

CANADA

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No: 500-11-039418-104

SUPERIOR COURT  
(Commercial Division)

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IN THE MATTER OF THE JUDICIAL  
REORGANIZATION PROCEEDINGS OF:

**COMPañIA MEXICANA DE AVIACION,  
S.A. DE C.V.,**

Insolvent Debtor

and

**MARU E. JOHANSEN,**

Foreign Representative / **Petitioner**

and

**SAMSON BELAIR DELOITTE & TOUCHE  
INC.**

Information Officer

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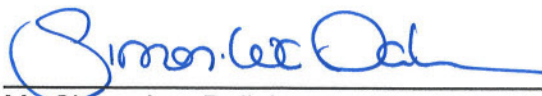
**ATTESTATION D'AUTHENTICITÉ  
SELON L'ART. 82.1 C.p.c.**

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Je, soussigné, Me Simon-Luc Dallaire, exerçant ma profession au 1000, de la Gauchetière Ouest, suite 900, Montréal, Québec, H3B 5H4, district de Montréal, atteste ce qui suit :

1. En date du 15 mai 2012 à 14h20, j'ai reçu par télécopieur de Madame Maru E. Johansen, un affidavit dûment signé par elle;
2. Madame Maru E. Johansen m'a transmis ledit affidavit de Los Angeles, de l'État de la Californie, États-Unis d'Amérique;
3. La copie dudit affidavit jointe à la présente attestation est conforme au fac-similé ainsi reçu par télécopieur de Madame Maru E. Johansen.

Montréal, le 15 mai 2012



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Me Simon-Luc Dallaire  
**BORDEN LADNER GERVAIS LLP**

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And

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And

**SAMSON BELAIR DELOITTE & TOUCHE INC.**

Information Officer

**AFFIDAVIT OF MARU E. JOHANSEN**

I, the undersigned, **MARU E. JOHANSEN**, having my place of business at 9841 Airport Boulevard, Suite 400, Los Angeles, California, United States of America, solemnly declare as follows :

1. I am the Vice-President, Legal & Corporate Affairs, U.S., Canada & U.K. for Compania Mexicana de Aviacion, S.A. de C.V. ("Mexicana");

**I. INTRODUCTION**

2. On August 5<sup>th</sup>, 2010, this Honourable Court issued an Order on a Motion for Recognition of Foreign Proceedings (hereinafter the "**Initial Order**") extending the protection of the *Companies' Creditors Arrangement Act* (hereinafter the "**CCAA**") to Compania Mexicana de Aviacion S.A. de C.V. (hereinafter the "**Insolvent Debtor**" or "**Mexicana**");
3. Pursuant to the Initial Order, Samson Belair Deloitte & Touche Inc. was appointed as Information Officer of the Insolvent Debtor (hereinafter the "**Information Officer**") and a stay of proceedings was ordered until November 10<sup>th</sup>, 2010 (hereinafter the "**Stay Period**");

4. By Order of this Honorable Court rendered on November 16<sup>th</sup>, 2010, Petitioner's first *Motion for the extension of the Stay Period* (hereinafter the "**First Motion to Extend**") was granted and the Stay Period was extended until January 14<sup>th</sup>, 2011 (hereinafter the "**First Extension Order**");
5. By Order of this Honorable Court rendered on January 13<sup>th</sup>, 2011, Petitioner's second *Motion for the extension of the Stay Period* (hereinafter the "**Second Motion to Extend**") was granted and the Stay Period was extended until April 15<sup>th</sup>, 2011 (hereinafter the "**Second Extension Order**");
6. By Order of this Honorable Court rendered on April 14<sup>th</sup>, 2011, Petitioner's third *Motion for the extension of the Stay Period* (hereinafter the "**Third Motion to Extend**") was granted and the Stay Period was extended until July 15<sup>th</sup>, 2011 (hereinafter the "**Third Extension Order**");
7. By Order of this Honorable Court rendered on July 8<sup>th</sup>, 2011, Petitioner's fourth *Motion for the extension of the Stay Period* (hereinafter the "**Fourth Motion to Extend**") was granted and the Stay Period was extended until September 20<sup>th</sup>, 2011 (hereinafter the "**Fourth Extension Order**");
8. By Order of this Honorable Court rendered on September 20<sup>th</sup>, 2011, Petitioner's fifth *Motion for the extension of the Stay Period* (hereinafter the "**Fifth Motion to Extend**") was granted and the Stay Period was extended until November 30<sup>th</sup>, 2011 (hereinafter the "**Fifth Extension Order**");
9. By Order of this Honorable Court rendered on November 29<sup>th</sup>, 2011, Petitioner's sixth *Motion for the extension of the Stay Period* (hereinafter the "**Sixth Motion to Extend**") was granted and the Stay Period was extended until February 20<sup>th</sup>, 2012 (hereinafter the "**Sixth Extension Order**");
10. By Order of this Honorable Court rendered on February 27<sup>th</sup>, 2012, Petitioner's seventh *Motion for the extension of the Stay Period* (hereinafter the "**Seventh Motion to Extend**") was granted and the Stay Period was extended until May 21<sup>st</sup>, 2012 (hereinafter the "**Seventh Extension Order**");
11. By way of the present motion, Petitioner seeks an order granting a eighth extension of the Stay Period for a for an indefinite period ending at the earliest of the following dates (i) in approximately ninety (90) days on August 20<sup>th</sup>, 2012, or (ii) ten (10) days following the new termination date to be established by the Mexican Court, the whole for the reasons more fully detailed hereinafter;

## II. MEXICANA'S OPERATIONS AND ACTIVITIES

12. Mexicana and its affiliates operate Mexicana Airlines, historically Mexico's largest airline. Mexicana and its affiliates carry passengers and cargo to destinations worldwide;
13. To effectuate a restructuring of its business and financial affairs, on August 2<sup>nd</sup>, 2010 Mexicana voluntarily filed a petition for commencement of a corporate reorganization proceeding (hereinafter the "**Mexican Proceedings**") before Mexico's "*Juzgado Décimo Primero de Distrito en Materia Civil en el Distrito Federal*" (hereinafter the "**Mexican**

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- Court")** under Mexico's *Ley de Concursos Mercantiles* (hereinafter the "**Concurso Law**"), the whole as appears from a certified copy of the said petition, bearing the Seal of the Federal District Court for Civil Matters of the Federal District of Mexico, filed as Exhibit R-1 in support of the Motion for Recognition of Foreign Proceedings;
14. In connection with the commencement of the Concurso Proceedings, Mexicana's Board of Directors authorized the filing of the Concurso proceedings and appointed Petitioner herein Maru E. Johansen, as its Foreign Representative and specifically authorized the Foreign Representative to seek relief before US Courts under Chapter 15 of the U.S. Bankruptcy Code, the whole as appears from copies of the original Spanish version of a Resolution of the Board of Directors of Mexicana dated July 30<sup>th</sup>, 2010 and of the official English translation of same resolution, communicated of the resolution of the Board of Directors filed *en liasse* as Exhibit R-2 in support of the Motion for Recognition of Foreign Proceedings;
  15. Similarly, Mexicana's Board of Directors appointed Petitioner herein Maru E. Johansen as its Foreign Representative and specifically authorized the Foreign Representative to seek relief before Canadian Courts under the CCAA, the whole as appears from copies of the original Spanish version of a Resolution of the Board of Directors of Mexicana dated August 4<sup>th</sup>, 2010 and of the official English translation of same resolution, filed *en liasse* as Exhibit R-3 in support of the Motion for Recognition of Foreign Proceedings;
  16. Following the filing of the petition commencing the Concurso Proceedings, an examination of Mexicana's books and records was conducted by a Court-appointed individual and consequently, on September 6<sup>th</sup>, 2010, the Mexican Court issued a "business reorganization judgment," whereby a stay of seizures, foreclosures and execution of judgments was put in place, and Mexicana began the process of reorganization, the whole as appears from a copy of the said judgment in its original Spanish version as well as a copy of the official English translation thereof, communicated as Exhibits R-1-A and R-1-B in support of the First Motion to Extend;
  17. On August 28<sup>th</sup>, 2010, Mexicana announced the suspension of its flights;
- III. RESTRUCTURING DEVELOPMENTS SINCE THE SEVENTH EXTENSION ORDER**
18. Since the Seventh Extension Order, Mexicana had continued to resolve important business and legal issues relevant to its restructuring efforts, the whole as more fully detailed hereinafter;
    - A. PARTIAL OPERATIONS OF MEXICANA AND ITS AFFILIATES**
    19. Since the Seventh Extension Order, Mexicana, through one of its affiliates, Mexicana MRO, S.A. de C.V. (hereinafter "**MRO**") has continued to operate a portion of the group's business, namely maintenance services including major services to other airlines in its maintenance bases located at Mexico City International Airport and at Guadalajara International Airport;

20. For the purposes of the operations, Mexicana provides MRO with all of the necessary administrative and technical staff, IT and other services with the exception of mechanics which is provided by another affiliate of Mexicana;
21. Mexicana therefore invoices MRO for the services provided, which generates income for Mexicana and allows for the continued, although severely diminished, operation of Mexicana's management staff in order to keep Mexicana afloat until the restructuring is complete;
22. Moreover, Mexicana continues its efforts at collection of its accounts receivables, which also generates much needed cash to support the head office operations, which are critical to the Company's restructuring efforts;

**B. MEXICAN EXTENSION ORDER RENDERED UNDER THE CONCURSO LAW**

23. On November 14<sup>th</sup>, 2011, the Mexican Court issued an order advising the new computation of the delays, which ultimately results in a deadline of February 10<sup>th</sup>, 2012 for the conciliation period, the whole as appears from a copy of the said Order in its original Spanish version as well as a copy of the official English translation thereof (hereinafter the "**November 14<sup>th</sup> Order**"), which were already communicated in support of the Sixth Motion to Extend as Exhibit R-2A and Exhibit R-2B;
24. On February 8<sup>th</sup>, 2012, the Mexican Court issued an order suspending indefinitely the deadline of February 10<sup>th</sup>, 2012 for the conciliation period, the whole as appears from a copy of said Order in its original Spanish version as well as a copy of the official English translation thereof (hereinafter the "**February 8<sup>th</sup> Order**"), which were already communicated in support of the Sixth Motion to Extend as Exhibit R-1A and Exhibit R-1B;
25. The February 8<sup>th</sup> Order supersedes any previous order with respect to the delays;
26. To date, no further order has been rendered by the Mexican Court with respect to the computation of the delays under the Mexican Proceedings;

**C. ACQUISITION OF MEXICANA BY GROUP MED ATLANTICA**

27. In the months prior to the Seventh extension order, Mexicana, the Conciliador and the Mexican Government were in negotiation with at least six (6) groups of prospective investors for the acquisition and recapitalization of Mexicana (hereinafter the "**Potential Investors**"), including Group Med Atlantica;
28. Group Med Atlantica was one of the Potential Investors that completed their due diligence with respect to the Insolvent Debtor and that advised Mexicana and the Conciliador accordingly;
29. Since the Seventh Extension Order, Group Med Atlantica has demonstrated to the Mexican Court that the required capital had been deposited in a trust account set up specifically for the purposes of the refinancing transaction of the Insolvent Debtor (hereinafter the "**Trust Account**");

30. Moreover, the Mexican Minister of Finance has recently conducted its due diligence with respect to the provenance of the Required Capital, and was able to confirm that these funds were not derived from proceeds of crime;
31. Once the verifications of the provenance of the required capital were finalised, the Insolvent Debtor became in a position complete the steps required to finalize negotiations with Group Med Atlantica in order to draft and execute a binding agreement that would provide the funding of Mexicana's restructuring plan and continued operations;
32. The first step in this endeavour was the execution of an agreement providing for the transfer of the shares of Nuevo Grupo Aeronáutico, the parent company of Mexicana, which were held by Tenedora K (95%) and the pilots' union (5%), to Group Med Atlantica (the "**Transfer Agreement**");
33. Over the last weeks, intensive negotiations took place between the various entities composing Group Med Atlantica and Tenedora K in order to determine the exact terms and conditions of the Transfer Agreement;
34. In order facilitate said negotiations, Justice Consuelo Soto, presiding the Mexican Proceedings was directly involved, which enabled the parties to agree on the terms and conditions of the Transfer Agreement satisfactory to Tenedora K and all of Group Med Atlantica's stakeholders;
35. As such, the Transfer Agreement was finally executed on May 11<sup>th</sup>, 2012, the whole as it notably appears from the English version of the press release issued by Mexicana on May 11<sup>th</sup>, 2012 (the "**Press Release**"), communicated herewith as Petitioner's **Exhibit R-1**;
36. As it appears from the Press Release, the transfer of Mexicana's shares was duly completed and Group Med Atlantica is now officially the owner of the shares of Nuevo Grupo Aeronáutico, the parent company of the Insolvent Debtor;

#### **D. CONSENT OF CREDITORS TO A POTENTIAL RESTRUCTURING PLAN**

37. Over the course of the last year, the Conciliador has been contacting the Insolvent Debtor's Creditors in order to determine what percentage of debt reduction ("*quitas*") they would be willing to accept with respect to their claims against Mexicana;
38. As such, the Conciliador has been able to successfully reach agreements in principle with the majority of the Insolvent Debtor's Creditors and has obtained their consent to a potential restructuring plan (a "*Concurso Agreement*") which would provide for the payment of their claims in accordance with the debt reduction percentage agreed upon or, in the case of those creditors that have not agreed to a specific debt reductions, on the basis of the average debt reduction granted by the creditors having so agreed (hereinafter the "**Creditor Agreement**");
39. In fact, the Conciliador has expressed to the Mexican Court that he has obtained the consent of Sixty Five and Two Tenth percent (65.2%) of the Insolvent Debtor's creditors, which results in an average debt reduction of Eighty Two and Four Tenths percent

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(82.4%), the whole as appears from the February 8<sup>th</sup> Order, Exhibits R-1A and R-1B to the Seventh Motion to Extend;

40. Indeed, the Creditor Agreement, is drafted (in Spanish form) to a very large extent, although it still requires the approval of Group Med Atlantica, the new controlling shareholder of Mexicana, which approval will be sought in the very near future,
41. It therefore appears that the Creditor Agreement, although not yet finalized, is supported in principle by a vast majority of the Insolvent Debtor's creditors;
42. The Restructuring Plan now needs to be finalized and submitted for approval by the Mexican Court;

#### **E. NEGOTIATIONS WITH IATA**

43. Since the Seventh Extension Order, Mexicana has continued negotiations with IATA with respect to return of the funds held by IATA on behalf of Mexicana in the context of the Agreement on the Refund of Tickets intervened between Mexicana and IATA on August 17<sup>th</sup>, 2010;
44. These negotiations, if successful, will require the intervention of this Honorable Court in order to sanction the process to deal with the claims of the various IATA member airlines against Mexicana and the claims of Mexicana against the various IATA member airlines;

#### **IV. EXTENSION OF THE STAY PERIOD**

45. Notwithstanding the progress made by the Insolvent Debtor since the Seventh Extension Order, the extension of the Stay Period sought through the present Motion is necessary in order to provide the Insolvent Debtor an adequate time period to, notably, complete the steps required in order implement the recapitalization process that will provide the funding of Mexicana's restructuring plan and continued operations, to restart flight operations, as well as finalize the Creditor Agreement and submit same to the Mexican Court for approval;
46. Given the uncertainty of the deadline for the conciliation period under the Concurso Law following the February 8<sup>th</sup> Order as well as the most recent developments, including the execution of the Transfer Agreement, Petitioner respectfully submits that this Honourable Court should render an Order extending the Stay Period for an indefinite period ending on the earliest of the following dates: (i) August 20<sup>th</sup>, 2012, or (ii) ten (10) days following the new termination date to be established by the Mexican Court;
47. In this respect, I hereby undertake to immediately advise the Information Officer, this Honorable Court and the members of the service list of the new termination date of the conciliation period to be established by the Mexican Court,
48. Petitioner and the Insolvent Debtor are of the view that extending the Stay Period for such a period is appropriate in the present circumstances;

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49. The Information Officer has indicated that it will be filing with the Court a report informing the Court and Mexicana's stakeholders of the various steps taken by Mexicana since the Seventh Extension Order;
50. Since the Seventh Extension Order, the Insolvent Debtor has acted and continues to act in good faith and with due diligence;
51. Based on the foregoing, Petitioner respectfully asks this Court to extend the Stay Period (as defined in the Order on a Motion for Recognition of Foreign Proceedings rendered by this Court in this matter on August 5th, 2010) until the earliest of the following dates:
- 51.1 (i) August 20<sup>th</sup>, 2012 or;
- 51.2 (ii) (10) days following the service by Petitioner or the Information Officer to the members of the service list of a Notice advising of the new termination date of the conciliation period established by the Mexican Court;
52. All of the facts alleged in the present affidavit are true;

Sworn at Los Angeles, California, this  
15<sup>th</sup> day of May 2012

  
MARU E. JOHANSEN



**JURAT**

State of California )  
 ) SS.  
County of Los Angeles )

Subscribed and sworn to (or affirmed) before me on this 15th day  
of May, 2012, by  
Maru E. Johansen

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before  
me.

Signature Candace D. Yip



**OPTIONAL INFORMATION**

The information below is optional. However, it may prove valuable and could prevent fraudulent attachment of this form to an unauthorized document.

**CAPACITY CLAIMED BY SIGNER (PRINCIPAL)**

- INDIVIDUAL
- CORPORATE OFFICER
- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- SUBSCRIBING WITNESS
- OTHER: \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

Affidavit of Maru E. Johansen  
TITLE OR TYPE OF DOCUMENT

Vice-President, Legal Corporate Affairs Seven Pages  
TITLE(S) NUMBER OF PAGES

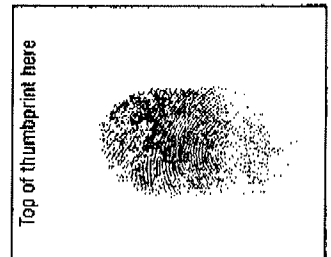
May 15, 2012  
DATE OF DOCUMENT

OTHER \_\_\_\_\_

**ABSENT SIGNER (PRINCIPAL) IS REPRESENTING:**  
NAME OF PERSON(S) OR ENTITY(IES)

[Signature]

RIGHT THUMBPRINT  
OF  
SIGNER



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(Commercial Division)  
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**AFFIDAVIT OF MARU E. JOHANSEN**

O R I G I N A L

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