order") authorizing the Company, under certain conditions, to pay the prepetition claims of certain trade creditors that agree to the terms set forth below and to be bound by the terms of the Order. A copy of the Order is enclosed. Entry into this Agreement is not a prerequisite to the assertion of section 503(b)(9) claims or general unsecured claims or any distributions thereon as may be set forth in a chapter 11 plan or other order of the Bankruptcy Court.

In order to receive payment on account of prepetition claims, you must agree to continue to supply goods, or services, as applicable, to the Company based on Customary Trade Terms (as defined in the Order). In the Order, Customary Trade Terms are defined as the normal and customary trade terms, practices, and programs (including credit limits, pricing, cash discounts, timing of payments, allowances, availability, and other programs), that were most favorable to the Company and in effect between you and the Company prior to the Petition Date, or such other trade terms as you and the Company agree.

For purposes of administration of this trade program as authorized by the Bankruptcy Court, you and the Company both agree that:

1. The estimated balance of the prepetition claim (net of any setoffs, credits, or discounts) (the "Vendor Claim") that you will receive from the Company is $[●].

2. You agree to waive [all/a portion] of any general unsecured claim against the Company in the amount of $[●] arising out of the following invoices: [●].

3. [You will provide an open trade balance or credit line to the Company for delivery of postpetition goods, or services, as applicable, in the amount of $[●] (which shall not be less

than the greater of the open trade balance outstanding: (a) on [●], or (b) on normal and customary terms on a historical basis before and up to the Petition Date).]

4. The terms of such open trade balance or credit line are as follows (if more space is required, attach continuation pages): [●]

5. During the pendency of the Bankruptcy Case, you will continue to extend to the Company all Customary Trade Terms (as defined in the Order).

6. You will not demand a lump sum payment upon consummation of a plan of reorganization in the Bankruptcy Case on account of any administrative expense priority claim that you assert, but instead agree that such claims will be paid in the ordinary course of business after consummation of a plan under applicable Customary Trade Terms, if the plan provides for the ongoing operations of the Company.

7. The undersigned, a duly authorized representative of [Vendor], has reviewed the terms and provisions of the Order and agrees that [Vendor] is bound by such terms.

8. You will not separately seek payment for reclamation and similar claims outside of the terms of the Order unless your participation in the Vendor payment program authorized by the Order (the "Vendor Payment Program") is terminated.

9. You agree not to file or otherwise assert against the Company, the estate, or any other person or entity or any of their respective assets or property (real or personal) any lien (regardless of the statute or other legal authority upon which such lien is asserted) related in any way to any remaining prepetition amounts allegedly owed to you by the Company arising from agreements entered into prior to the Petition Date. Further, you agree to take (at your own expense) all necessary steps to remove any such lien as soon as possible.

10. In addition to any other obligations of confidentiality between you and the Company, you agree to hold in confidence and not disclose to any party: (a) the existence of this Vendor Agreement, (b) the terms of this Vendor Agreement, and (c) the Customary Trade Terms (together, the "Confidential Information"); *provided* that if any party seeks to compel your disclosure of any or all of the Confidential Information, through judicial action or otherwise, or you intend to disclose any or all of the Confidential Information, you shall immediately provide the Company with prompt written notice so that the Company may seek an injunction, protective order, or any other available remedy to prevent such disclosure; *provided*, further, that if such remedy is not obtained, you shall furnish only such information as you are legally required to provide.

11. If either the Vendor Payment Program or your participation therein terminates as provided in the Order, or you later refuse to continue to supply goods to the Company on Customary Trade Terms during the pendency of the Bankruptcy Case, any payments you receive on account of your Vendor Claim will be deemed voidable postpetition transfers pursuant to section 549(a) of the Bankruptcy Code. You will immediately repay to the Company any payments made to you on account of your Vendor Claim to the extent that the aggregate

amount of such payments exceeds the postpetition obligations then outstanding without giving effect to alleged setoff rights, recoupment rights, adjustments, or offsets of any type whatsoever. Your Vendor Claim shall be reinstated in such an amount so as to restore the Company and you to the same positions as would have existed if payment of the Vendor Claim had not been made.

12. It is agreed and understood that by entering into this Agreement there is no admission of liability, wrongdoing, or violation of law whatsoever by any party. This Agreement results solely from the parties' desire to expeditiously resolve disputed issues of law and fact. The existence and execution of this Agreement shall not be considered as an admission by any party.

13. This Agreement shall in no event be offered as or construed or be deemed to be evidence or an admission or a concession by any party, with respect to the truth, validity, or merit of any claim, defense, or disputed fact, or with respect to any fault, wrongdoing, liability, or damages whatsoever or with respect to any matter.

14. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties and their respective successors and assigns.

15. Any dispute with respect to this letter agreement, the Order, or your participation in the Vendor Payment Program shall be determined by the Bankruptcy Court.

If you have any questions about this Agreement or our financial restructuring, please do not hesitate to call.

Sincerely,

_____
By:
[Name] [Title]

Agreed and Accepted by: [Vendor]

By: Its:

Dated: _____

EXHIBIT B

Proposed Final Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: AVENGER FLIGHT GROUP, LLC, *et al.*, Debtors. [5]	Chapter 11 Case No. 26-10183 (___) (Jointly Administered) **Related Docket Nos.**

FINAL ORDER (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION CLAIMS OF CRITICAL VENDORS, FOREIGN VENDORS, 503(b)(9) CLAIMANTS, AND LIEN CLAIMANTS; (II) GRANTING ADMINISTRATIVE EXPENSE PRIORITY TO ALL UNDISPUTED OBLIGATIONS ON ACCOUNT OF OUTSTANDING ORDERS; (III) AUTHORIZING ALL FINANCIAL INSTITUTIONS TO HONOR ALL RELATED PAYMENT REQUESTS; AND (IV) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[6] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of a final order (this "Final Order"): (a) authorizing, but not directing, the Debtors to pay certain prepetition claims of (i) Critical Vendors up to the Final Critical Vendor Cap, (ii) Foreign Vendors up to the final Foreign Vendor Cap, (iii) 503(b)(9) Claimants, and (iv) Lien Claimants up to the Final Lien Claimant Cap; (b) granting administrative expense priority to all undisputed obligations on account of Outstanding Orders; (c) authorizing CAE, Inc. (collectively with its affiliates and subsidiaries, "CAE") to continue to apply accrued pre-petition credits to critical SIM (defined below) components provided to the Debtors pre- and

[5] The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers are: Avenger Flight Group, LLC (1216); AFG Dallas III, LLC (5615); AFG Dallas IV, LLC (5558); AFG Dallas, LLC (3418); AFG EU Operations Corp. (9406); AFG FLL, LLC (6470); AFG Latam Holding Corp. (6475); AFG Latam Sim Holdings II, LLC (0473); AFG Latam Sim Holdings III, LLC (2592); AFG Latam Sim Holdings IV, LLC (0093); AFG Latam Sim Holdings, LLC (6475); AFG Latam, LLC (9545); AFG Mexico Corp. (1402); AFG Orlando, LLC (8409); AFG Sanford, LLC (6661); AFG Sim Holding Corp. (3325); Avenger Flight Group Europe, Corp. (5908); Avenger Flight Group Topco, LLC (5643); Avenger Flight Training, LLC (5640); Avenger Flight Group Mexico II, S. de R.L. de C.V, (N/A); and Papi Flight Training, LLC (6206). The location of the Debtors' corporate headquarters and the Debtors' service address is Avenger Flight Group LLC, 1450 Lee Wagener Blvd., Fort Lauderdale, FL 33315.

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

post-petition in the ordinary course of business; (d) authorizing applicable banks and other financial institutions to honor and process related checks and transfers; and (e) granting related relief, all as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at an interim hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** on a **final** basis as set forth herein.

2. The Debtors are authorized, but not directed, to pay the Critical Vendor Claims; *provided* that such payments shall not exceed $150,000.00 in the aggregate unless otherwise ordered by the Court after notice and a hearing.

3. The Debtors are authorized, but not directed, to pay the Foreign Vendor Claims; *provided* that such payments shall not exceed $15,000.00 in the aggregate unless otherwise ordered by the Court after notice and a hearing.

4. The Debtors are authorized, but not directed, to pay the Lien Claims; *provided* that such payments shall not exceed $30,000.00 in the aggregate unless otherwise ordered by the Court after notice and a hearing.

5. The Debtors are authorized, but not directed, to pay the 503(b)(9) Claims as the Debtors determine to be necessary or appropriate, up to the amount of $70,000.00 in the aggregate unless otherwise ordered by the Court.

6. All undisputed obligations relating to the Outstanding Orders are granted administrative expense priority in accordance with section 503(b)(1)(A) of the Bankruptcy Code.

7. CAE shall be authorized to continue to apply the CAE Credits to any orders placed by the Debtors with CAE, whether pre- or post-petition, in the ordinary course of business, consistent with historical practices and entitlements.

8. The Vendor Agreement, substantially in the form attached to the Interim Order as Exhibit 1 is approved in its entirety. A Vendor Agreement, once agreed to and accepted by the applicable Vendor, shall be the legally binding contractual relationship between the parties governing the commercial trade relationship as provided therein.

9. No payments shall be made to any professionals or insiders as that term is defined in section 101 (31) of the Bankruptcy Code absent further order of the Court.

10. The Debtors are authorized, but not directed, to pay the Trade Claims, in whole or in part, upon such terms and in the manner authorized in this Final Order regardless of whether a Vendor has executed a Vendor Agreement; *provided* that if any Vendor accepts payment hereunder and does not continue supplying goods or services to the Debtors in accordance with trade terms at least as favorable to the Debtors as those practices and programs (including credit limits, pricing, cash discounts, timing of payments, allowances, availability, and other programs) in place within

the twelve (12) months prior to the Petition Date, or such other trade terms that are acceptable to the Debtors (collectively, the "Customary Trade Terms"), then: (a) the Debtors may then take any and all appropriate steps to cause such Vendor to repay payments made to it on account of its prepetition claim to the extent that such payments exceed the postpetition amounts then owing to such Vendor; (b) upon recovery by the Debtors, any prepetition claim of such party shall be reinstated as if the payment had not been made; and (c) if there exists an outstanding postpetition balance due from the Debtors to such party, the Debtors may elect to re-characterize and apply any payment made pursuant to the relief requested by the Motion to such outstanding postpetition balance, and such supplier or vendor will be required to repay to the Debtors such paid amounts that exceed the postpetition obligations then outstanding without the right of any setoffs, claims, provisions for payment of any claims, or otherwise.

11. If any Vendor accepts payment on account of a Trade Claim and thereafter does not continue to provide goods or services to the Debtors on Customary Trade Terms, (*provided that* any such Vendor shall be provided a reasonable opportunity to contest whether it continued to provide goods or services to the Debtors on Customary Trade Terms), then any such payment shall be deemed an unauthorized avoidable postpetition transfer under section 549 of the Bankruptcy Code that the Debtors may either: (a) recover from the Vendor in cash or goods; or (b) at the Debtors' option, apply against any outstanding administrative expense claim held by such Vendor. Upon recovery by the Debtors, the claim shall be reinstated as a prepetition claim in the amount so recovered, less the Debtors' reasonable costs to recover such amounts. The Debtors are hereby authorized to obtain written verification before issuing payment to a Vendor that such Vendor will continue to provide goods and services to the Debtors on Customary Trade

Terms for the remaining term of the Vendor's agreement with the Debtors; *provided, however*, that the absence of such written verification will not limit the Debtors' rights hereunder.

12. The Debtors are authorized and empowered to execute and deliver such documents, and to take and perform all actions necessary, to implement and effectuate the relief granted in this Final Order.

13. In accordance with this Final Order (or other order of this Court), each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion are authorized to: (a) receive, process, honor, and pay all checks presented for payment and to honor all funds transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts; and (b) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of this Court, whether such checks, drafts, wires, or transfers are dated before, on, or subsequent to the Petition Date, without any duty to inquire otherwise and without any liability for following the Debtors' instructions.

14. Nothing in this Final Order, or the Debtors' payment of any claims pursuant to this Final Order, shall be construed as: (i) an admission as to the validity, priority, enforceability, or perfection of any claim against any Debtor or the existence of any lien against the Debtors' properties; (ii) an implication, admission, or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in this Final Order; (iii) a waiver of the Debtors' or any other party in interest's rights to dispute any claim or lien on any grounds; (iv) a promise to pay any claim; (v) an implication or admission that any particular claim would constitute an allowed claim; (vi) an assumption or rejection of any executory contract

or unexpired lease pursuant to section 365 of the Bankruptcy Code; or (vii) a limitation on the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to this Final Order.

15. Nothing herein shall impair or prejudice the Debtors' ability to contest, in their discretion, or any other party's ability to contest, the extent, perfection, priority, validity, or amounts of any claims held by any Vendor. Nothing herein shall be construed as requiring the Debtors to make a payment to a particular creditor or claimant.

16. The Debtors shall maintain a matrix summarizing (i) the name of each Vendor paid on account of its Trade Claim, (ii) the amount paid by each Debtor payor to each Vendor on account of its Trade Claim, and (iii) the nature of the Trade Claim paid. On a monthly basis, the Debtors shall deliver an updated copy of the matrix to the United States Trustee, counsel to the Prepetition Term Lenders, and any statutory committee appointed in these chapter 11 cases.

17. Notwithstanding anything to the contrary in this Final Order, the Motion or its attachments, the priority status of a creditor's claim, including that of claims arising under § 503(b)(9) of the Bankruptcy Code, shall not be affected unless such creditor executes a Trade Agreement which expressly addresses the priority of such creditor's claims, or provides services or goods to the Debtors under Customary Trade Terms, or as otherwise ordered by the Court.

18. Subject to the Approved Budget (as defined in the *Interim Order (I) Authorizing the Debtors to Obtain Senior Secured Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* (the "Interim DIP Order") or the Final Order (as

defined in the Interim DIP Order), as applicable), the Debtors are authorized, but not directed, to pay the amounts authorized herein.

19. Notice of the Motion satisfies the requirements of Bankruptcy Rule 6004(a).

20. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

21. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

22. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.