

THIS CREDITORS' AGREEMENT FOR BUSINESS REORGANIZATION PURSUANT TO MEXICO'S *LEY DE CONCURSO MERCANTIL* (THE "LAW") IN THE CONTEXT OF THE PROCEEDINGS FILED BEFORE THE ELEVENTH DISTRICT COURT FOR CIVIL MATTERS IN THE FEDERAL DISTRICT OF MEXICO (THE "COURT") IN FILE BEARING NUMBER 432/2010, IN COMPLIANCE WITH TITLE FIVE OF THE LAW, IS ENTERED INTO BY AND BETWEEN COMPAÑÍA MEXICANA DE AVIACIÓN, S.A. DE C.V. ("MEXICANA"), REPRESENTED HEREIN BY MR. JOSÉ GERARDO BADÍN CHERIT, ACTING IN HIS CAPACITY AS BOTH ADMINISTRATOR AND *CONCILIATOR* (THE "CONCILIATOR") AND THE RECOGNIZED CREDITORS OF MEXICANA (THE "CREDITORS"), AND WITH THE PARTICIPATION OF THE INVESTOR WHO WILL ADHERE TO THIS AGREEMENT (THE "INVESTOR"), PURSUANT TO THE FOLLOWING REPRESENTATIONS, RECITALS, TERMS AND CONDITIONS:

**WITNESSETH:**

1. By written request dated August 2, 2010, MEXICANA petitioned the Court for a business reorganization (*concurso mercantil*) and the petition was granted by the COURT in file bearing number number 432/2010.
2. On September 6, 2010, the COURT declared MEXICANA to be in business reorganization (*concurso mercantil*).
3. On September 7, 2010, Mexico's Ministry of Communications and Transportations (*Secretaría de Comunicaciones y Transportes*, hereinafter the "SCT") designated Mr. José Gerardo Badín Cherit to act as the Conciliator during the proceedings for Mexicana's business reorganization (*Concurso Mercantil*) and on March 3, 2011, the SCT appointed the Conciliator as Administrator of MEXICANA.
4. On December 13, 2010, the COURT issued a Claims Recognition, Ranking and Priority Order (*Sentencia de Reconocimiento, Graduación y Prelación de Créditos*) (the "CLAIMS ORDER"), which was clarified in

three court further orders dated December 17, 2010, December 22, 2010 and December 30, 2010.

## RECITALS

### I. MEXICANA, THROUGH ITS ADMINISTRATOR, DECLARES THE FOLLOWING:

- a. It is a company duly organized and validly existing under the laws of Mexico, as evidenced by instrument number 1,051 dated August 20, 1924 certified by Mr. Eduardo Gutiérrez Cañedo, Notary Public No. 23 of the City of Tampico, State of Tamaulipas, whose first official declaration was registered in the Commerce Section, under folio number 1,006, pages 428, Vol. 60, Book III in the Public Registry of Property of Mexico, Federal District.
- b. As evidenced by instrument number 33,119 dated June 18, 1981 certified by Mr. Mario Rea Vázquez, Notary Public No. 106 of Mexico City, which was registered in the Public Registry of Commerce of Mexico, Federal District on July 17, 1981 under commercial folio number 3,884, Mexicana was transformed into a variable capital corporation.
- c. Mexicana's corporate purpose includes, among others, the exploitation of the concession granted by the Mexican Federal Government to provide Public Air Transportation Services to passengers, express mail and cargo.
- d. Mexicana's Federal Tax ID is MAV-810430-NCA.
- e. Mexicana voluntarily enters into this agreement in order to comply with the provisions of Article 166 of the LAW, and that once this agreement is approved by court order, the business reorganization (*concurso mercantil*) proceedings may be concluded.
- f. This Agreement is hereby executed jointly by the CREDITORS whose names and signatures appear in **ANNEX 1** hereto, whose claims represent more than fifty percent (50%) of the aggregate amount stated in the Claims Order with respect to the claims of recognized creditors as owed to ordinary (unsecured) creditors, to secured creditors, namely Aeropuertos y Servicios Auxiliares,

Banco Mercantil del Norte, S.A. Institución de Banca Múltiple Grupo Financiero Banorte and to creditors with special privileges, namely IAE International Aero Engines, AG / Corporate, as established by Article 157 of the LAW.

- g. Mexicana's Its address for service for all matters related to this Creditors' Agreement is located at Avenida Xola No. 535, Piso 3, Colonia Del Valle, C.P. 03100, México, D. F.

## **II. JOSÉ GERARDO BADÍN CHERIT DECLARES THE FOLLOWING:**

- a. He is a Mexican citizen, a lawyer with professional card number 971651, issued by the General Office of Professions of the Ministry of Public Education and that his address is Xola 535, Piso 3, Colonia Del Valle, C.P. 03100, México, D.F.
- b. On September 6, 2010, at the suggestion of the SCT, he was appointed as the *Conciliador* to MEXICANA. Furthermore, on March 3, 2011, the SCT appointed him as the Administrator of MEXICANA; He has therefore been invested with all the requisite powers to execute this Agreement.

## **III. THE CREDITORS WHO ENTER INTO THIS AGREEMENT DECLARE AS FOLLOWS:**

- a. They are individuals or companies in good standing.
- b. The attorneys-in-fact who appear to execute this Agreement have sufficient powers to represent and obligate them under the terms hereunder, and said powers have not been modified, revoked or limited in any manner.
- c. Those granting the DEBT REDUCTIONS listed in **ANNEX 1** hereto state their agreement to such DEBT REDUCTION being applied in accordance with the agreed upon terms. With respect to the recognized creditors ACG ACQUISITION IRELAND LIMITED, ACG ACQUISITION IRELAND II LIMITED, ACG ACQUISITION XX LLC., BELLEVUE AIRCRAFT LEASING LIMITED, DEUCALION ENGINE LEASING (IRELAND) LIMITED, ENGINE LEASE FINANCE CORPORATION, GSI ENGINES

BETA LIMITED PARTNERSHIP, WELLS FARGO BANK NORTHWEST ACTING AS THE TRUSTEE OF ACG TRUST III, WELLS FARGO BANK NORTHWEST ACTING AS THE TRUSTEE OF BOULLION PORTFOLIO III LLC., and WELLS FARGO NORTHWEST ACTING AS THE TRUSTEE OF ACG ACQUISITION XXV LLC, by letter of endorsement signed on May 31, 2013, the DEBT REDUCTIONS granted to MEXICANA were ratified and such CREDITORS adhered to this Creditors' Agreement.

- d. They agree to execute this agreement and to be bound by its terms and to receive the amounts established in **ANNEX 2** hereof, which are calculated by applying the DEBT REDUCTION granted, in payment of their claims, the whole in accordance with the the terms and conditions stipulated herein below.

**IV. THE UNDERSIGNED PARTIES TO THIS AGREEMENT DECLARE AS FOLLOWS:**

- a. All of the CREDITORS, the Conciliator and MEXICANA state their interest in executing this Agreement in order to carry out joint actions for the benefit of Mexicana and the mass of its creditors generally, including payments and receipt of payments, in the most convenient way for all interested parties.
- b. In the same manner, the aforementioned Parties agree that when the INVESTOR is designated and appointed by the COURT and/or by the SCT, such INVESTOR shall adhere to this agreement by means of the corresponding instrument.

**ARTICLES**

**ONE. REGARDING THE REQUISITE PERCENTAGE TO SIGN THE BANKRUPTCY AGREEMENT**

The requisite percentage for this Agreement to enter into full force and effect in accordance with the provisions of Article 157 of the LAW, shall be the following:

COMPAÑÍA MEXICANA DE AVIACIÓN

(UDIS)

ANALYSIS OF THE GENERAL LIST OF CREDITORS BY RANK

RANK OF RECOGNIZED CREDITORS	APPEAL ORDER THAT MODIFIES THE CLAIMS RECOGNITION
Employee 224	52,523,750.00
Secured Claim	566,344,634.84
Special Privilege	11,921,798.87
Tax	294,656,691.69
Employee 221	162,166,346.94
Ordinary (Unsecured) Claim	1,508,464,465.11
Sum of the Recognized Claims	2,596,077,615.45

LIST OF CREDITORS WITH SECURED AND ORDINARY (UNSECURED) CLAIMS THAT VOTE OR DO NOT VOTE IN THE AGREEMENT

RANK OF RECOGNIZED CREDITORS	APPEAL ORDER THAT MODIFIES THE CLAIMS RECOGNITION	NOT VOTING IN AGREEMENT	VOTING IN AGREEMENT s. 157 F-II LCM
Secured Claim	566,344,634.84	299,138,575.51	267,206,059.33
Special Privilege	11,921,798.87	11,921,798.87	-
Ordinary (Unsecured)	1,508,464,465.11	-	1,508,464,465.11
Sum of the voting Claims	2,086,730,898.82	311,060,374.38	1,775,670,524.44
Percentage Required to Perfect Agreement 50+1			887,835,263.22

DOCUMENTED DEBT REDUCTIONS (SIGNED DOCUMENTS BY THE RECOGNIZED CREDITORS)	637,400,132.08	
NON-DEBT AKNOWLEDGMENTS (SIGNED DOCUMENTS BY THE RECOGNIZED CREDITORS)	215,715,273.44	
SUM OF THE NEGOTIATED CLAIMS	853,115,405.52	56.56%
AVERAGE DEBT REDUCTION	97%	

**TWO. EMPLOYEE CLAIMS**

MEXICANA and its employees have voluntarily agreed to end their employment relationship pursuant to the terms of the agreements which will be executed before Mexico's Arbitration and Conciliation Board (*Junta de Conciliación y Arbitraje*) (which agreements will be submitted to the COURT once executed). Pursuant to these agreements, any and all employee claims, which have been recognized in the business reorganization (*Concurso Mercantil*), shall be considered paid in full, as well as the ordinary expenses for which MEXICANA is responsible and which were incurred during the process of terminating the employment relationship. Pursuant to such agreements, the parties shall dismiss any lawsuit or proceeding previously filed.

### **THREE. SECURED CLAIMS**

#### **AEROPUERTOS Y SERVICIOS AUXILIARES (ASA)**

According to the CLAIMS ORDER, AEROPUERTOS Y SERVICIOS AUXILIARES (ASA), holds as a secured claim recognized in the amount of 267,206,059.33 UDIS (two hundred and sixty seven million two hundred and six thousand fifty-nine point thirty-three investment units). This claim shall be paid in accordance with the terms established by official notice dated February 8, 2012, which was submitted to the COURT with the report rendered on September 3, 2012.

#### **BANCO MERCANTIL DEL NORTE**

MEXICANA shall pay the recognized claim in favor of Banco Mercantil del Norte, S.A., Institución de Banca Múltiple, Grupo Financiero BANORTE in accordance with the terms of the resolution dated December 15, 2011 rendered by the Second Unitary Court for Civil and Administrative Matters of the First Circuit civil court in file bearing number 71/2011 in the aggregate, namely, such claim shall be paid from the proceeds obtained from the assets provided as collateral. If the proceeds obtained from the the assets provided as collateral are insufficient to cover the claim, the outstanding balance of the claim shall be paid as an ordinary (unsecured) claim. If the proceeds obtained from the assets provided as collateral exceed the value of the secured claim, the surplus shall be applied to cover the claims of other recognized creditors pursuant to the terms of this Creditors' Agreement.

### **FOUR. CLAIMS WITH SPECIAL PRIVILEGES**

#### **INTERNATIONAL AERO ENGINES, AG.**

According to the CLAIMS ORDER, INTERNATIONAL AERO ENGINES, AG (IAE), holds a recognized claim in the amount of 11,921,798.87 UDIS (eleven million nine hundred and twenty seven hundred and ninety eight point eighty-seven investment units) with special privilege, which shall be paid in a single installment once the 180 days grace period from the COURT's final and conclusive approval of this Creditors' Agreement has expired.

**FIVE. PAYMENT OF THE CLAIM OF THE MEXICAN SOCIAL SECURITY INSTITUTE (*INSTITUTO MEXICANO DEL SEGURO SOCIAL*, HEREINAFTER THE “IMSS”)**

The claim of the IMSS shall be paid pursuant to the terms of the partial reprieve of tax liabilities related to contributions and accessories that should have been paid prior to the date on which the business reorganization (Concurso Mercantil) proceedings were commenced, once this Creditors' Agreement has been executed with the recognized creditors. The foregoing, in accordance with Article 146-B of the Federal Tax Code.

Accessory charges incurred during the conciliation stage will not be calculated by operation of law pursuant to Article 69 of the LAW.

**SIX. PAYMENT OF THE CLAIM OF THE TAX ADMINISTRATION SERVICE (*SERVICIO DE ADMINISTRACION TRIBUTARIA*, HEREINAFTER THE “SAT”)**

The claim of the SAT shall be paid pursuant to the terms of the partial reprieve of tax liabilities related to contributions and accessories that should have been paid prior to the date on which the business reorganization (Concurso Mercantil) proceedings were commenced, once this Creditors' Agreement has been executed with the recognized creditors. The foregoing, in accordance with Article 146-B of the Federal Tax Code.

Accessory charges incurred during the conciliation stage will not be calculated by operation of law pursuant to Article 69 of the LAW.

**SEVEN. PAYMENT OF THE CLAIM OF THE WORKERS' HOUSING TRUST (*INSTITUTO DE FONDO NACIONAL A LA VIVIENDA DE LOS TRABAJADORES*, HEREINAFTER “INFONAVIT”)**

The claim of INFONAVIT shall be paid pursuant to the terms of the partial reprieve of tax liabilities related to contributions and accessories that should have been paid prior to the date on which the business reorganization (Concurso Mercantil) proceedings were commenced, once this Creditors' Agreement has been executed with the recognized creditors. The foregoing, in accordance with Article 146-B of the Federal Tax Code.

Accessory charges incurred during the conciliation stage will not be calculated by operation of law pursuant to Article 69 of the LAW.

## **EIGHT. PAYMENT OF ORDINARY (UNSECURED) CLAIMS**

Claims owed to recognized creditors represented by the Mexican Consumer Protection Agency (*Procuraduría Federal del Consumidor*, hereinafter "**PROFECO**") shall be treated in accordance with the order dated October 24, 2012 in civil court file bearing number 75/2011 in aggregate with proceedings in civil court file bearing number 72/2011 of the Second Unitary Court for Civil and Administrative Matters of the Federal District.

Claims recognized as ordinary (unsecured) that are described in the LIST OF DEBT REDUCTIONS GRANTED in **ANNEX 1** hereof, and owed to those executing this Agreement shall be paid an amount calculated by applying the relevant DEBT REDUCTION which has been accepted in each case, once this Creditors' Agreement becomes final, the whole subject to the terms established for each DEBT REDUCTION, as set forth in the file submitted to this COURT with the report dated September 3, 2012 **ANNEX 6** hereof, which file forms an integral part of this Creditors' Agreement.

With respect to the Claims of flight equipment leasing companies (the "**LESSORS**") that are listed in the document entitled List of Flight Equipment Leasing Companies attached hereto as **ANNEX 3**, considering that, as of this date, all of the conditions agreed upon have been met and that the Creditors' Agreement has been submitted for approval, MEXICANA is hereby released from any and all liability and obligations, including without limitation, past, present, and future payments that may have been incurred, derived or resulted from any leasing contract, agreement, commitment letter or document of an equivalent or similar nature executed by and between any of the LESSORS and MEXICANA with respect to the flight equipment, as the case may be, including without limitation aircraft, engines, spare parts, equipment, parts and components, among others (flight equipment). Considering that each and every Lessor has granted a DEBT REDUCTION with respect to its respective recognized claim, as determined in the CLAIMS ORDER, and has submitted the required documentation (DEBT REDUCTION letter as well as the corresponding power of attorney evidencing that the signatory had the requisite authority to execute said juridical act, as established in the DEBT REDUCTION file submitted to the COURT as an annex to the report rendered September 3, 2012), therefore ALL of the consequences of the aforementioned settlements shall hereby become in full force and effect. Consequently, each and every Lessor hereby accepts the



granting of the DEBT REDUCTION in a sum equivalent to 99.99% of its respective recognized claim.

#### **NINE. CREDITORS NOT EXECUTING THIS AGREEMENT**

Pursuant to Article 159 of the LAW, with respect to creditors holding recognized ordinary (unsecured) claims who do not execute this Agreement, a DEBT REDUCTION of 97% will be applied to the amount of their recognized claims and the resulting amounts shall be paid in 7 equal annual instalments, with interest on the outstanding at the rate of 7% per annum, beginning once the 180 days grace period from the COURT's final and conclusive approval of this Creditors' Agreement has expired, since these are the same terms accepted by the ordinary creditors who have executed this Creditors' Agreement and whose claims represent more than 30% of the aggregate of the ordinary claims recognized in the CLAIMS ORDER.

#### **TEN. EXECUTION OF THIS AGREEMENT**

According to Article 156 of the LAW, this Agreement may be executed by any of the Recognized Creditors, with the exception of those holding fiscal claims or labor-related claims, for which it shall not be necessary for the creditors to vote.

The Recognized Creditors who wish to adhere to this Agreement must state their consent by executing the document hereto as **ANNEX 5** and which forms an integral part hereof. Such document will be made available to every Recognized Creditor who wishes to adhere to this Agreement at the offices of the Conciliator.

#### **ELEVEN. PAYMENT**

MEXICANA shall pay the Recognized Creditors in cash at its offices located at Xola 535 piso 1, Colonia Del Valle, Delegación Benito Juárez, between the hours of 9:00 AM and 2:00 PM, from Monday to Friday, once the 180 days grace period from the COURT's final and conclusive approval of this Creditors' Agreement has expired.

For this purpose, MEXICANA shall designate personnel from its treasury department who will receive the requests and pay the Recognized Creditors, who may provide data for a wire transfer. The receipt of such transfer shall be

evidence of payment to the furthest extent under the law. The following documents must be submitted:

- I. Payment request.
- II. Identification. An original and a copy of the documents listed below shall be submitted to be examined and returned:

- In the case of individuals of Mexican nationality:
  - Official identification valid on the date it is submitted, with the holder's photograph, address and signature;
  - Certificate containing the National Personal Identification Number (*Clave Unica de Registro de Poblacion*, hereinafter "**CURP**") issued by the Ministry of the Interior and/or Tax Identification Card issued by the Ministry of Finance and Public Credit (*Secretaria de Hacienda y Crédito Publico*, hereinafter "**SHCP**");
  - Proof of address, with a validity date no longer than three months from the date of issuance;
  - If represented by attorneys-in-fact, the original or a certified copy issued by a notary public of the proxy or power of attorney must be submitted, as well as the official identification and proof of address of the attorney-in-fact, in addition to the documents regarding the principal granting the power of attorney or proxy.
- For Mexican companies:
  - Proof of registration at the Public Registry of Commerce (*Registro Público de Comercio*), duly demonstrating its legal existence;
  - Tax identification card issued by SHCP;
  - Proof of address;
  - Official transcript or certified copy of the instrument containing the power-of-attorney of the legal representative(s), issued by a notary public, if same is not contained in the articles of

incorporation, as well as the personal identification of such representative(s).

- In the case of foreigners:
  - Individuals must submit their original passport and a document evidencing their legal sojourn in Mexico, information about their address in the country of origin and information about the address where they shall be staying while in Mexico;
  - Companies must submit a duly legalized or apostilled copy of the document demonstrating its legal existence as well as a document evidencing that the individual appearing on its behalf is in fact its representative, and in the event such representative is also a foreigner, the documents indicated above must also be submitted.
- In the case of partnerships, branches or entities to which refer the official transcript or certified copy of the articles of incorporation registered in the Public Registry of Property (*Registro Publico de la Propiedad*):
  - Annex I of the Order that contains the general regulations referred to in Article 115 of the Credit Institutions Act (*Ley de Instituciones de Credito*) and article 124 of the Savings and Loans Association Act (*Ley de Ahorro y Credito Popular*) of the Ministry of Finance and Public Credit (Secretaria de Hacienda y Crédito Publico);
  - Official transcript or certified copy of the instrument containing the power-of-attorney of the legal representative(s), issued by a notary public, as well as the personal identification of such representative(s).

If any of the Recognized Creditors fails to request payment according to this Creditors' Agreement, MEXICANA shall, without any liability, deposit the corresponding amount with the COURT after the expiry of the grace period consisting of 15 calendar days after commencement of the payment program approved by the COURT pursuant to this Creditors' Agreement.

## **TWELVE. DISCHARGE**

Upon approval of this Creditors' Agreement, each and every Recognized Creditor whose claim is listed in **ANNEX 4** hereby grants in favor of MEXICANA, its subsidiaries, any surety, joint obligor or guarantor of such claim as well as in favor of any person directly or indirectly related to the foregoing, the most extensive release and discharge under law with respect to such claim. In addition, such creditors must return any promissory note(s) or negotiable instrument(s), which may have been signed to document any claim and shall execute each and every document deemed to be necessary or convenient in order to release any guarantee that may have been granted as well as to cancel any and all encumbrances over the assets or rights of MEXICANA, its subsidiaries, any surety, joint obligor or guarantor of the claim or any other company or person related to the foregoing, derived from or related directly or indirectly with these legal proceedings. Furthermore, such creditors must waive any future actions to collect their recognized credits and agree to submit and ratify before the corresponding authorities the withdrawal of pending legal proceedings against MEXICANA, its subsidiaries, any surety, joint obligor or guarantor of the credits and any other company or person related thereto, in order to end and dismiss such proceedings that may be pending (civil, administrative, commercial, penal or any other).

With respect to the recognized creditors granting DEBT REDUCTIONS to MEXICANA and the terms for release and discharge stipulated therein, the terms of said documents shall prevail.

In the event of breach of the provisions of the foregoing paragraph, MEXICANA shall request the COURT to inform the authorities in the proceedings indicated by MEXICANA of the consequences and effect of this Agreement.

## **THIRTEEN. STATUS OF THE CONCURSO MERCANTIL AUTHORITIES**

Upon the approval of this Creditors' Agreement, the functions of the concurso mercantil authorities shall cease and, at that moment, the COURT shall appoint a Commissioner to ensure strict compliance with this Creditors' Agreement.

## **FOURTEEN. VALIDITY OF PROCEEDINGS**

Regarding the status of the current proceedings and the impending proceedings for the recovery of the assets to be used to pay the claims, the business

reorganization (*Concurso Mercantil*) proceedings of MEXICANA, will remain open before the COURT to carry out any actions and make any decision deemed to be necessary with respect to the the aforementioned matters.

In the event that the COURT deems it relevant to order the suspension or closing of the business reorganization (*Concurso Mercantil*) proceedings in light of the status of the process relating to the liabilities, assets and compliance with obligations, any Recognized Creditor may request that the case be reopened by written request to the COURT, so that the COURT may decide such matter.

#### **FIFTEEN. GOVERNING LAW**

This Agreement shall be construed, interpreted and governed according to the LAW.

#### **SIXTEEN. JURISDICTION.**

For all matters related to the interpretation and enforcement of this Creditor's Agreement, the Parties expressly submit to the jurisdiction of the competent courts of the Federal District of Mexico, thereby waiving any other venue, which may have jurisdiction by virtue of their present or future domiciles or for any other reason.

This Agreement is being executed in 3 original copies, which shall be respectively given to the Conciliator, to MEXICANA and to the COURT, in Mexico City, on June 4, 2013.

**Mr. José Gerardo Badín Cherit, Esq.**  
**Administrator and *Conciliador* of**  
**Compañía Mexicana de Aviación, S.A. de C.V.**