

**EXHIBIT 2**

**IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

In re: ) Chapter 11  
 )  
~~In re: ATA Holdings Corp.,~~ ) ~~Chapter 11~~  
~~Debtor, et al.~~<sup>1</sup> ) Case No. 04-19866  
 ) (Jointly Administered)  
 )  
~~In re: ATA Airlines, Inc.,~~ ) ~~Chapter 11~~  
~~Debtor,~~ ) ~~Case No. 04-19868~~  
 )  
~~In re: Ambassadors Travel Club, Inc.,~~ ) ~~Chapter 11~~  
~~Debtor,~~ ) ~~Case No. 04-19869~~  
 )  
~~In re: ATA Leisure Corp.,~~ ) ~~Chapter 11~~  
~~Debtor,~~ ) ~~Case No. 04-19870~~  
 )  
~~In re: Amber Travel, Inc.,~~ ) ~~Chapter 11~~  
~~Debtor,~~ ) ~~Case No. 04-19871~~  
 )  
~~In re: American Trans Air Execujet, Inc.,~~ ) ~~Chapter 11~~  
~~Debtor,~~ ) ~~Case No. 04-19872~~  
 )  
 )  
~~In re: ATA Cargo, Inc.,~~ ) ~~Chapter 11~~  
~~Debtor,~~ ) ~~Case No. 04-19873~~  
 )  
~~In re: Chicago Express Airlines, Inc.,~~ ) ~~Chapter 11~~  
~~Debtor,~~ ) ~~Case No. 04-19874~~  
 )  
 )  
Debtors. )  
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 )

<sup>1</sup> The Debtors are the following entities: ATA Holdings Corp. (04-19866), ATA Airlines, Inc. ("ATA") (04-19868), Ambassadors Travel Club, Inc. (04-19869), ATA Leisure Corp. (04-19870), Amber Travel, Inc. (04-19871), American Trans Air Execujet, Inc. (04-19872), ATA Cargo, Inc. (04-19873) and Chicago Express Airlines, Inc. (04-19874).

SECOND INTERIM AND FINAL ORDER

AUTHORIZING DEBTORS' USE OF CASH COLLATERAL

AND USE, SALE AND LEASE OF OTHER PRE-PETITION COLLATERAL

Upon the Debtors' ~~First Day Cash Collateral~~ Motion, dated October 29, 2004 (the "Cash Collateral Motion"),<sup>12</sup> wherein the Debtors moved this Court for, among other things, the entry of ~~an~~ a second interim and final order (the "Final Order") authorizing the Debtors' use of ~~cash collateral on an interim basis (the "Interim Relief"~~ the Cash Collateral (as defined below) and use, sale and lease of the Pre-Petition Collateral (as defined below) (the "Final Relief") during the period in which this Final Order shall remain in effect (the "Final Cash Collateral Period"), and after notice and a hearing on the ~~Interim Relief~~ Cash Collateral Motion, the Court finds, subject to the terms and conditions hereof, that (i) the ~~Interim~~ Final Relief requested in the Cash Collateral Motion, as modified herein, is in the best interests of the Debtors, their estates and their creditors; (ii) the ~~Interim~~ Final Relief requested in the Cash Collateral Motion, as modified herein, is necessary to provide the Debtors with sufficient cash to continue normal operations and to preserve the going concern value of their businesses; (iii) in accordance with Rule 4001(a), (b) and (d) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") due and proper notice has been given of the Cash Collateral Motion and the hearing ~~on the Interim Relief has been given~~ by which the Interim Cash Collateral Order was approved, and no other or further notice is necessary with respect to the ~~Interim~~ Final Relief; and (iv) upon the record herein, after due deliberation thereon, good and sufficient cause exists for ~~the granting of the Interim~~ Final Relief as set forth herein. Notwithstanding any other provision herein, the ~~Debtors'~~

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<sup>+2</sup> Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Cash

~~authorization to use the Cash Collateral (as defined below) and to use, sell or lease the other Pre-Petition Collateral (as defined below) is expressly conditioned upon the Debtors' filing, on or before November 1, 2004, a motion under Sections 363 and 365 of the Bankruptcy Code seeking approval of bidding procedures to sell, assign or otherwise transfer certain of the Debtors' assets in connection with the Debtors' operations at Midway Airport in Chicago (the "Midway Assets") to AirTran Airways, Inc. or one or more of its affiliates (collectively, "AirTran"), pursuant to an October 24, 2004 letter agreement (the "AirTran Agreement");<sup>2</sup> or such other higher or better offer for the Midway Assets or such other assets as one or more competitive bidders offer to purchase pursuant to such provisions of the Bankruptcy Code as may be applicable. The AirTran Agreement or an alternative agreement by another purchaser pursuant to a higher or better offer for the Midway Assets or any other, or all, assets of the Debtors pursuant to a sale under section 363 of the Bankruptcy Code or such other provisions of the Bankruptcy Code as may be applicable (with the approval of the Court, the ATSB and the Lenders (each as defined below)) shall be referred to herein as a "Restructuring Agreement". The transaction, or transactions, contemplated by a Restructuring Agreement are referred to hereinafter as a "Restructuring Transaction".~~ The Debtors' authorization to use the Cash Collateral (as defined below) and to use, sell or lease the other Pre-Petition Collateral (as defined below) is ~~also~~ expressly conditioned upon the ~~Debtors going forward with, and at all times making satisfactory progress toward, the consummation of a Restructuring Transaction~~terms and conditions set forth herein.

Therefore,

**THE COURT HEREBY FINDS AND CONCLUDES THAT:**

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Collateral Motion.

<sup>2</sup> ~~A true and accurate copy of the AirTran Agreement is attached hereto as Exhibit "A".~~

### **Background**

A. On October 26, 2004 (the "Petition Date"), the Debtors commenced these ~~chapter~~Chapter 11 cases (the "Chapter 11 Cases") by filing voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, as amended (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Indiana (the "Court").

B. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. ~~No trustee or examiner has been~~On November 2, 2004, the United States Trustee appointed ~~in the Chapter 11 Cases, and no official~~a committee of unsecured creditors ~~or other statutory committee (an~~(the "Official Committee") ~~has been formed as of the hearing on the Interim Relief~~pursuant to Bankruptcy Code § 1102.

C. This Court has jurisdiction, pursuant to 28 U.S.C. §§ 157(b) and 1334 and S.D. Ind. L.R. 83.8, over the Chapter 11 Cases, and over the persons and property affected hereby. Consideration of the Cash Collateral Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). The statutory predicates for the relief sought herein are ~~sections~~Sections 105, 361, 363 and 507 of the Bankruptcy Code and Bankruptcy ~~Rule~~Rules 4001(a), (b) and (d) and 6004(g). Venue of the Chapter 11 Cases in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

D. On October 26, 2004, this Court entered ~~a Bridge Order~~an order granting the Debtors bridge relief (the "Bridge Order") by allowing the Debtors the use of Cash Collateral (as defined in the Bridge Order), subject to the conditions and limitations set forth in such Bridge Order, during the period from the date of such Bridge Order until the earlier of (i) the close of business on October 29, 2004, or (ii) the entry or denial of an interim order authorizing the

Debtors' continued use of cash collateral (the "Bridge Cash Collateral Period"). The Debtors represent that they have utilized Cash Collateral (as defined in the Bridge Order) ~~during the Bridge Cash Collateral Period~~ in compliance with the conditions and limitations of the Bridge Order.

E. On October 29, 2004, the Court entered an Interim Order authorizing the Debtors' further use of the Cash Collateral (the "Interim Cash Collateral Order") through November 4, 2004, or, subject to the approval of the ATSB Lender Parties, through November 11, 2004. Subsequently, the Interim Cash Collateral Order was extended, from time to time, through November 30, 2004 (the "Interim Cash Collateral Period"). The Interim Cash Collateral Order also authorized the Debtors' use, sale and lease of the Pre-Petition Collateral upon substantially similar terms and conditions during the Interim Cash Collateral Period.

F. Pursuant to a commitment letter dated as of October 24, 2004, between AirTran Airways, Inc. ("AirTran") and the Debtors (the "Commitment Letter"), the Debtors and AirTran agreed to negotiate a definitive agreement, subject to the approval of the Committee and the ATSB Lender Parties, regarding acquisition of the Midway Assets (as defined in the Commitment Letter) and incorporating the material terms and conditions of the Commitment Letter (the "Definitive Agreement").<sup>3</sup> On November 2, 2004, the Debtors filed a motion for an order approving (i) the transaction between the Debtors and AirTran or (ii) if applicable, one or more Alternative Transactions (as defined in the bid procedures (the "Bid Procedures")) established pursuant to the Order Granting Emergency Motion to Establish (A) Procedures for Approval of Transaction, (B) A Break-Up Fee, and (C) Forms of Notice, dated November 19,

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<sup>3</sup> The Definitive Agreement was executed, subject to the approval of the Court, on November 16, 2004.

2004 (the "Bid Procedures Order"). A transaction of the type described in clauses (i) and (ii) of the previous sentence shall be referred to hereinafter to as a "Restructuring Transaction".

G. On November 2, 2004, the Debtors also filed an emergency motion seeking entry of an order approving the Bid Procedures to facilitate a full and fair bidding process to maximize the overall value of the Debtors' estates. On November 18, 2004, the Court approved the Bid Procedures with respect to one or more Restructuring Transactions and entered the Bid Procedures Order on November 19, 2004.

H. On November 9, 2004, the Debtors filed an emergency motion for an order authorizing the Debtors to obtain post-petition financing (the "Indiana DIP Financing") by entering into a transaction with the Indiana Transportation Finance Authority (the "IFTA"). The Indiana DIP Financing was approved pursuant to an order (the "DIP Financing Order") entered by the Court on November 16, 2004.

#### **The ATSB Loan and Cash Collateral**

I. ~~E.~~ ATA Airlines, Inc. f/k/a American Trans Air, Inc. ("ATA") obtained a \$168,000,000 term loan (the "ATSB Loan") under a Loan Agreement, dated as of November 20, 2002 (the "Loan Agreement"). The ATSB Loan consists of a \$148,500,000 Tranche A Loan (the "Tranche A Loan") and a \$19,500,000 Tranche B Loan (the "Tranche B Loan"). The lenders who made the Tranche A Loan are Govco Incorporated ("Govco"), as the Primary Tranche A Lender, and Citibank, N.A. ("Citibank"), as the alternate Tranche A Lender (together with Govco and their respective successors and permitted assigns, the "Tranche A Lenders"). Citibank is the sole lender on the Tranche B Loan (the "Tranche B Lender"), and serves as the agent for the Lenders (the "Agent"). The Tranche B Lender participated a portion of the Tranche B Loan to certain participants, including, but not limited to, AFS Investments XII, Inc. and International Lease Finance Corporation. The participants in the Tranche B Loan shall hereinafter be referred

to as the "Tranche B Loan Participants" (~~the Tranche B Loan Participants~~, together with the Tranche A Lenders and the Tranche B Lender ~~shall be collectively referred to as~~ the "Lenders"). Citicorp North America, Inc. serves as agent to Govco (the "Govco Agent," and together with the Agent and the Collateral Agent (as defined below) the "Agents"). BearingPoint, Inc. serves as the loan administrator ("Loan Administrator"). The Lenders, the Agents and the Air Transportation Stabilization Board (the "ATSB") are collectively referred to hereinafter as the "ATSB Lender Parties".

J. ~~F.~~ As authorized by the Air Transportation Safety and System Stabilization Act, the ATSB guaranteed repayment of the Tranche A Loan (\$148,500,000) (the "ATSB Guarantee") to the Tranche A Lenders pursuant to a Guarantee Agreement, dated as of November 20, 2002 (the "ATSB Guarantee Agreement"). In addition, the repayment of the ATSB Loan to the ATSB Lender Parties is guaranteed by ATA Holdings Corp. ("ATAH"), as the parent of ATA, under the Parent Guarantee Agreement, dated as of November 20, 2002 ("ATAH Guarantee") as well as by substantially all ATAH subsidiaries (the "ATAH Subsidiaries" and collectively, with ATAH, the "Other Guarantors")<sup>34</sup> under the Subsidiary Guarantee Agreement, dated as of November 20, 2002.

K. ~~G.~~ The ATSB Loan is collateralized pursuant to a certain Mortgage and Security Agreement dated as of November 20, 2002 (the "Security Agreement"). The collateral pledged by ATA ~~in~~pursuant to the Security Agreement includes (i) "Appraised Collateral" (as defined in the Loan Agreement) (along with certain incidental legal rights and interests and records related to the Appraised Collateral), (ii) "Pledged Accounts" (as defined in the Security Agreement), (iii) "Pledged Equipment" (as defined in the Security Agreement) and (iv) the

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<sup>34</sup> The Loan Agreement was entered into by and among ATA, ATAH, the Other Guarantors, the Lenders, the ATSB, Citicorp North America, Inc., as Govco Agent, Citibank, as Agent and Collateral Agent, and BearingPoint,

proceeds of the foregoing, including substantially all of ATA's cash in ATA's bank accounts (collectively, the "Pre-Petition Collateral").<sup>45</sup> Citibank serves as the collateral agent (the "Collateral Agent") for the ATSB Lender Parties.

L. ~~H.~~ The Appraised Collateral consists of certain spare parts and rotables, and certain aircraft, airframes, propellers and engines (and acceptable alternates thereto) as listed on Exhibits B, C, and D of the Security Agreement (collectively, the "Aircraft Collateral"), which is non-cash collateral, and the proceeds thereof, which, if in the form of cash or "Cash Equivalents" (as defined in the Loan Agreement), constitute "cash collateral" under Section 363(a) of the Bankruptcy Code.

M. ~~I.~~ The Pledged Accounts consist of essentially all of ATA's "Accounts" (as defined in the Security Agreement) and the proceeds thereof other than (i) credit card receivables to the extent and for so long as such credit card receivables are subject to a security interest in favor of any credit card receivables processor (the "Card Receivables"), (ii) proceeds of ATA's membership interest in BATA Leasing LLC (the "BATA Accounts"), (iii) receivables for rents paid to ATA on Excluded Equipment, as identified in ~~section~~sections (e) and (f) of the definition of "Excluded Equipment" in the Security Agreement (the "Excluded Equipment Rents Accounts"), and (iv) the "Accounts" (as defined in the Security Agreement) which arise from the sale or other disposition of any Excluded Equipment which is not any of the Aircraft, Engines, Spare Engines, Propellers or Spare Parts (as each such term is defined in the Security Agreement). The funds ATA anticipates that it will receive from the payment or collection of Pledged Accounts after the Petition Date are essential to ATA's normal business operations.

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Inc., as the Loan Administrator.

<sup>45</sup> The Pre-Petition Collateral is fully described in the "Loan Documents" (as defined in the Loan Agreement) and the descriptions in this Cash Collateral ~~Motion~~Order are not intended to expand or detract from the Pre-Petition Collateral as described in the Loan Documents.

Proceeds that will be generated after the Petition Date from payment or collection of the Pledged Accounts shall constitute "cash collateral" under Section 363(a) of the Bankruptcy Code.

N. ~~J.~~In accordance with Section 552(b) of the Bankruptcy Code, the Pre-Petition Collateral includes, without limitation, all proceeds, products and profits of the Pre-Petition Collateral, whether existing before or after the commencement of the Chapter 11 Cases. "Available Cash" shall consist of ATA's cash and Cash Equivalents that are property of ATA's estate, and that are free of liens of any party (other than liens in favor of the ATSB Lender Parties or the IFTA in connection with the Indiana DIP Financing) but exclusive of cash being held by ATA for the purpose of providing for payment of taxes, government charges and employee-related taxes and charges (the "Trust Funds")<sup>56</sup>. The ATSB Lender Parties contend,

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<sup>56</sup> For the avoidance of doubt, the term "Trust Funds" as used in this ~~Interim~~Final Order includes (a) federal income tax withholding and backup withholding tax, employment taxes, transportation excise taxes and security related charges, including (i) federal payroll withholding taxes, as described in Sections 3101, 3111 and 3402 of the Internal Revenue Code; (ii) federal Unemployment Tax Act taxes, as described in Chapter 23 of Subtitle C of the Internal Revenue Code; (iii) federal air transportation excise taxes, as described in Sections 4261 and 4271 of the Internal Revenue Code; (iv) federal security charges, as described in Title 49 of the Code of Federal Regulations of 2002 (referred to in this definition as the "~~CFR~~2"), Chapter XII, Part 1510; (v) federal Animal and Plant Health Inspection Service of the United States Department of Agriculture ("~~APHIS~~2") user fees, as described in 21 U.S.C. § 136a (2002) and 7 CFR § 354.3; (vi) federal Immigration and Naturalization Service (INS) fees, as described in 8 CFR Part 286; (vii) federal customs taxes as described in 19 U.S.C. § 58c; and (viii) federal jet fuel taxes as described in Sections 4091 and 4092 of the Internal Revenue Code collected on behalf of and owed to the federal government, (b) any and all state and local income tax withholding, employment taxes and related charges and fees and similar taxes, charges and fees, including, but not limited to, state and local payroll withholding taxes, unemployment and supplemental unemployment taxes, disability taxes, workman's or workers' compensation charges and related charges and fees that are analogous to those described in Subtitle C of the Internal Revenue Code and that are described in or are analogous to Chapter 23 of Title 19 Delaware Code Annotated (2002) (referred to in this definition as "~~D.C.A.~~2") collected on behalf of and owed to state and local authorities, agencies and entities, (c) Passenger Facility ~~Fees and~~ Charges as described in 49 U.S.C. § 40117 (2002) and Title 14 of the CFR, Subchapter 1, Part 158 collected on behalf of and owed to various administrators, institutions, authorities, agencies and entities and (d) voluntary and/or other non-statutorily required employee payroll deductions, whether authorized by the employee, imposed by court order, agreed to pursuant to collective bargaining arrangement or otherwise, including (i) employee contributions made for the purpose of participating in any employer-sponsored retirement plan as described and defined in Section 401(k) of the Internal Revenue Code (including repayment of any 401(k) related loans made to the employee but excluding any funds matched and/or contributed by the employer on behalf of any employee), (ii) employee payments made for the purpose of participating in any employer-sponsored medical, dental or related health plan, (iii) employee payments made for the purpose of satisfying periodic union dues, (iv) employee payments made for the purpose of purchasing United States Savings Bonds, (v) employee payments made for the purpose of making deposits to an account at or making repayment of an extension of credit from an employer-associated credit union, (vi) employee payments made for the purpose of purchasing life, accident, disability or other insurance, (vii) employee payments made for the purpose of participating in any employer-sponsored cafeteria plan as described and defined in Section 125 of the Internal Revenue Code, (viii) employee-directed donations to charitable organizations and (ix) levies, garnishments and other attachments on

and the Debtors acknowledge and agree, that as of the Petition Date, substantially all of the Available Cash is the proceeds, products and profits of other Pre-Petition Collateral of the ATSB Lender Parties.

O.     ~~K. Subject to section 12(c) hereof, the~~ The Debtors acknowledge and agree that ninety-five percent (95%) of the Available Cash held on the Petition Date (the "Petition Date Cash Collateral") together with any cash or Cash Equivalent proceeds of the Pre-Petition Collateral received after the Petition Date shall constitute "cash collateral" under Section 363(a) of the Bankruptcy Code (the "Cash Collateral"). The Debtors acknowledge and agree that on the Petition Date ATA had no less than \$29,800,000 in Available Cash of which no less than \$28,300,000 was Petition Date Cash Collateral.

P.     ~~L.~~ The Loan Agreement provides for ATA to make certain principal payments on the Tranche A Loan and the Tranche B Loan during the period beginning November 25, 2003 and ending November 25, 2008. The Loan Agreement further provides for ATA to pay accrued interest quarterly in arrears commencing February 25, 2003 at the rates specified in the Loan Agreement and payment of certain fees, pursuant to Section 2.8 of the Loan Agreement, to the ATSB Lender Parties and Loan Administrator, as applicable.

Q.     ~~M.~~ The Loan Agreement contains provisions requiring ATA to report to the ATSB Lender Parties on a quarterly basis the value of the Appraised Collateral and the value of the Eligible Accounts (as defined in the Loan Agreement). Appraisals by third-party appraisers of the Appraised Collateral were conducted annually, with the quarterly reports reflecting the most recent appraisal.

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employee compensation (as described in Sections 6305 and 6331 of the Internal Revenue Code, in Section 4913 of Title 10 of D.C.A. or in any analogous provision of other applicable federal, state or local law) collected on behalf of any Governmental Authority or any other Person authorized to receive funds of the type described in this clause (d).

R.     ~~N.~~ As of ~~September 30, 2004,~~the Petition Date, the Collateral Value (as calculated under the Loan Agreement) of the Appraised Collateral was not less than \$50,000,000. ~~The value of the Appraised Collateral has not changed since September 30, 2004.~~ On the Petition Date, the value of the Pledged Accounts aggregated not less than \$37,500,000. The Debtors acknowledge and agree that ~~approximately \$5,000,000 of aviation fuel that the Debtors purchased~~ on or around October ~~21 and 22, 2004 on a forward basis~~22, 2004, the Debtors transferred \$4,618,974.57 to one or more fuel vendors for the future purchase of aviation fuel (the "Fuel Funds"). The Fuel Funds, including all rights associated therewith, ~~constitutes~~constituted proceeds of the ATSB Lender Parties' Pre-Petition Collateral and therefore is a part of the ATSB Lender Parties' Pre-Petition Collateral. <sup>7</sup> The Debtors acknowledge and agree that, as of the Petition Date, the ATSB Lenders Parties had legal, valid, binding and enforceable first priority security interests in and liens on the Appraised Collateral as well as the Petition Date Cash Collateral, the Fuel Funds and the Pledged Accounts with a value in excess of \$67,000,000.

S.     ~~O.~~ On the Petition Date, the outstanding principal balance on the ATSB Loan was approximately \$139,900,000 plus accrued but unpaid interest (together with all fees, charges, expenses accrued or to accrue, and which are payable in accordance with the Loan Agreement, the "ATSB Loan Obligations").

T.     ~~P.~~ The Debtors acknowledge and agree that (i) the ATSB Loan and the ATSB Loan Obligations constitute legal, valid and binding obligations of the Debtors, enforceable in accordance with the terms of the Loan Documents (other than in respect of the

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<sup>7</sup> The amount of the Fuel Funds are not included in the calculation of various financial covenants herein, however the amount of the Fuel Funds shall be included in any calculation of the diminution of the ATSB Lender Parties' Cash Collateral and other Pre-Petition Collateral pursuant to this Final Order.

stay of enforcement arising from ~~section~~Section 362 of the Bankruptcy Code), (ii) no offsets, defenses or counterclaims exist to the currently outstanding ATSB Loan Obligations, and (iii) no portion of the ATSB Loan Obligations is subject to avoidance, subordination or disallowance pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

U. ~~Q.~~ The Debtors acknowledge and agree that, as of the Petition Date, ATA had Pledged Accounts of not less than \$37,500,000 in which the ATSB Lender Parties hold, by and through the Collateral Agent, a valid, perfected and enforceable (other than in respect of the stay of enforcement arising from ~~section~~Section 362 of the Bankruptcy Code) first priority lien and security interest, not subject to avoidance or subordination. The Debtors further acknowledge and agree that proceeds received after the Petition Date from the payment or collection of Pledged Accounts ~~will constitute Cash Collateral~~ "cash collateral" under ~~section~~Section 363(a) of the Bankruptcy Code.

V. ~~R.~~ The Debtors acknowledge and agree that the ATSB Lender Parties also possess valid, perfected, and enforceable (other than in respect of the stay of enforcement arising from ~~section~~Section 362 of the Bankruptcy Code) first priority liens and security interests, not subject to avoidance or subordination, in collateral in addition to the Cash Collateral.

W. ~~S.~~ An immediate need exists for the Debtors to have access to the Cash Collateral in order to continue their operations, meet their payroll and other necessary, ordinary course business expenditures, acquire goods and services, administer and preserve the value of their estates, maintain adequate access to cash in amounts customary and necessary for companies of this size in this industry to maintain customer and vendor confidence, pursue a Restructuring Transaction and progress toward successful emergence from the Chapter 11 Cases. The ability of the Debtors to finance their operations by way of working capital requires their

access to their cash resources, the absence of which would immediately and irreparably harm the Debtors, their estates, and their creditors. The Debtors require these cash resources to operate their businesses, to preserve the confidences of vendors, suppliers and customers, and to preserve the going concern value of their businesses.

X. ~~T.~~ The Debtors have requested, pursuant to ~~section~~Section 363(c) of the Bankruptcy Code, that the ATSB and the Lenders consent to the Debtors' use of Cash Collateral and use, sale and lease of other Pre-Petition Collateral pursuant to the terms and conditions of this ~~Interim~~Final Order ~~(as defined below)~~ during the ~~Interim~~Final Cash Collateral Period ~~(as defined below)~~. The Debtors acknowledge and agree that the ATSB Lender Parties are entitled to adequate protection pursuant to ~~sections~~Sections 361 and 363(e) of the Bankruptcy Code with respect to the Cash Collateral and the other Pre-Petition Collateral, including, without limitation, to compensate such ATSB Lender Parties for any loss or diminution in the value of the Cash Collateral or other Pre-Petition Collateral resulting from the Debtors' use of the Cash Collateral, the use, sale or lease of the other Pre-Petition Collateral and the imposition of the automatic stay during the Interim Cash Collateral Period and the Final Cash Collateral Period.

Y. ~~U.~~ Subject to the entry, and continued effectiveness, of this ~~Interim~~Final Order ~~(as defined below)~~, the ATSB and the Lenders have consented to, and the ~~Lenders~~ATSB and the ~~ATSB~~Lenders have directed the Agents to not object to, the Debtors' use of the Cash Collateral and the use, sale or lease of the other Pre-Petition Collateral during the ~~Interim~~Final Cash Collateral Period. The foregoing notwithstanding, nothing in this ~~Interim~~Final Order shall be construed as limiting or prohibiting any of the ATSB Lender Parties from objecting to any of the relief sought by the Debtors in the Chapter 11 Cases, including, without limitation, any

~~KERP (as defined below), any Permitted DIP Lending<sup>6</sup> or any~~ motion for the further use of Cash Collateral, other than the entry of this ~~Interim Order. Any order of this Court approving a~~ ~~Permitted DIP Lending may provide for the modification of one or more terms and conditions of~~ ~~this Interim Order (as defined below).~~ Final Order.

Z. ~~V.~~ The ~~Interim~~Final Relief requested herein is, subject to the terms and conditions hereof, necessary, essential and appropriate for the continued operations of the Debtors' businesses and the preservation of their estates and of the going concern value of the Debtors' businesses.

AA. ~~W.~~ Good and sufficient cause has been shown for the entry of this ~~Interim~~Final Order ~~(as defined below)~~. Among other things, the entry of this ~~Interim~~Final Order is in the best interests of the Debtors, their creditors and their estates because it will enable the Debtors to (i) continue the orderly operation of their businesses and avoid an immediate shutdown of operations, (ii) meet their obligations for payroll, necessary ordinary course expenditures, and other operating expenses, (iii) pay necessary fees and professional expenses under the Bankruptcy Code and make payments authorized under other orders entered by this Court, (iv) obtain needed goods and services, (v) retain customer, supplier and employer confidence by demonstrating that they have the financial ability to maintain normal operations,

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<sup>6</sup> ~~"Permitted DIP Lending" shall mean (i) cash loans provided to the Debtors pursuant to section 364 of the Bankruptcy Code secured by liens on and against property of the Debtors' estates, that do not "prime" or otherwise provide for a lien having priority equal to or senior to the liens of the ATSB Lender Parties in the Pre-Petition Collateral or the Replacement Collateral except to the extent otherwise agreed in writing by the ATSB and the Lenders or (ii) such other loan, liquidity facility or deposit which is available for use by the Debtors for working capital purposes pursuant to a Restructuring Transaction. Any party that provides the Debtors with any Permitted DIP Lending shall be referred to as a "DIP Lender". The Debtors may not enter into any agreement for Permitted DIP Lending without the prior written consent of the ATSB and the Lenders. Subject to satisfaction of the obligation to provide Full Cash Protection (as defined below) a DIP Lender may be provided with an administrative priority status under a Permitted DIP Lending with a priority senior to the priority of the Super Priority Claim provided for in section 9(e) hereof. For the avoidance of doubt, nothing contained in this Interim Order shall be deemed to be a consent or waiver of rights by any of the ATSB Lender Parties to the establishment or approval of any Permitted DIP Lending.~~

(vi) pursue a Restructuring Transaction and progress toward successful emergence from the Chapter 11 Cases and (vii) maintain adequate cash resources customary and necessary for companies of this size and in the industries in which they operate to maintain customer confidence, thereby avoiding immediate and irreparable harm to the Debtors' estates.

BB.    ~~X.~~ Prior notice of the hearing (the "~~Interim~~Final Hearing") for the entry of the ~~Interim~~Final Order (~~as defined below~~) and the ~~Interim~~Final Relief requested in the Cash Collateral Motion, was given by telecopy, electronic mail, overnight delivery service, hand delivery or regular mail, to (i) the office of the United States Trustee for the Southern District of Indiana, (ii) Citibank as Collateral Agent, Agent, and Tranche B Lender and its counsel, (iii) the Tranche A Lenders and its counsel, (iv) the ATSB as guarantor of the Tranche A Loan and its counsel, (v) Citicorp North America, Inc. as Govco Agent and its counsel, (vi) the United States Department of Justice, (vii) the Loan Administrator and its counsel, (viii) the Committee and its counsel, (ix) the Securities and Exchange Commission, (~~ix~~x) the District Director of Internal Revenue for the Indianapolis District, (~~x~~xi) the office of the United States Attorney for the Southern District of Indiana, (~~x~~xii) the Debtors' thirty (30) largest general unsecured creditors (~~to the extent practicable~~), (xii) ~~any DIP Lender and~~ (~~xiii~~, xiii) the IFTA and its counsel, (xiv) all unions representing employees of the Debtors and (xv) all parties filing notices of appearance in the Chapter 11 Cases (the "Initial Notice Parties"). Requisite, due and proper notice has been provided in accordance with Bankruptcy Rule 4001, which notice is sufficient for all purposes under the Bankruptcy Code and no other notice need be provided for entry of this ~~Interim~~Final Order (~~as defined below~~).

CC.    ~~Y.~~ The Debtors have requested immediate entry of ~~an order of~~ this ~~Court~~Final Order approving the ~~Interim~~Final Relief (~~the "Interim Order"~~) pursuant to

Bankruptcy Rule ~~4001(b)(2)~~6004(g), and the undersigned ATSB Lender Parties have consented to such relief. Good and sufficient cause has been shown for the entry of this ~~Interim~~Final Order.

DD. With respect to the findings of fact in Paragraphs I, J, K, L, M, N, O, P, Q, R, S, T, U, and V above, such findings shall be binding on all parties except the Committee as reflected in Section 12(b) herein.

NOW, based upon the Cash Collateral Motion of the Debtors and the record before this Court with respect to the Cash Collateral Motion ~~made by the Debtors~~ at the ~~Interim~~Final Hearing and throughout the Chapter 11 Cases, and good cause appearing therefor,

**IT IS ORDERED, ADJUDGED AND DECREED that:**

(1) The Cash Collateral Motion is GRANTED with respect to ~~Interim~~the Final Relief.

**Period of ~~Second Interim~~ and Final Relief**

(2) Any provision of the Bankruptcy Code or the Bankruptcy Rules notwithstanding, this ~~Interim~~Final Order shall take effect immediately upon signature. So long as no breach of the termination provisions pursuant to ~~section~~Section 10 hereof has occurred, this ~~Interim~~Final Order shall remain in effect until the close of business on ~~November 4, 2004~~December 17, 2004 (one (1) business day after the scheduled date of the hearing on the Restructuring Transaction); provided, that ~~if (i) the ATSB and the Lenders unanimously agree in writing to the further use of Cash Collateral for a period of time up to an additional seven (7) days from November 4, 2004 then, in such instance, this Interim Order shall be extended~~(i) if the hearing on the Restructuring Transaction is adjourned for no more than three (3) business days, then this Final Order shall automatically extend to one (1) business day following the hearing on the approval of the Restructuring Transaction, and (ii) the Debtors' ability to use the Cash

Collateral and use, sell and lease the Pre-Petition Collateral, pursuant to terms and conditions substantially similar to those of this Final Order, may be extended on one or more occasions

without further order of the Court ~~to such day and time as is agreed and on such other conditions as is,~~ upon the written consent of the ATSB, the Lenders and the Committee. Any such extension may be for such period of time and upon such conditions as agreed among the Debtors, the ATSB, the Lenders and the ~~Lenders~~ Committee, including, without limitation, the filing of a revised Exhibit "ED" to this ~~Interim~~ Final Order; provided, further, that (i) the Debtors must file notice of such extension with the Court ~~on or before~~ no later than the close of business on ~~November 3, 2004 and (ii) the Court has entered an interim order approving the Debtors' motion for approval of a Permitted DIP Lending then this Interim Order shall remain in effect until the earliest of (x) the close of business on November 23, 2004, (y) the entry or denial of a final order (the "Final Order") authorizing the Debtors' continued use of Cash Collateral or (z) the breach of the termination provisions provided in section 10 of this Interim Order (such period being referred to as the "Interim Cash Collateral Period")~~ the business day immediately prior to the then-current expiration date of this Final Order, and (ii) the aggregate duration of such extensions shall be for no more than sixty (60) days after the date of the hearing on a Restructuring Transaction. The Debtors' ability and authorization to use Cash Collateral and use, sell and lease the other Pre-Petition Collateral during the ~~Interim~~ Final Cash Collateral Period shall at all times be subject to the terms and conditions of the Final Order, including the termination provisions of ~~section 10 of this Interim Order~~ Section 10 hereof.

### **Good Faith, Reliance and Conduct**

(3) The Debtors, the ATSB Lender Parties and their respective agents, advisors and employees have acted in good faith in negotiating, consenting and agreeing to the Debtors' use of Cash Collateral and use, sale and lease of the other Pre-Petition Collateral as

contemplated and provided by this ~~Interim~~Final Order. The negotiation of the terms and provisions of this ~~Interim~~Final Order ~~have~~has been conducted at arm's length, and the Debtors believe such terms and conditions are fair and reasonable under the circumstances and reflect the Debtors' exercise of reasonable business judgment consistent with the Debtors' fiduciary duties.

(4) ~~The~~Subject to the Committee's rights under Section 12(b), the Debtors hereby release the ATSB Lender Parties (in their respective capacities as Lenders, loan participants, Agents or guarantor with respect to the ATSB Loan, the Loan Documents, the ATSB Guarantee and the ATSB Guarantee Agreement), the Loan Administrator, and their respective agents, advisors and employees (in their capacities as such), from any and all claims and causes of action, arising prior to the Petition Date, that the Debtors may possess arising out of, in any way relating to or in connection with the ATSB Loan, the Loan Documents, the ATSB Guarantee or the ATSB Guarantee Agreement.

(5) ~~Nothing~~Subject to the Committee's rights under Section 12(b), nothing in this ~~Interim~~Final Order, the Loan Documents or any related documents, shall in any way be construed or interpreted to impose, or allow the imposition ~~upon the ATSB Lender Parties (in their capacities as such) or their respective agents, advisors or employees (in their capacities as such)~~of any liability for any claims arising from the activities of the Debtors or any of their affiliates, before or after the Petition Date, in the operation of their businesses, or in connection with their restructuring efforts upon the ATSB Lender Parties (in their capacities as such) or their respective agents, advisors or employees (in their capacities as such).

(a) In exercising any of their rights or remedies, as and when permitted pursuant to this ~~Interim~~Final Order or the Loan Documents, the ATSB Lender Parties (or any of them, in their capacities as such) shall not be deemed to be in control of the operations

of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. § 9601 *et seq.*, as amended, or any similar federal or state statute).

(b) In exercising any of their rights or remedies, as and when permitted, pursuant to this ~~Interim~~Final Order or the Loan Documents, the ATSB Lender Parties (or any of them, in their capacities as such) shall not be deemed to be in control of the operations of the Debtors or to be acting as an "employer" or an "agent" or "officer" of an "employer" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the Worker Adjustment and Retraining and Notification Act, 29 U.S.C. § 2101 *et seq.*, as amended, the Illinois Worker Adjustment and Retraining and Notification Act, 820 Ill. Stat. Comp. Ann. § 65/1 *et seq.*, the Illinois Wage Payment and Collection Law, 820 Ill. Comp. Stat. Ann. § 115/1 *et seq.*, or any similar federal or state statute).

(6) Based on the findings set forth in this ~~Interim~~Final Order, and the reliance of the ATSB Lender Parties in good faith on the terms thereof, if any of the provisions of this ~~Interim~~Final Order are hereafter modified, vacated or stayed by an order of this Court or another court, such stay, modification or vacation shall not affect the validity and enforceability of any claim, lien, security interest or priority authorized for the benefit of any of the ATSB Lender Parties hereunder that is granted or attaches prior to the effective date of such stay, modification or vacation, and any use of the Cash Collateral or use, sale or lease of the other Pre-Petition Collateral by the Debtors pursuant to this ~~Interim~~Final Order prior to the effective date of such modification, stay or vacation shall be governed in all respects by the original provisions of this ~~Interim~~Final Order.

**Authorized Use of ~~Cash~~the Cash Collateral and  
Use, Sale or Lease of the Other Pre-Petition Collateral**

(7) The Debtors are hereby authorized to use the Cash Collateral and use, sell or lease the other Pre-Petition Collateral during the ~~Interim~~Final Cash Collateral Period, subject to the conditions and limitations set forth herein.

(8) The Debtors may use the Cash Collateral during the ~~Interim~~Final Cash Collateral Period to pay the ordinary and reasonable expenses of operating their businesses, including, without limitation, payroll and benefit expenses ~~(including, the funding of a Court approved Key Employee Retention Program (a "KERP")<sup>7</sup>; provided, however, that no KERP may be funded by, or on behalf of, the Debtors or their directors, officers or employees, until the effective date of a Permitted DIP Lending shall have occurred; provided, further, that no funding shall be made for the KERP if it will result in an event of default under this Interim Order),~~ aircraft and engine debt and lease payments, purchase of fuel and supplies, government security and inspection fees, advertising, utility services, payroll taxes, insurance, supplies and equipment, vendor and supplier services, and other expenditures as are necessary for operating their businesses or consummating a Restructuring Transaction; provided, however, that the Debtors shall not be authorized to use any of the Cash Collateral to purchase or otherwise acquire aircraft without the prior written consent of the ATSB~~and,~~ the Lenders and the Committee, but such prohibition shall not prevent the Debtors from making payments, pursuant to ~~section~~Section 365 or ~~section~~Section 1110 of the Bankruptcy Code, relating to Section 1110 Assets (as defined below) acquired or leased~~;~~ by the Debtors prior to the Petition Date; provided, further, that no such payments shall be made if such payment would result in an event of default

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<sup>7</sup> ~~For the avoidance of doubt, nothing contained in this Interim Order shall be deemed to be a consent or waiver of rights by any of the ATSB Lender Parties to the establishment or approval of any KERP.~~

under this ~~Interim~~Final Order. The Debtors may also utilize the Cash Collateral during the ~~Interim~~Final Cash Collateral Period to make payments authorized under other orders entered by this Court, including for payment of professional and other administrative expenses; provided, however, that notwithstanding anything herein to the contrary, no ~~such~~ Cash Collateral may be used by the Debtors to pay any professional fees or expenses of any party in interest to investigate (except as provided in the last sentence of this ~~section~~Section 8), initiate or prosecute any adversary proceeding or contested matter (in either instance, a "Litigation") against one or more of the ATSB Lender Parties (in their capacities as such) to (i) challenge the validity, allowance, perfection, priority or enforceability of the ATSB Loan, the ATSB Loan Obligations, the Loan Documents, or any liens or security interests securing the ATSB Loan (or to undertake any formal discovery proceedings after the commencement of any such Litigation), or (ii) assert any claims or causes of action against any ATSB Lender Party or the Loan Administrator (in their capacities as such) or their respective agents, advisors and employees (in their capacities as such) (or to undertake any formal discovery proceedings after the commencement of any such Litigation). The foregoing shall not prevent the Debtors from paying the reasonable professional fees or expenses of ~~any Official~~the Committee ~~(up to an amount of \$100,000)~~ in connection with the investigation of the liens, security interests and claims of the ATSB Lender Parties prior to commencement by ~~such Official~~the Committee of any Litigation challenging such liens, security interests and claims.

**Adequate Protection ~~for~~of ATSB Lender Parties  
for Debtors' Use of Cash Collateral and  
Use, Sale and Lease of the Other Pre-Petition Collateral**

(9) On account of the Debtors' use of Cash Collateral, their use, sale or lease of the other Pre-Petition Collateral and the imposition of the automatic stay pursuant to ~~section~~Section 362 of the Bankruptcy Code, in each case during the Interim Cash Collateral

Period and the Final Cash Collateral Period, the ATSB Lender Parties are hereby granted the following as adequate protection pursuant to ~~sections~~ Sections 361 and 363(e):

(a) ~~The Debtors shall pay, for~~ For the benefit of the ATSB Lender Parties, ~~as provided in section 10.3(iv) of the Loan Agreement, during the Final Cash Collateral Period, the Debtors shall pay a monthly fee of~~ \$250,000 (plus reasonable expenses) ~~for the costs to be incurred by the ATSB Lender Parties for the fee of~~ to Lazard Frères & Co. LLC, as the financial advisor to the ATSB Lender Parties (the "Financial Advisor") ~~for one month, in connection with (i) enforcing their~~ as provided in Section 10.3(iv) of the Loan Agreement, pursuant to the Financial Advisor's engagement regarding (i) the enforcement of the ATSB Lender Parties' rights under the Loan Documents, the ATSB Loan, the ATSB Guarantee and the ATSB Guarantee Agreement, (ii) the negotiation, drafting and execution of this ~~Interim~~ Final Order, (iii) advising the ATSB Lender Parties in connection with an Asset Sale or a Restructuring Transaction, the Indiana DIP Financing and other any debtor -in -possession financing proposals or agreements, and (iv) providing financial advice, assistance and analysis in connection with protecting the rights and interests of the ATSB Lender Parties during the Chapter 11 Cases. ~~As the ATSB Lender Parties are undersecured with regard to the ATSB Loan as of the Petition Date, all~~ All such payments ~~of costs and expenses paid~~ by the Debtors, pursuant to this ~~section 9(a), during the Interim Cash Collateral Period shall be applied first against any obligation Debtors may have to pay cash to the ATSB Lender Parties as adequate protection and then as payment on the secured~~ Section 9(a) and all previous payments to the Financial Advisor by the Debtors (whether before or after the Petition Date), shall constitute adequate protection payments and shall not be applied to reduce the principal amount of the ATSB Loan Obligations ~~as or the secured claims~~ of the ~~Petition Date~~ ATSB Lender Parties.

(b) The Debtors hereby grant, assign and pledge to the Collateral Agent, for the ratable benefit of the ATSB Lender Parties, valid, perfected and enforceable liens and security interests (the "Replacement Liens") in (i) all property owned or leased by any of the Debtors as of the Petition Date in which the Collateral Agent does not already hold a valid, enforceable and perfected lien or security interest and the proceeds therefrom, including, without limitation, any interests any Debtor has in (x) the Card Receivables, the BATA Accounts~~and~~, the Excluded Equipment Rents Accounts or proceeds from any or all of the foregoing, (y) the right to receive the proceeds, if any, from any assumption and assignment or other disposition of any lease for any airport facilities at airport terminals or other agreements related to the operation or occupancy of such airport facilities as approved by the Court and with any and all third party consents as are required; provided, however, that the ATSB Lender Parties shall not receive liens or security interests in the airport facilities themselves, the lease for such airport facilities or the Card Receivables, and (z) any proceeds received by Debtors with respect to the disposition of any Slots (as defined in ~~section~~Section 4.21(b) of the Loan Agreement)<sup>8</sup> and (ii) all property which becomes part of the Debtors' estates on or after the Petition Date and the proceeds therefrom other than "Excluded Assets" (as defined below) (together (i) and (ii), the "Replacement Collateral"),<sup>9</sup> which property shall include, without limitation, (A) any accounts

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<sup>8</sup> The Replacement Liens granted to the ATSB Lender Parties in or on property ~~covered by clause (i) above, shall constitute first priority liens until such time as the Court enters an order that is acceptable, in form and substance, to the ATSB Lender Parties approving a Permitted DIP Lending, or pursuant to a Restructuring Transaction, are junior to the liens granted pursuant to the Indiana DIP Financing to the extent of any amount outstanding under the Indiana DIP Financing pursuant to the terms of the DIP Financing Order.~~

<sup>9</sup> Notwithstanding any other term or provision of this ~~Interim~~Final Order, the Replacement Collateral shall not, for the avoidance of doubt, include (i) any assets which are governed by trust agreements and do not constitute property of the Debtors' estates, (ii) passenger facility charges ("PFCs") collected by the Debtors or the Debtors' agents pursuant to 49 U.S.C. § 40117 and 14 C.F.R. part 158, whether or not such PFCs are held in a trust account; (iii) passenger inspection user fees ("User Fees") collected by the Debtors or the Debtors' agents pursuant to 21 U.S.C. § 136a, 8 U.S.C. § 1356, and/or 19 U.S.C. § 58c, whether or not such User Fees are held in a trust account; (iv) security service fees ("Security Service Fees") collected by the Debtors or the Debtors' agents pursuant to 49 C.F.R. part 1510, whether or not such Security Service Fees are held in a trust account; (v) any deposit or reserve

receivable generated by the Debtors on or after the Petition Date, and (B) any cash or Cash Equivalents acquired by the Debtors on or after the Petition Date, which cash or Cash Equivalents shall be deemed Cash Collateral and subject to the protections of ~~section~~Section 363 of the Bankruptcy Code; provided, however, that such Replacement Liens shall not extend or apply to any interest of the Debtors in (i) any aircraft or engine (other than the Aircraft Collateral), including all parts substitutions, renewals and replacements of, improvements, accessions and accumulations incident to each such aircraft or engine to the extent any such asset constitutes equipment within the scope of ~~section~~Section 1110(a) of the Bankruptcy Code (all of the foregoing, other than the Aircraft Collateral, being referred to as "Section 1110 Assets"); (ii) any other assets with respect to which the granting of any such Replacement Lien would cause a default, directly or indirectly, ~~of~~under any Section 1110 Agreement (as defined below), other than a default arising from a negative pledge or similar provision in any such Section 1110 Agreement with respect to otherwise unencumbered property; (iii) deposits of cash and Cash Equivalents, made by the Debtors in the ordinary course of business, of the type described in clause (iii) of the definition of "Permitted Encumbrances" in the Loan Agreement; provided, further, that (A) the Replacement Liens shall attach automatically to any reversionary or residual interest the Debtors have in such deposits upon the satisfaction of the obligations secured by

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delivered by a Debtor to a Section 1110 Beneficiary (as defined below) in connection with the purchase, financing or lease of a Section 1110 Asset (as defined below); provided, that (a) notice to the ATSB Lender Parties shall be required before the Debtors deliver any such deposit or reserve after the Petition Date, pursuant to a pre-petition Section 1110 Agreement (as defined below) (it being understood that the Debtors' failure to provide notice to the ATSB Lender Parties of the delivery of any such required deposit or required reserve shall not be a condition to such delivery, prevent such delivery, or affect the efficacy of such delivery, of such required deposit or required ~~reserve~~, but may constitute an event of default under ~~section~~Section 10 hereof), and (b) the Replacement Liens attach automatically to any reversionary or residual interest any Debtor may have in any such deposit or reserve upon the satisfaction of the obligations secured thereby; and (vi) any third-party assets that are subject to a valid consignment or bailment under the law of the applicable jurisdiction. To the extent that the Debtors are required by applicable statute or regulation, or order of the Court, to segregate any of such PFCs, User Fees or Security Service Fees, the Debtors shall comply with such requirements and shall not commingle any such funds or amounts with the Available Cash and shall hold such funds in separate accounts. For the avoidance of doubt, any such funds described in clauses (i) through (v) above shall not constitute Cash Collateral or Available Cash for the purposes of this ~~Interim~~Final Order.

such deposits, and (B) such deposits shall not constitute Available Cash for the purposes of this ~~Interim~~[Final](#) Order; and (iv) the Carve-Out (as defined below). For purposes of this ~~Interim~~[Final](#) Order or any other order entered in connection with the use of Cash Collateral (any such order, a "Cash Collateral Order"), a "Section 1110 Agreement" shall include any agreement related to Section 1110 Assets, including, without limitation, security agreements, mortgages, trusts, leases, conditional sale agreements or other instruments applicable to such Section 1110 Assets. The Excluded Assets are (i) any retainers paid or deposited before the Petition Date by Debtors to or with their professionals for professional services and expense reimbursement in connection with these Chapter 11 Cases; provided, however, that the Replacement Liens shall attach automatically to any reversionary or residual interest any Debtor may have in any such retainer; (ii) any avoidance or other actions or recoveries thereon under Sections 544 through 550 of the Bankruptcy Code or similar actions or recoveries under applicable state law; (iii) any Trust Funds; and (iv) the Card Receivables.<sup>10</sup> For the avoidance of doubt, the Replacement Liens conveyed hereunder shall attach to all of the other Pre-Petition Collateral and all proceeds and replacements thereof, including, without limitation, any of the Pre-Petition Collateral which constitutes Section 1110 Assets. The Replacement Liens granted hereunder shall be limited in amount to the aggregate diminution in value of the ~~interests of the~~ ATSB Lender Parties' interests in the ~~Pre-Petition~~[Cash](#) Collateral and ~~Cash~~[the other Pre-Petition](#) Collateral during the Interim Cash Collateral Period ~~(the "Interim~~[and the Final Cash Collateral Period from the use, sale or lease of such collateral and the imposition of the automatic stay pursuant to Section 362 of the Bankruptcy Code \(collectively, the "Replacement Value"\)](#).

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<sup>10</sup> For the avoidance of doubt, the Card Receivables shall not include any reversionary or residual rights or interests the Debtors may have under the credit card processing agreements.

(c) The Replacement Liens granted under the Bridge Order, the Interim Order, and this ~~Interim~~Final Order shall be valid, perfected and enforceable against the Replacement Collateral as of the Petition Date without further filing or recording of any document or instrument or the taking of any further actions, and shall not be subject to dispute, avoidance or subordination as to the ~~Interim~~-Replacement Value. Notwithstanding the automatic perfection of the Replacement Liens granted pursuant to this ~~Interim~~Final Order, the ATSB Lender Parties are hereby authorized, but not required, to file or record financing statements, trademark filings, mortgages, notices of lien and other similar instruments in any jurisdiction, and to take any other action they deem necessary or appropriate in order to validate, evidence or perfect such Replacement Liens. A certified copy of this ~~Interim~~Final Order may, in the discretion of any ATSB Lender Party be filed or recorded with any filing or recording offices in addition to, or in lieu of, such financing statements, mortgages, notices of lien or other similar instruments, and all filing or recording offices are hereby authorized to accept such certified copy of this ~~Interim~~Final Order for filing and recording. The Debtors are authorized and directed to execute and deliver all instruments and documents prepared by the ATSB Lender Parties, and to pay all reasonable fees and expenses, that are reasonably required or necessary to facilitate any such filings or recordings elected to be made by the ATSB Lender Parties.

(d) The Replacement Liens granted hereunder shall be subject and subordinate in priority to any liens, security interests and other encumbrances, existing as of the Petition Date, or which attach to the Replacement Collateral after the Petition Date, that are valid, perfected, enforceable and unavoidable and that are otherwise senior to the pre-petition liens in favor of the ATSB Lender Parties. Except with respect to ~~any Permitted DIP Lending~~the Indiana DIP Financing, or any other debtor-in-possession financing that is acceptable, in form

and substance, to the ATSB Lender Parties, and the Permitted Cash Deposits made by the Debtors after the Petition Date, the Debtors shall not seek to grant, from and after the Petition Date, any liens or security interests in any of the Cash Collateral, the other Pre-Petition Collateral or the Replacement Collateral, pursuant to ~~section~~Section 364(d) of the Bankruptcy Code or otherwise, which are senior to or made *pari passu* with any other lien or security interest. The Replacement Liens shall be valid and enforceable against any trustee appointed in any of the Chapter 11 Cases, or in any prior or subsequent proceeding affecting the Debtors, including any conversion of any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code.

(e) Subject and subordinate only to the Carve-Out and rights granted with respect to ~~any Permitted DIP Lending~~the Indiana DIP Financing, and any other debtor-in-possession financing, acceptable in form and substance to the ATSB Lender Parties, the ATSB Loan Obligations are hereby granted and entitled to status as an administrative expense claim (the "Super-Priority Claim") pursuant to ~~section~~Section 507(b) of the Bankruptcy Code, with priority over all other administrative expense claims whether in existence as of the date on which this Final Order is entered or incurred thereafter. Such Super-Priority Claim shall be limited in amount to the ~~Interim~~ Replacement Value.

(f) As additional adequate protection of the ATSB Lender Parties, the Debtors shall provide the ATSB Lender Parties, with a copy to ~~any Official~~the Committee, by electronic mail or other reasonably acceptable means to the persons and at the addresses identified on Exhibit "BA" attached hereto, the following information during the ~~Interim~~Final Cash Collateral Period:

- (1) On a weekly basis, a rolling 13-week detailed cash forecast

(the "Cash Budget"), the most recent version of which is attached hereto as Exhibit "CB", including reports, in form, detail and substance reasonably satisfactory to the ATSB and the Lenders, which show the Debtors' sources and uses of cash from the prior week, and material variances associated therewith, with such Cash Budget and reports to be provided, for the week that ends on each Friday, by 12:00 o'clock noon (Eastern Standard Time) on the second business day of the following week;

(2) On a weekly basis, a detailed receipt and disbursement report (the "Projection and Variance Report") ~~in~~ the form most recent version of which is attached hereto as Exhibit "DC", consisting of (i) a detailed 2-week projection of daily cash disbursements and daily receipts, and (ii) a detailed report of the variance of actual daily cash disbursements and daily receipts in the immediately preceding week from the daily cash disbursements and daily receipts projected for such week in the prior Projection and Variance Report, with such Projection and Variance Report to be provided, for the week that ends on each Friday, by 12:00 o'clock noon (Eastern Standard Time) on the second business day of the following week;

(3) On a daily basis, to be delivered no later 8:00 p.m. (Eastern Standard Time), reports, in form, detail and substance reasonably satisfactory to the ATSB and the Lenders, stating the aggregate amount of the Debtors' (i) Available Cash, including an identification of the amount and the recipient of all wire transfers and checks sent by the Debtors that day (with such Available Cash to be reconciled for any changes by 12:00 o'clock noon (Eastern Standard Time) on the next business day), (ii) Trust Funds held (with a general breakdown of the amount and categories of Trust Funds), (iii) accounts receivable in respect of the Debtors' military charter business ~~that constitute Pledged Accounts or in which the ATSB~~

~~Lender Parties are granted a Replacement Lien as provided herein~~(the "Military Receivables"),

(iv) Appraised Collateral and (v) Pledged Equipment; provided, that for items (iv) and (v) in this ~~section~~Section 9(f)(3), the Debtors need only report the extent of any change since the last report provided for such items;

(4) On a monthly basis, within ten (10) business days of the end of each month, reports, in form, detail and substance reasonably satisfactory to the ATSB and the Lenders, stating the balance of each Pledged Account;

(5) Copies of (i) all non-privileged documents provided to ~~any~~Officialthe Committee, (ii) any and all audits prepared by the Debtors' accountants and (iii) subject to the Debtors' reasonable best efforts, copies of final versions of all non-privileged consultants' reports, appraisals, business plans and similar documents as they become available to the Debtors;

(6) Copies of all material communications regarding any Asset Sale or Restructuring Transaction by, or on behalf of, one or more ~~Debtor~~Debtors and AirTran or any other party to any proposed Asset Sale or Restructuring Transaction, including, without limitation, copies of draft and final versions of all non-privileged consultants' reports, business plans, term sheets, equity purchase agreements, merger agreements, asset purchase agreements, chapter 11 plan term sheets, draft chapter 11 plans and similar documents as they become available to the Debtors~~:-~~;

(7) True and complete copies of each Slot utilization report required to be delivered to the FAA under the Slot Regulations during the ~~Interim~~Final Cash Collateral Period, along with (i) any related request for waivers or other documentation provided to the FAA in connection therewith and (ii) a report summarizing the Debtors' Slot utilization

with respect to the applicable reporting period during the ~~Interim~~Final Cash Collateral Period. These reports and materials shall be delivered to the ATSB and the Lenders as soon as they become available but in any event (~~i~~x) each such Slot utilization report and such other materials shall be delivered to the ATSB and the Lenders no later than the day that each such Slot utilization report is, or other materials are, submitted to the FAA, and (~~ii~~y) each such summary report shall be delivered to the ATSB and the Lenders no later than the day that each such Slot utilization report is required to be submitted to the FAA under the Slot Regulations (without giving effect to any extensions or grace periods). In addition, upon a Responsible Officer of any Debtor obtaining knowledge of the Debtors' underutilization of any Slot or Slots or planned curtailment of the use of any Slot or Slots during the ~~Interim~~Final Cash Collateral Period, which is reasonably expected to cause Slots having an appraised liquidation value of \$100,000 or more, individually or in the aggregate, to become subject to withdrawal, suspension, termination or other revocation by the FAA under the Slot Regulations, the Debtors shall provide the ATSB and the Lenders with prompt written notice of such underutilization or curtailment. For the purposes of this ~~Interim~~Final Order, the term "Slot Regulations" shall mean 49 U.S.C. § 40103, 14 C.F.R. §§ 93.211 – 93.227, and any amendment, supplement or other modification thereto, or successor, replacement or substitute federal law or regulation concerning the right or operational authority to conduct landing or takeoff operations at any airports; and for the purposes of this paragraph, the term "Responsible Officer" shall have the meaning ascribed to it in the Loan Agreement and in addition any associate counsel, senior vice president of planning or senior vice president of marketing of any of the Debtors;

(8) Within twenty-five (25) calendar days after the end of each month, all of the financial information, operational information (including Slot utilization

reports) and related reports, documents and analysis required under the terms of the Loan Agreement. ~~---~~

(9) Within two business days after a request by any ATSB Lender Party, the Debtors will, to the extent possible, provide such reports, analysis, documents and information as the ATSB Lender Parties reasonably request;

(10) Copies of any documents, reports, analysis, information or communications the Debtors provide ~~to any DIP Lender~~ pursuant to the Indiana DIP Financing or any debtor-in-possession lender on a contemporaneous basis with such documents, reports, analysis, information or communications being provided to any ~~DIP Lender~~ debtor-in-possession lender; and

(11) On a daily basis (Monday through Friday), no later than 8:00 p.m. (Eastern Standard Time), the daily booking data from the Debtors' operations, as of the close of business, for the immediately prior day of operations; provided, however, that the report to be delivered on Monday shall include daily booking data from the Debtors' operations for the immediately preceding Friday, Saturday and Sunday.

With respect to each of the reports and other materials required by subsections (1), (2), (6), (8), (9) and (11) above, such reports and other materials shall be accompanied by a certification (in a form reasonably satisfactory to the ATSB and the Lenders) of a Responsible Officer (as defined in the Loan Agreement) of the Debtors that the information contained therein is, to the best of his or her knowledge, true and correct in all material respects. With respect to each of the reports and other materials required by subsections (3) ~~and~~, (4), (5) and (10) above, to the extent that the Debtors are restricted by valid and binding confidentiality arrangements affecting the distribution of any such reports or materials, (i) absent the entry of a

court order, the Debtors' delivery of any such reports or materials may be redacted or restricted as specifically required by such reports and other materials, and (ii) the ATSB Lender Parties shall maintain the confidentiality of such reports and materials (and the information contained therein), except to the extent that the disclosure thereof is required by applicable law or court order. With respect to the Slot utilization reports, related requests for waivers and summary reports required by subsection (~~6~~7) above, the ATSB Lender Parties shall maintain the confidentiality of such reports to the extent required under ~~section~~Section 10.18 of the Loan Agreement.

(g) The Debtors shall maintain a minimum cash balance of Available Cash, measured as of the close of business on each day, ~~no less than the minimum aggregate amount for each such day~~ as set forth ~~in Exhibit "E" attached hereto or~~ on Exhibit "D" attached hereto. As set forth in Exhibit "D", the Debtors must maintain (i) Available Cash on any day in an amount not less than \$29,815,904 (the amount of the Available Cash as of the Petition Date), and (ii) each week, as of the close of business on Friday, at least eighty percent (80%) of the amount of Available Cash forecast for the end of such week in the Debtor's thirteen week cash forecast dated November 30, 2004. Notwithstanding the foregoing, the minimum cash balance of Available Cash may be in such other amount as the ATSB, the Lenders and the Debtors may otherwise agree upon in writing; provided, that such written agreement must be filed with the Court. The Debtors shall not make any payment, without the prior written consent of the ATSB and the Lenders, if such payment would cause the Debtors to have a minimum cash balance of Available Cash at the close of business on any day in an amount less than the amount set forth for such day in Exhibit "~~E~~D" attached hereto or in such other amount as the ATSB, the Lenders

and the Debtors may otherwise agree in writing.<sup>11</sup> In addition, at no time may the Debtors have Available Cash ~~or Trust Funds~~ in the form of cash or Cash Equivalents of more than \$200,000 (or the U.S. dollar equivalents thereof) located in deposit, investment or other accounts other than the accounts specified in Debtors' Emergency First Day Motion For Order Authorizing (i) Maintenance Of Existing Bank Accounts, (ii) Continued Use Of Existing Business Forms And (iii) Continued Use Of Existing Cash Management System (excluding for the purposes of this calculation any funds that are subject to trust agreements and do not constitute property of the Debtors' estates, such as all PFCs, all User Fees, and all Security Service Fees) to the extent permissible pursuant to the order granting such motion and ~~section~~Section 345(b) of the Bankruptcy Code.

(h) ~~Each~~During the Final Cash Collateral Period, each of the Debtors which holds or operates Slots shall, ~~during the Interim Cash Collateral Period, (i)~~ utilize its Slots in a manner consistent with the Slot Regulations so as to avoid, by any act or omission of any of the Debtors, without the prior written consent of the ATSB and the Lenders, the withdrawal, suspension, termination or other revocation ~~or termination~~ of Slots by the FAA having a fair market value exceeding in the aggregate \$100,000 at any time for failure to comply with the Slot Regulations or otherwise, and (ii) immediately notify the ATSB, the Lenders and the Committee of any event or information of which the Debtors are aware that may materially affected the value of one or more of the Slots. The Debtors shall maintain personnel, policies, procedures and a computer database for the monitoring, utilization and management of the Slots in compliance with the Slot Regulations so as to ensure, to the greatest extent operationally

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<sup>11</sup> For the avoidance of doubt, the Debtors are not required to obtain written consent of the ATSB and the Lenders to pay any Trust Funds as required by law or to otherwise comply with any statute or regulation governing Trust Funds.

feasible, that no Sbt, without the prior written consent of the ATSB and the Lenders, becomes subject to withdrawal, suspension, termination or other revocation by the FAA based upon the Debtors' failure to comply with the Slot Regulations. The Debtors shall not ~~(as lessor or sub-lessor)~~ enter into any lease or sub-lease, with a term of more than one year, with respect to any of its Slots without the prior written consent of the ATSB and the Lenders and prior notice to ~~any~~ ~~Official~~the Committee, other than pursuant to an Asset Sale or ~~a~~ Restructuring Transaction that has been approved by the ATSB and the Lenders.

(i) ~~Each~~During the Final Cash Collateral Period, subject to the  
Debtors' right to seek a Court order otherwise, each of the Debtors which is the lessee, sub-lessee or other user of airport facilities or airport facility leases shall utilize the airport facilities and comply with the respective airport facility leases so as to avoid, by any act or omission of any of the Debtors, the termination, suspension, rejection, revocation or loss of the right to use of more than an aggregate amount of \$100,000 of such airport facilities or airport facility leases, such amounts to be determined at their current fair market value, without the prior written consent of the ATSB and the Lenders and notice to the ~~any Official~~ Committee. The Debtors shall not sub-lease their airport facilities or airport facility leases at any airport without the prior written consent of the ATSB and the Lenders other than pursuant to an Asset Sale or ~~a~~ Restructuring Transaction that has been approved by the ATSB and the Lenders.

(j) Except to the extent ~~section~~Section 345(b) of the Bankruptcy Code requires otherwise, and to the extent permitted by the Court pursuant to the Debtors' Emergency First Day Motion For Order Authorizing (i) Maintenance Of Existing Bank Accounts, (ii) Continued Use Of Existing Business Forms And (iii) Continued Use Of Existing Cash Management System, the Debtors shall maintain their cash management system as in existence

as of the Petition Date, including the maintenance of these accounts as the principal concentration and investment accounts of the Debtors.

(k) ~~The Debtors~~ With the sole exception of the Carve-Out, the Debtors, the Committee and any other creditor or party-in-interest shall not be entitled to any ~~section~~ Section 506(c) recovery or payment from the Cash Collateral, other Pre-Petition Collateral, ~~the~~ Replacement Collateral or the proceeds thereof which would ~~reduce any~~ or could have the effect of reducing the recovery on the secured claims of the ATSB Lender Parties.

(l) Upon telephonic notice by any of the ATSB Lender Parties, the Loan Administrator, or the Financial Advisor, the Debtors shall permit such party and any of its agents, advisors, auditors and employees full and reasonable access to the Debtors' books, records and place of business to verify the existence, condition and location of property in which the ATSB Lender Parties hold liens or security interests. The Debtors shall also provide the ATSB Lender Parties, the Loan Administrator, and the Financial Advisor, and any of their agents, advisors, auditors and employees, with reasonable access during normal business hours to all places of business, officers, consultants and employees of the Debtors, all without material disruption to the operation of the business of any of the Debtors. The Debtors shall provide to the ATSB Lender Parties, the Loan Administrator, and the Financial Advisor, with reasonable promptness, such financial information concerning the Debtors' cash flow projections, business plan, and other aspects of operations as such parties may reasonably request from time to time.

(m) In connection with any Asset Sale or Restructuring Transaction, the Debtors shall remit to the Agent, for the benefit of the ATSB Lender Parties within three (3) business days of the Debtors' receipt thereof: (i) 100% of the proceeds of the Pre-Petition Collateral sold in connection with such Asset Sale or Restructuring Transaction, (ii) 100% of the

~~Net Cash Proceeds~~proceeds of ~~the~~ Replacement Collateral sold in connection with such Asset Sale or Restructuring Transaction up to the value of the ATSB Lender Parties' Replacement Lien in such Replacement Collateral and (iii) ~~35% of the Net Cash Proceeds of any Asset Sale or Restructuring Transaction after such Net Cash Proceeds have been reduced by (i) and (ii) above~~the sum of \$4,500,000 of Net Proceeds. Such proceeds and ~~Net-Cash~~ Proceeds shall be applied by the ATSB Lender Parties ~~first to satisfy the outstanding Replacement Liens, and next, to the extent any amount is remaining,~~ in payment of the secured portion of the ATSB Loan Obligations, subject to the provisions of Section 17 herein. Prior to the payment of funds to the ATSB Lender Parties pursuant to this paragraph, the ATSB and the Committee shall attempt to consensually agree as to what amount of such proceeds shall be put into an escrow account pending expiration of the Challenge Deadline, resolution of any Litigation commenced prior to the Challenge Deadline, determination of the value of the Pre-Petition Collateral and determination of the amount of the ATSB Lender Parties' diminution claim. In the event that the ATSB and the Committee cannot agree as to the amount of proceeds to be placed in escrow, they will place in escrow the amount of funds that the Court determines must be placed in escrow.

Nothing herein shall imply any consent by any of the ATSB Lender Parties to any such Asset Sale or Restructuring Transaction, and each of the ATSB Lender Parties reserves its right to object to any proposed Asset Sale or Restructuring Transaction. As used in ~~the Interim~~this Final Order, the term "Net ~~Cash~~ Proceeds" shall mean, with respect to any Asset Sale or Restructuring Transaction, the cash proceeds of such Asset Sale or Restructuring Transaction, net of payments to satisfy any indebtedness or any other obligation outstanding at the time of such Asset Sale or Restructuring Transaction which indebtedness or other obligation is secured by a valid and duly perfected lien ~~in~~ or security interest ~~on~~in the property or assets sold, and the term "Asset Sale"

shall mean any sale, transfer or other disposition of property outside the ordinary course of the Debtors' various businesses.

(n) The Debtors shall fully cooperate, pursuant to the terms of the ~~Bidding~~Bid Procedures ~~(as defined below)~~, with any and all third-parties with respect to due diligence and request for documentation or information with respect to any Asset Sale or Restructuring Transaction proposed by, or involving, such third-party.

(10) The Debtors' ability to use Cash Collateral during the ~~Interim~~Final Cash Collateral Period will terminate (i) immediately upon the occurrence of any event described in clauses (a), (f)(1), (g), (h), (j)(1) or (3), (l)(1), (n), or (p) ~~(i) or (iv)~~ below, (ii) immediately at the close of business on the business day following the occurrence of any event of the type described in ~~clause~~clauses (d) ~~or (t)~~, or (iii) if any event described in any other clause below shall occur, three (3) business ~~day~~days after any ATSB Lender Party shall deliver written notice to the Debtors and to any ~~DIP Lender~~debtor-in-possession lender that an event of default has occurred, unless (x) such event of default has been fully cured within such three (3) business day period or (y) the Debtors obtain an order from the Court extending the Debtors' ability to use Cash Collateral:

(a) the expiration of the ~~Interim~~Final Order as provided in ~~section~~Section 2 hereof, other than due to the entry of ~~the Final Order or~~ any other order of the Court approving the Debtors' use of Cash Collateral, without the prior written consent of the ATSB and the Lenders to the extension of ~~Interim~~the Final Order ~~Period~~;

(b) the Debtors fail to comply with any of the material terms or conditions of this ~~Interim~~Final Order;

(c) the Debtors seek any modification or extension of this ~~Interim~~Final Order, without providing the ATSB Lender Parties a minimum of five (5) business days prior written notice of the hearing on such modification or extension;

(d) (1) at the close of any business day, the Debtors' Available Cash is less than the applicable minimum amount of Available Cash required pursuant to ~~section 9(g) of this Interim~~Section 9(g)(i) of this Final Order, or (2) (ii) as of the end of any week, ending at the close of business on Friday, the Debtors' Available Cash is less than eighty percent (80%) of the amount of Available Cash forecast for such week end pursuant to Section 9(g)(ii) of this Final Order;

(e) ~~this provision is intentionally omitted;~~the occurrence of any event of default under, acceleration or termination of the Indiana DIP Financing;

(f) (1) the Debtors enter into any Asset Sale or Restructuring Transaction without the prior written consent of the ATSB and the Lenders, for the sale, lease or transfer of Cash Collateral, Pre-Petition Collateral, Replacement Collateral or other property of the Debtors, in an amount greater than \$500,000, individually or in the aggregate; or (2) the Debtors shall fail to remit any payments required pursuant to ~~section~~Section 9(m) of this ~~Interim~~Final Order;

(g) an application is filed by the Debtors for the approval of any claim arising under ~~section~~Section 507(b) of the Bankruptcy Code or any lien in any of the Chapter 11 Cases which is *pari passu* with or senior to the Super-Priority Claim or Replacement Liens, excluding ~~in all cases,~~ the Super-Priority Claim, ~~Replacement Liens or other liens arising under or otherwise permitted by this Interim Order~~security interests or liens granted pursuant to the order approving the Indiana DIP Financing;

(h) the commencement of any action by the Debtors against any of the ATSB Lender Parties (in their capacities as such), or their respective agents, advisors and employees (in their capacities as such), to subordinate, avoid or disallow any liens, security interests or claims made in connection with the ATSB Loan Obligations;

(i) unless the ATSB and the Lenders shall have previously consented in writing to the Debtors' turnover of certain leased aircraft, aircraft engines or other assets, as designated by the Debtors from time to time, any order shall be entered after the date of this ~~Interim~~Final Order granting relief from the stay arising under ~~section~~Section 362 of the Bankruptcy Code to the holder or holders of any security interest, lien or right of set-off or right of recoupment to permit foreclosure (or the granting of a deed in lieu of foreclosure or similar instrument), possession, set-off, recoupment or any similar remedy with respect to any assets of any of the Debtors that have a fair market value to the Debtors' estates in excess of \$500,000 in the aggregate;

(j) (1) any of the Chapter 11 Cases shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code; (2) the Debtors shall file a motion, or other pleading, seeking dismissal of any of the Chapter 11 Cases under ~~section~~Section 1112 of the Bankruptcy Code, or otherwise; or (3) a trustee under chapter 11 of the Bankruptcy Code, a responsible officer or an examiner with enlarged powers relating to the operation of the Debtors' business (powers beyond those set forth in ~~section~~Section 1106(a)(3) and (4) of the Bankruptcy Code) under ~~section~~Section 1106 of the Bankruptcy Code shall be appointed or elected in any of the Chapter 11 Cases;

(k) the Debtors fail to pay timely to the Agent, on behalf of the ATSB Lender Parties, the ~~Financial Advisor's fee and expenses as discussed in section~~amounts required under Section 9(a) hereof;

(l) (1) the Debtors shall assert in any pleading filed in any court that any material provision of this ~~Interim~~Final Order is not valid and binding for any reason, or (2) any material provision of this ~~Interim~~Final Order shall for any reason, other than the entry of ~~the Final Order, or~~ any other order of this Court approving the Debtors' use of Cash Collateral, cease to be valid and binding without the prior written consent of the ATSB and the Lenders;

(m) the Debtors shall fail in any material respect to comply with ~~section~~Section 5.4(a) (Maintenance of Properties), ~~section~~Section 5.4(b) (Insurance) or ~~section~~Section 5.6 (Compliance with Laws, Etc.) of the Loan Agreement, except to the extent such compliance is excused by operation of the Bankruptcy Code, or the Debtors shall fail in any material respect to comply with any provisions in the Security Agreement governing the maintenance of the Debtors' properties or insurance;

(n) the FAA shall suspend or revoke the Debtors' Part 121 operating certificate, or the Debtors shall at any time fail to qualify as an "air carrier" within the meaning of the Air Transportation Safety and System Stabilization Act, or fail to hold a certificate under 49 U.S.C. § 41102(a)(1);

(o) there shall occur a condition or event after the Petition Date that could reasonably be expected to have a material adverse effect on the property, business, condition (financial or otherwise) or prospects of the Debtors, taken as a whole;

(p) either the Debtors, without the prior written approval of the ATSB and the Lenders, ~~or the counterparty to a Restructuring Transaction~~ (i) terminate or breach a

Restructuring Agreement (except to the extent that Debtors consummate an Alternative Transaction, as defined in the Bid Procedures Order) pursuant to which a Restructuring Transaction is to occur, (ii) fail to timely satisfy any condition precedent to a Restructuring Transaction, (iii) fail to timely satisfy any condition precedent to the consummation of a Restructuring Transaction, or (iv) fail to timely communicate the material terms and conditions of any proposed Restructuring Transaction to the ATSB Lender Parties;

(q) this provision is intentionally omitted;

(r) ~~there shall occur a condition or event after the Petition Date that, in the reasonable judgment of the ATSB, is a material adverse change in the prospects of the Debtors consummating a Restructuring Transaction;~~ this provision is intentionally omitted;

(s) ~~the Debtors fail to file, on or before November 1, 2004, a motion under section 363 and section 365 with the Court seeking approval to establish bidding procedures (the "Bidding Procedures") for an Asset Sale or Restructuring Transaction (the "Bidding Procedures Motion"), which Bidding Procedures Motion is, in form and substance, acceptable to the ATSB and the Lenders, and that such Bidding Procedures, as approved by the Court, are acceptable to the ATSB and the Lenders;~~ the Court shall find that the Debtors have acted in violation of, or failed to have acted in compliance with, the Bid Procedures; or

~~(t) the Debtors shall fail to cooperate with any party that requests documentation or information in connection with, or related to, an Asset Sale or Restructuring Transaction that Debtors are required to provide under the Bidding Procedures with respect to any third parties' request for documentation or information in connection with a proposed Asset Sale or Restructuring Transaction proposed by, or involving such third party; or~~

(t) ~~(u) the Debtors' accounts receivable in respect of their military charter business~~ the sum of the Debtors' (i) Available Cash and (ii) the Military Receivables shall, as of the end of any week, ending at the close of business on Friday, be less than ~~\$25,000,000.~~ 58,460,000 which was the sum of the Debtors' Available Cash and Military Receivables as of the Petition Date.

(11) Notwithstanding any other term or provision hereof, during the ~~Interim~~Final Cash Collateral Period, remedies exercisable by the ATSB Lender Parties (in their capacities as such) against any of the Debtors under the Loan Documents, and any written notice delivered pursuant to ~~section~~Section 10 hereof, shall, for so long as the ATSB Guarantee Agreement shall remain in effect, be exercised or delivered solely upon the written instruction, or with the written consent, of the ATSB and, thereafter, solely upon the written instruction, or with the written consent, of the Requisite Lenders (as defined in the Loan Agreement). Wherever any term or provision of this ~~Interim~~Final Order provides for the consent or approval of one or more ATSB Lender Party, such consent shall require, at a minimum, the written consent of the ATSB. Nothing in this ~~Interim~~Final Order is intended to modify the rights of the ATSB Lender Parties under the Loan Documents as among the ATSB Lender Parties.

#### **Additional Provisions Governing Rights of the Parties**

(12) (a) Upon entry of this ~~Interim~~Final Order, subject to ~~clause (b)~~ hereinafter set forth the Committee's rights under Section 12(b) below, (i) the ATSB Loan Obligations shall constitute allowed claims of the ATSB Lender Parties against ATA, ATAH and each of the Other Guarantors that is a Debtor in the Chapter 11 Cases, and are not subject to counterclaim, offset, avoidance, subordination or disallowance, and (ii) the liens and security interests of the Collateral Agent existing prior to the Petition Date, for the benefit of the ATSB Lender Parties, in the Pre-Petition Collateral shall be found and deemed valid, perfected,

enforceable and not subject to avoidance or subordination. None of the ATSB Lender Parties shall be required to file its respective proofs of claim, in respect of claims arising from the ATSB Loan, the ATSB Loan Obligations or the Loan Documents, in any of the Chapter 11 Cases, such claims of the ATSB Lender Parties being fully acknowledged by the Debtors and asserted by the ATSB Lender Parties with notice to all parties in interest.

(b) Anything in this ~~Interim~~Final Order to the contrary notwithstanding, the determination of the amount, extent, validity, perfection, enforceability and unavailability of the liens, security interests and claims of the ATSB Lender Parties is without prejudice to the rights of ~~any Official~~the Committee to investigate and challenge any such liens, and security interests, valuation of the Pre-Petition Collateral and/or claims of the ATSB ~~Loan~~Lender Parties; provided, that any such challenge to the attachment, perfection or amount of the ATSB Lender Parties' claims shall be made by commencement of a Litigation pursuant to Bankruptcy Rule 7001 on or before January 25, 2005 (subject to extension with the written consent of the ATSB and the Lenders and without further order of the Court) (the "Challenge Deadline") or be forever barred. Notwithstanding the above, the Committee reserves the right to challenge the amount, and only the amount, of the ATSB Lender Parties' diminution claim within thirty (30) days of the Committee receiving notice in writing that the ATSB Lender Parties are asserting a diminution claim (either before or after the Challenge Deadline).

(c) ~~If and to the extent the Debtors do not commit any default hereunder and the ATSB and the Lenders refuse to continue to consent to the use of Cash Collateral under and pursuant to a Final Order, in form and substance acceptable to the ATSB and the Lenders in their discretion, from and after the end of the Interim Cash Collateral Period through the earlier of (x) the effective date of a chapter 11 plan, (y) termination of the Final~~

~~Order upon terms substantially similar to section 10 above or (z) May 31, 2005 (the "Extended Period") then Debtors shall not be further bound after the expiration of the Interim Cash Collateral Period by any of the acknowledgements and agreements of Debtors contained herein regarding the validity, perfection or enforceability of the liens in and against the proceeds of the Pledged Accounts, or the nature, extent or amount of the proceeds of the Pledged Accounts (the "Debtors' Conditional Reservation"). Notwithstanding the Debtors' Conditional Reservation nothing may affect or diminish the Replacement Liens granted hereunder to the extent of Interim Replacement Value provided by the Debtors pursuant to this Interim Order.~~ Despite the initiation of any challenge described ~~or conditionally reserved~~ in this ~~section~~Section 12 to any such liens, security interests ~~or~~ secured claims or the value thereof, such liens, security interests and secured claims shall be presumed to be valid and entitled to the benefit of this ~~Interim~~Final Order pending the entry of a final non-appealable judgment and order in favor of the authorized party with respect to such challenge. ~~Subject to the Debtors' Conditional Reservation, if~~If no such Litigation is properly and timely filed by ~~any Official~~the Committee by the Challenge Deadline, (i) the pre-petition ATSB Loan Obligations shall not be subject to any other or further challenge, objection, counterclaim, offset, reduction, subordination or avoidance by any creditor or other party in interest, including, without limitation, any subsequently appointed trustee, and (ii) the pre-petition liens and security interests of the Collateral Agent, for the benefit of the ATSB Lender Parties ~~and the Loan Administrator~~, as the case may be, shall not be subject to any other or further challenge or reduction and shall be determined to have been, as of the Petition Date, valid, binding, perfected, enforceable, unavoidable and not subject to subordination.

(13) None of the ATSB Lender Parties (in their capacities as such) shall take any action during the ~~Interim~~Final Cash Collateral Period to seize or take control over any of the

Cash Collateral or the Debtors' other property, nor shall they impose freezes of assets or seek to exercise any alleged right of setoff or recoupment, or exercise any other right or remedy against the Pre-Petition Collateral, Cash Collateral, Replacement Collateral or the Debtors' other property during the ~~Interim~~Final Cash Collateral Period; provided, that each of the ATSB Lender Parties reserve their rights to do any of the foregoing after receiving authority of the Court to the extent necessary, upon a breach or violation by the Debtors of any of the terms or conditions of this ~~Interim~~Final Order. Notwithstanding the above, nothing in this ~~section~~Section 13 shall impair the rights of any federal agency or entity other than the ATSB in this regard.

(14) (a) The Super-Priority Claim and Replacement Liens granted hereunder to and for the benefit of the ATSB Lender Parties (in their capacities as such) shall be consistent with the DIP Financing Order and subject and subordinate only to payment of (i) allowed quarterly fees required to be paid to the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Bankruptcy Court, (ii) prior to the occurrence of a Carve-Out Event (a) the expenses of any member of the Committee which are allowed by the Bankruptcy Court (whether before or after the Carve-Out Event) and (b) unpaid professional fees and disbursements incurred prior to the occurrence of a Carve-Out Event by the professionals retained, pursuant to Sections 327 or 1103(a) of the Bankruptcy Code, by the Debtors and the Committee, which are allowed by the Court (whether before or after the Carve-Out Event) after the application of any retainer as required by order of the Court, and (iii) after the occurrence and during the pendency of a Carve-Out Event, unpaid professional fees and disbursements incurred by the professionals retained, pursuant to Sections 327 or 1103(a) of the Bankruptcy Code, by the Debtors and the Committee, which are allowed by this Court after

application of any retainer, not to exceed \$250,000 in the aggregate (collectively, the "Carve-Out").

~~(14) — The Super Priority Claim and Replacement Liens granted hereunder to and for the benefit of the ATSB Lender Parties (in their capacities as such) shall be subject and subordinate to a reserve fund for the payment of (a) KERP obligations of no more than \$5,725,000; provided, however, that no KERP obligation may be funded until the occurrence of the effective date and funding of a Permitted DIP Lending, (b) following the occurrence and during the pendency of a Carve Out Event, the payment of allowed professional fees and disbursements incurred after the occurrence and during the pendency of a Carve Out Event by the professionals retained, pursuant to sections 327 or 1103(a) of the Bankruptcy Code, by the Debtors and any Official Committee, and the reasonable expenses of the members of any Official Committee, in an aggregate amount not to exceed \$500,000, and (c) quarterly fees required to be paid pursuant to 28 U.S.C. § 1930(6) and any fees payable to the Clerk of the Bankruptcy Court and any agent thereof (collectively, the "Carve Out").~~ (b) Notwithstanding the foregoing, the fees and expenses of the professionals for the Debtors and ~~any Official~~the Committee shall not be eligible for inclusion in or payment from the Carve-Out to the extent such fees or expenses were incurred in connection with any Litigation challenging the validity, extent, priority, enforceability, or unavailability of any of the liens, security interests, or claims in favor of any of the ATSB Lender Parties or any transfers by any of the Debtors to any such parties; provided, however, that the Carve-Out may be used to pay professional fees and expenses of ~~any Official~~the Committee incurred in the investigation (prior to the commencement of any Litigation) of potential causes of action and claims against the Collateral Agent or any of the other ATSB Lender Parties. The foregoing shall not be construed as consent by any ATSB

Lender Party to the allowance of any fees and expenses referred to above and shall not affect the right of any of the ATSB Lender Parties to object to the allowance or payment of such amounts.

(c) The Carve-Out shall be payable from the ATSB Lender Parties' Cash Collateral and Pre-Petition Collateral only to the extent the Debtors' estates contain insufficient unencumbered assets to fund the payment in full of such fees and disbursements as come within the Carve-Out.

(d) For the purposes of ~~the preceding paragraph,~~ this section 14, the term "Carve-Out Event" shall mean the termination of the Debtors' authorization to use Cash Collateral with the consent of the ATSB Lender Parties.

(15) Notwithstanding any other term or condition hereof, or of the Loan Documents or ATSB Guarantee Agreement, the ATSB Lender Parties (in their capacities as such) ~~shall not be subject to the equitable doctrine of "marshalling" or any similar doctrine with respect to any of the Pre-Petition Collateral or the~~ after the occurrence of a Carve-Out Event, the ATSB Lender Parties will first attempt to sell or otherwise dispose of their Pre-Petition Collateral, to the extent reasonable and practical under the circumstances, before selling or disposing of any of their Replacement Collateral.

(16) (a) Nothing in this ~~Interim~~Final Order or any other Cash Collateral Order (i) shall constitute a waiver, forbearance or adjudication of the rights of any secured party, lessor or vendor or of any agent for any such entity (including, without limitation, any servicer or beneficial owner of any lessor and including any secured party, lessor or vendor under any aircraft lease or mortgage) (in each case, an "1110 Beneficiary") under ~~section~~Section 1110 of the Bankruptcy Code, or (ii) shall prejudice, limit, or otherwise affect any rights of any 1110

Beneficiary or other entity under ~~section~~Section 1110 of the Bankruptcy Code, all of which rights are expressly preserved.

(b) Notwithstanding any provision to the contrary in any Cash Collateral Order, to the extent prohibited or restricted under any Section 1110 Agreement, the Collateral Agent, the ATSB Lender Parties and any participant with or successor to the Collateral Agent or ATSB Lender Parties (i) shall not be granted nor shall they have (other than the Aircraft Collateral), and the Debtors likewise shall not grant, a security interest in or lien on (A) any Section 1110 Assets, (B) any lease of, or any Debtor's leasehold interest in, any Section 1110 Assets, or (C) any other property or Section 1110 Agreement which is subject to the rights of an 1110 Beneficiary under ~~section~~Section 1110 of the Bankruptcy Code (unless such rights of an 1110 Beneficiary arise solely by the right to enforce a negative pledge or similar provision in any Section 1110 Agreement with respect to otherwise unencumbered property); provided, however, that the Replacement Liens of the Collateral Agent and the ATSB Lender Parties shall extend to (x) all of the Section 1110 Assets in which the Collateral Agent held a lien prior to the Petition Date, and (y) all proceeds from the Debtors' disposition of any Section 1110 Assets and any Section 1110 Agreements, if any, to which the Debtors have any rights after the payment in full of the Debtors' obligations related to such Section 1110 Assets and Section 1110 Agreements as required under ~~section~~Section 1110 of the Bankruptcy Code; (ii) shall not be listed as a loss payee or as an additional insured on any insurance policy which the Debtors are obligated to any 1110 Beneficiary to obtain or maintain on or with respect to any Section 1110 Assets; (iii) shall not be entitled to exercise, assert or otherwise have the benefits of any rights or interests of any Debtor under any lease of Section 1110 Assets or property described in clause (b)(i) above, including rights, or interests in, or to any sums payable to, any Debtor under any lease of Section

1110 Assets or property described in clause (b)(i) and rights or interest in or to any property held under such lease; and (iv) shall not be given, and the Debtors likewise shall not place, placards or other indicia of security interests or liens in or on any Section 1110 Assets or property described in clause (b)(i) above in favor of the Collateral Agent, the ATSB Lender Parties or any participant with or successor thereto.

(c) As promptly as reasonably practicable, the Collateral Agent and the ATSB Lender Parties shall remove any liens of record ~~which~~that have been filed on their behalf against any Section 1110 Assets (other than liens filed pursuant to the terms of the Loan Documents), including, without limitation, any filings under the Uniform Commercial Code of any state or with the FAA.

(d) The terms of this ~~section~~Section 16 may not be amended or superseded without the prior written consent of any affected 1110 Beneficiary.

(17) ~~Notwithstanding anything else contained herein, Debtors shall be authorized to use Cash Collateral and the other Pre-Petition Collateral and shall fully provide adequate protection to the ATSB Lender Parties for such use if and so long as Debtors provide the ATSB Lenders with Full Cash Protection (as defined below).~~ The Debtors will not cause the balance of Cash Collateral plus 100% of the amount of Pledged Accounts in which the ATSB Lender Parties hold a first priority lien or Replacement Lien to drop below the ~~amount~~sum of (i) the Petition Date Cash Collateral ~~plus~~and (ii) 100% of the amount of the Pledged Accounts as of the Petition Date minus the aggregate amount of payments by the Debtors to the ATSB Lender Parties pursuant to ~~section 9(a) and section~~Section 9(m) (except with the consent of the ATSB Lending Parties) ("Full Cash Protection"). To the extent payments to the ATSB Lender Parties are made pursuant to Section 9(m)(i) or (ii) of this Final Order, the amount of Pledged Accounts

which is subject to the ATSB Lender Parties' liens and security interests shall be reduced correspondingly, and, in the event that all of the Pledged Accounts are no longer subject to the ATSB Lender Parties' liens and security interests, the amount of Cash Collateral which is subject to the ATSB Lender Parties' liens and security interests shall be reduced correspondingly. To the extent payments are made to the ATSB Lender Parties pursuant to Section 9(m)(iii) of this Final Order, the amount of Cash Collateral which is subject to the ATSB Lender Parties' liens and security interest shall be reduced correspondingly.

(18) The provisions of this ~~Interim~~Final Order shall be binding upon and inure to the benefit of the Debtors, the ATSB Lender Parties, ~~any Official~~the Committee, and any trustee subsequently appointed for the estates of any of the Debtors, whether in the Chapter 11 Cases or in the event of any conversion of any Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code. Such binding effect is an integral part of the ~~Interim~~Final Order. The terms of this ~~Interim~~Final Order supersede the terms of the ~~Bridge~~Interim Order.

(19) The ATSB Lender Parties (in their capacities as such) agree that this Final Order shall constitute a stipulation pursuant to Section 1110(b) of the Bankruptcy Code extending the deadline by which the Debtors must make any required Section 1110 elections with regard to the Appraised Collateral until the later of (a) the expiration of this Final Order (as this Final Order may be extended pursuant to Section 2 hereof or terminated pursuant to Section 10 hereof), or (b) January 14, 2005.

(20) ~~(19)~~ In the event that any order dismissing any of the Chapter 11 Cases is entered pursuant to ~~section~~Section 1112 of the Bankruptcy Code, or otherwise, (a) the ATSB Loan Obligations, Replacement Liens and Super-Priority Claims granted to or for the benefit of the ATSB Lender Parties pursuant to this ~~Interim~~Final Order shall continue in full force and

effect and shall maintain their priorities as provided in this ~~Interim~~Final Order until all of the ATSB Loan Obligations shall have been indefeasibly paid in full, and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing such claims and liens.

(21) ~~(20)~~ Nothing herein shall be deemed to effect a substantive consolidation of the Chapter 11 Cases or to prejudice the rights of the ATSB Lender Parties in the event of any such subsequent substantive consolidation. This ~~Interim~~Final Order is being entered on a collective basis for administrative convenience only and no finding of fact or conclusion of law is intended to support or cause a substantive consolidation of the Chapter 11 Cases.

(22) ~~(21)~~ This ~~Interim~~Final Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable immediately upon execution thereof.

#### **NOTICE OF FINAL HEARING**

(23) ~~(22)~~ ~~Following entry of this Interim Order, the Debtors shall immediately provide notice of~~The Final Hearing to consider the Cash Collateral Motion, ~~and a copy of this Interim Order and notice of the Final Hearing, by mail to each of the Initial Notice Parties and, without duplication, to (i) parties who have filed a request for service prior to such date, and (ii) counsel to any Official Committee appointed in the Chapter 11 Cases. Such notice shall constitute good and sufficient notice of the Final Hearing. The notice of approval of this Interim Order shall state that any party in interest objecting to the use of Cash Collateral or the terms of the Final Order shall file written objections with~~and approval of this Final Order shall be held on December 8, 2004, at 10:30 a.m. (Eastern Standard Time), at the United States Bankruptcy Court Clerk for the Southern District of Indiana, Indianapolis Division, before the Honorable Basil H. Lorch III, United States Bankruptcy Judge; provided, however, that if no objections to this Final Order are filed on or before 4:00 p.m. (Eastern Standard Time) December 7, 2004 (or, if such

objections are filed, are withdrawn) this Final Order shall be entered without the need for a hearing.

# # #

Requested by:

James M. Carr (#3128-49)

Terry E. Hall (#22041-49)

Baker & Daniels  
300 N. Meridian Street, Suite 2700  
Indianapolis, Indiana 46204  
Telephone: (317) 237-0300  
Facsimile: (317) 237-1000  
jim.carr@bakerd.com

terry.hall@bakerd.com

**Distribution:**

~~Debtors' Counsel~~  
~~United States Trustee~~  
~~ATSB Lender Parties~~  
~~Loan Administrator~~  
~~District Director of Internal Revenue for the Indianapolis District~~  
~~United States Attorney for the Southern District of Indiana~~  
~~United States Department of Justice~~  
~~Any Official Committee~~  
~~Thirty Largest Undersecured Creditors~~

~~{Signature Pages Continued}~~

Attorneys for the Debtors

[CM-P Draft](#)  
[12/2/04 4:15 p.m.](#)

Jeffrey Hunter, Esq.  
Assistant United States Attorney  
Civil Division  
U.S. Department of Justice

-and-

---

Andrea Horowitz Handel  
Brendan Collins  
Commercial Litigation Branch  
Civil Division  
U.S. Department of Justice  
P. O. Box 875  
Ben Franklin Station  
Washington, D. C. 20044  
Tel: 202-307-0358

[-and-](#)

Steven J. Reisman  
Daniel R. Lenihan  
CURTIS, MALLET-PREVOST, COLT & MOSLE LLP  
101 Park Avenue  
New York, New York 10178-0061  
Tel: 212-696-6000

*Attorneys for the Air Transportation Stabilization Board*

---

James A. Knauer  
KROGER, GARDIS & REGAS  
111 Monument Circle, Suite 900  
Indianapolis, IN 46204-5125

Tel: (317-)692-9000

-and-

Wilbur F. Foster, Jr.  
Jeffrey K. Milton  
MILBANK, TWEED, HADLEY & ~~M<sup>c</sup>CLOY~~M<sup>c</sup>CLOY LLP  
1 Chase Manhattan Plaza  
New York, ~~New York~~NY 10005-~~1413~~14132  
Tel: (212-)530-5000

Attorneys for the Tranche A and Tranche B Lenders

CM-P Draft  
12/2/04 4:15 p.m.

John W. Ames  
C.R. Bowles, Jr.  
GREENEBAUM DOLL & MCDONALD, PLLC  
3500 National City Tower  
101 South Fifth Street  
Louisville, KY 40202  
Tel: (502) 589-4200

-and-

Daniel Golden  
Lisa Beckerman  
David Botter  
AKIN, GUMP, STRAUSS, HAUER & FELD LLP  
590 Madison Avenue  
New York, NY 10022-4616  
Tel: (212) 872-8012

*Proposed Attorneys for the Official Committee of Unsecured Creditors*

Distribution:

Debtors' Counsel  
United States Trustee  
ATSB Lender Parties  
Loan Administrator  
District Director of Internal Revenue for the Indianapolis District  
United States Attorney for the Southern District of Indiana  
United States Department of Justice  
The Committee  
Thirty Largest Unsecured Creditors  
All Parties Filing Notices of Appearance

***Exhibit "A"***

~~{Form of AirTran Agreement}~~  
~~{To Be Provided}~~

***Exhibit "B"***

**Notice Parties for ATSB Lenders**

***U. S. DEPARTMENT OF JUSTICE***

Commercial Litigation Branch  
Civil Division  
P.O. Box 875  
Ben Franklin Station  
Washington, DC 20044

<b>Name</b>	<b>Office</b>
<b>Andrea Horowitz Handel</b>	Tel: 202-307-0358 Fax: 202-514-9163 <u><a href="mailto:andrea.handel@usdoj.gov">andrea.handel@usdoj.gov</a></u>
<b>Brendan Collins</b>	Tel: 202-616-2231 Fax: 202-307-0494 <u><a href="mailto:brendan.collins@usdoj.gov">brendan.collins@usdoj.gov</a></u>

***AIR TRANSPORTATION STABILIZATION BOARD***

1120 Vermont Avenue  
Suite 970  
Washington, DC 20005  
Tel: 202-622-3550  
Fax: 202-622-3420

<b>Name</b>	<b>Office</b>
<b>Mark R. Dayton</b>	Tel: 202-622-3767 Fax: 202-622-3420 <u><a href="mailto:mark.dayton@do.treas.gov">mark.dayton@do.treas.gov</a></u>
<b>Marguerite Owen</b>	Tel: 202-622-3808 Fax: 202-622-3420 <u><a href="mailto:marguerite.owen@do.treas.gov">marguerite.owen@do.treas.gov</a></u>

<b>Jaydeep Borwankar</b>	Tel: 202-622-3755 Fax: 202-622-3420 <a href="mailto:jaydeep.borwankar@do.treas.gov"><u>jaydeep.borwankar@do.treas.gov</u></a>
--------------------------	---

***BARNES & THORNBURG, LLP***

~~11 S. Meridian Street~~  
~~Indianapolis, IN 46204~~  
~~Tel: 317 236 1313~~  
~~Fax: 317 231 7433~~

<b>Name</b>	<b>Office</b>
<b>Alan K. Mills</b>	<del>Tel: 317 231 7239</del> <del>Fax: 317 231 7433</del> <del><a href="mailto:alan.mills@btlaw.com">alan.mills@btlaw.com</a></del>
<b>Wendy D. Brewer</b>	<del>Tel: 317 231 7714</del> <del>Fax: 317 231 7433</del> <del><a href="mailto:wendy.brewer@btlaw.com">wendy.brewer@btlaw.com</a></del>
<b>Scott C. Hollingsworth</b>	<del>Tel: 317 231 7420</del> <del>Fax: 317 231 7433</del> <del><a href="mailto:scott.hollingsworth@btlaw.com">scott.hollingsworth@btlaw.com</a></del>

***CITIBANK, N.A.***

Agency & Trust  
111 Wall Street, Floor 14, Zone 3  
New York, NY 10043

<b>Name</b>	<b>Office</b>
<b>Edward C. Morelli</b>	Tel: 212-657-6086 Fax: 212-657-3862 <del><a href="mailto:edward.c.morelli@citigroup.com">edward.c.morelli@citigroup.com</a></del>
<b>Fernando Moreyra</b>	Tel: 212-657-0955 Fax: 212-657-3862 <del><a href="mailto:frenando.moreyra@citigroup.com">frenando.moreyra@citigroup.com</a></del>

***CITIBANK, N.A.***

Structured Portfolio Management  
388 Greenwich Street, 20<sup>th</sup> Floor  
New York, NY 10013

Name	Office
<b>Barbara Kobelt</b>	Tel: 212-816-1063 Fax: 212-816-0263 <a href="mailto:barbara.kobelt@citigroup.com">barbara.kobelt@citigroup.com</a>
<b>Donna M. Donaldson</b>	Tel: 212-816-8612 Fax: 212-862-9061 <a href="mailto:donna.m.donaldson@citigroup.com">donna.m.donaldson@citigroup.com</a>

***CITIGROUP GLOBAL MARKETS***

388 Greenwich Street, 21st Floor  
New York, NY 10013

Name	Office
<b>Margaret A. Blake</b>	Tel: 212-816-7393 Fax: 212-216-7736 <a href="mailto:margaret.a.blake@citigroup.com">margaret.a.blake@citigroup.com</a>

***CITIBANK, N.A.***

8700 Sears Tower  
Chicago, IL 60606-3416

Name	Office
<b>Patrick A. Botticelli</b>	Tel: 312-876-3294 Fax: 312-876-3291 <a href="mailto:patrick.a.botticelli@citi.com">patrick.a.botticelli@citi.com</a>

***CURTIS, MALLET-PREVOST, COLT & MOSLE LLP***

101 Park Avenue  
New York, NY 10178-0061  
Tel: 212-696-6000  
Fax: 212-697-1559

Name	Office
------	--------

<b>Daniel R. Lenihan</b>	Tel: 212-696-6949 Fax: 212-697-1559 <u><a href="mailto:dlenihan@cm-p.com">dlenihan@cm-p.com</a></u>
<b>Steven J. Reisman</b>	Tel: 212-696-6065 Fax: 212-697-1559 <u><a href="mailto:sreisman@cm-p.com">sreisman@cm-p.com</a></u>
<b>Andrew M. Thau</b>	Tel: 212-696-8898 Fax: 212-697-1559 <u><a href="mailto:athau@cm-p.com">athau@cm-p.com</a></u>

***DANN PECAR NEWMAN & KLEIMAN, P.C.***

One American Square  
Suite 2300 Box 82008  
Indianapolis, IN 46282  
Tel: 317-632-3232  
Fax: 317-632-2932

<b>Name</b>	<b>Office</b>
<b>David H. Kleiman</b>	Tel: 317-632-3232 Fax: 317-632-2962 <u><a href="mailto:dkleinman@dannpecar.com">dkleinman@dannpecar.com</a></u>

***GENERAL ELECTRIC CAPITAL AVIATION SERVICES (GECAS)***

201 High Ridge Road  
Stamford, CT 06927-4900  
Tel: 203-357-3776  
Fax: 203-357-3201

<b>Name</b>	<b>Office</b>
<b>Brian A. Rogol</b>	Tel: 203-357-3654 Fax: 203-585-0026 <u><a href="mailto:brian.rogol@gecas.com">brian.rogol@gecas.com</a></u>
<b>Michael Kriedberg</b>	Tel: 203-961-2991 Fax: 203-961-6985 <u><a href="mailto:michael.kriedberg@gecas.com">michael.kriedberg@gecas.com</a></u>
<b>Ann Leavine</b>	Tel: 203-585-0800 Fax: 203-961-3937

	<a href="mailto:ann.leavine@gecas.com"><u>ann.leavine@gecas.com</u></a>
--	---

***INTERNATIONAL LEASE FINANCE CORPORATION***

10250 Constellation Boulevard, 34th Floor

Los Angeles, CA 90067

Tel: 310-788-1999

Fax: 310-788-1990

Name	Office
<b>Grant Levy</b>	Tel: 310-788-1999 Fax: 310-788-1990 <a href="mailto:glevy@ilfc.com"><u>glevy@ilfc.com</u></a>

**LAZARD FRÈRES & CO., LLC**

**Chicago:** 200 West Madison Street  
Suite 2200  
Chicago, IL 60606-3416

Name	Office
<b>David S. Kurtz</b>	Tel: 312-407-6615 Fax: 312-407-6620 <a href="mailto:david.kurtz@lazard.com">david.kurtz@lazard.com</a>
<b>Rick Stearns</b>	Tel: 312-407-6610 Fax: 312-407-6620 <a href="mailto:rick.stearns@lazard.com">rick.stearns@lazard.com</a>
<b><u>Joe Miller</u></b>	<a href="tel:3124076674">Tel: (312) 407-6674</a> <a href="tel:3124076620">Fax: (312) 407-6620</a> <a href="mailto:joe.miller@lazard.com">joe.miller@lazard.com</a>

**New York:** 30 Rockefeller Plaza  
New York, NY 10020  
Tel: 212-632-6000

Name	Office
<b>J. Blake O'Dowd</b>	Tel: 212-632-1420 Fax: 212-332-1748 <a href="mailto:blake.odowd@lazard.com">blake.odowd@lazard.com</a>

**KROGER, GARDIS & REGAS**  
111 Monument Circle, Suite 900  
Indianapolis, IN 46204-5125  
Tel: 317-692-9000  
Fax: 317-264-6832

Name	Office
<b>James A. Knauer</b>	Tel: 317-692-9000 Fax: 317-264-6832 <a href="mailto:jak@kgrlaw.com">jak@kgrlaw.com</a>

**MILBANK, TWEED, HADLEY & M<sup>C</sup>CLOY LLP**

1 Chase Manhattan Plaza

New York, NY 10005

Tel: 212-530-5000

Fax: 212-530-5219

Name	Office
<b>Drew Fine</b>	Tel: 212-530-5940 Fax: 212-822-5931 <a href="mailto:dfine@milbank.com">dfine@milbank.com</a>
<b>Wilbur F. Foster, Jr.</b>	Tel: 212-530-5058 Fax: 212-822-5058 <a href="mailto:wfooster@milbank.com">wfooster@milbank.com</a>
<b>Mark Racic</b>	Tel: 212-530-5430 Fax: 212-822-5430 <a href="mailto:mracic@milbank.com">mracic@milbank.com</a>
<b>Jeff Milton</b>	Tel: 212-530-5136 Fax: 212-822-5136 <a href="mailto:jmilton@milbank.com">jmilton@milbank.com</a>

**PATTERSON, BELKNAP, WEBB & TYLER LLP**

1133 Avenue of the Americas

New York, NY 10036-6710

Tel: 212-336-2000

Fax: 212-336-2222

Name	Office
<b>Karen M. McCarthy</b>	Tel: 212-336-2529 Fax: 212-336-2222 <a href="mailto:kmmcarthy@pbwt.com">kmmcarthy@pbwt.com</a>

**VEDDER, PRICE, KAUFMAN & KAMMHOLZ, P.C.**

805 Third Avenue  
New York, New York 10022  
Tel: 212-407-7700  
Fax: 212-407-7799

Name	Office
<b>Douglas J. Lipke</b>	Tel: 312-609-7646 Fax: 212-609-5005 <a href="mailto:dlipke@vedderprice.com">dlipke@vedderprice.com</a>
<b>Jon Yard Arnason</b>	Tel: 212-407-7775 Fax: 212-407-7799 <a href="mailto:jarnason@vedderprice.com">jarnason@vedderprice.com</a>
<b><u>Eric Prezant</u></b>	<a href="tel:312-609-7853">Tel: 312-609-7853</a> <a href="tel:312-609-5005">Fax: 312-609-5005</a> <a href="mailto:eprezant@vedderprice.com">eprezant@vedderprice.com</a>

**WEIL, GOTSHAL & MANGES LLP**

767 Fifth Avenue  
New York, New York 10153  
Tel: 212-310-8000  
Fax: 212-310-8007

Name	Office
<b>Richard Krasnow</b>	Tel: 212-310-8493 Fax: 212-310-8934 <a href="mailto:richard.krasnow@weil.com">richard.krasnow@weil.com</a>
<b>Elizabeth Evans</b>	Tel: 212-310-8580 Fax: 212-310-8007 <a href="mailto:elizabeth.evans@weil.com">elizabeth.evans@weil.com</a>

***Exhibit "*CB*"***

[Cash Budget]

[To be Provided by Debtors]

***Exhibit "DC"***

[Projection and Variance Report]

[To be Provided by Debtors]

**EXHIBIT "D"**

During the Final Cash Collateral Period, the Debtors are required to maintain:

- (i) Available Cash on any day in an amount not less than \$29,815,904 (the amount of Available Cash on the Petition Date); and
- (ii) at least 80% of the Available Cash amount forecasted at each week end in the Debtors' thirteen-week cash forecast dated November 30, 2004, as follows:

<u>Week Ending</u>	<u>Available Cash</u>	<u>80% of Available Cash</u>
<u>12/10/04</u>	<u>\$50,937,658</u>	<u>\$40,750,126</u>
<u>12/17/04</u>	<u>\$46,623,998</u>	<u>\$37,299,199</u>
<u>12/24/04</u>	<u>\$45,038,702</u>	<u>\$36,030,961</u>
<u>12/31/04</u>	<u>\$40,440,619</u>	<u>\$32,352,495</u>

For the avoidance of doubt, at no time during the Final Cash Collateral Period shall Available Cash fall below \$29,815,904 at the end of any day or, in such event, it shall constitute an Event of Default under this Final Order.

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