

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

<b>In re</b>  <b>GLOBAL AVIATION HOLDINGS INC., ET AL.<sup>1</sup></b>  <p style="text-align: center;"><b>Debtors.</b></p>	§ § § § § § § § § §	<b>Chapter 11</b>  <b>Case No. 13-12945 (MFW)</b>  <b>(Jointly Administered)</b>
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**STIPULATION PROVIDING FOR SECTION 1110(b) EXTENSION  
REGARDING N764NA (MSN 27135)**

North American Airlines, Inc. (“Lessee”) and Wells Fargo Bank Northwest, National Association, not in its individual capacity, but solely as Trustee (the “Aircraft Creditor” or “Lessor”), hereby stipulate and agree pursuant to this stipulation (together with the Section 1110 Settlement Term Sheet (the “Term Sheet”) attached hereto as Exhibit A and incorporated herein by reference for all purposes, the “Stipulation”) as follows:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this case and this Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The Debtors provide military, cargo, passenger and commercial charter air transportation services. The Debtors operate their businesses through their two airlines: Lessee and World Airways, Inc. The Debtors employ approximately 1,100 employees and have annual 2013 forecasted revenues in excess of \$400 million.

3. Since 2013, the Debtors have encountered various financial and operational hurdles, including decreased demand for military cargo and passenger services resulting from government budget constraints.

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal taxpayer-identification number, include: Global Aviation Holdings Inc. (2196); Global Shared Services, Inc. (1692); New ATA Acquisition Inc. (1985); New ATA Investment Inc. (2109); North American Airlines, Inc. (8792); World Air Holdings, Inc. (1036); and World Airways, Inc. (8276). The Debtors’ corporate address is 101 World Drive, Peachtree City, Georgia 30269.



4. To facilitate a restructuring of the Debtors' businesses, on November 12, 2013 (the "Petition Date"), the Debtors commenced cases under chapter 11 of the Bankruptcy Code (the "Chapter 11 Cases"). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. Pursuant to certain agreements with the Aircraft Creditor (the "Aircraft Agreements"), including the Aircraft Operating Lease Agreement dated as of November 7, 2008 (as amended to date, the "Lease"), Lessee has the right to use the Boeing 767-328 aircraft, U.S. registration no. N764NA, manufacturer's serial no. 27135, and all engines, appliances and related parts and equipment, and all records, logs and documents relating thereto (all as more completely described in the Lease, collectively, the "Aircraft Equipment"). Capitalized terms used but not defined herein shall have the respective meanings given to such terms in the Lease.

6. The Aircraft Equipment constitutes "equipment" within the meaning of sections 1110(a)(3)(A)(i) and 1110(a)(3)(B) of the Bankruptcy Code. The Aircraft Creditor is entitled to the benefits of Section 1110 of the Bankruptcy Code with respect to the Aircraft Equipment and the Aircraft Agreements.

7. Pursuant to Section 1110(b) of the Bankruptcy Code, Lessee has requested that the Aircraft Creditor agree to extend the 60-day period set forth in Section 1110(a)(2) of the Bankruptcy Code (the "Section 1110 Period"). The Aircraft Creditor has agreed to this extension, subject to the terms and conditions of this Stipulation.

8. Subject to the terms, conditions and provisions of this Stipulation, the Section 1110 Period is hereby extended, for all purposes, for the period beginning on the first day after the Section 1110 Period until the earliest of (a) the effective date of the Debtors' plan of

reorganization, (b) the Termination Date (as defined in paragraph 12 below), and (c) such earlier date as the Debtors and Aircraft Creditor may agree (the “Extension Period”).

9. The Aircraft Creditor represents and warrants that it has full authority under the Aircraft Agreement and related controlling documents to enter into this Stipulation and otherwise authorize Lessee’s use of the Aircraft Equipment until the end of the Extension Period.

**Forbearance Payments and Section 1110 Period Payment**

10. In consideration of the agreement by the Aircraft Creditor to extend the Section 1110 Period, and as consideration for the Lessee’s use of the Aircraft Equipment during the Section 1110 Period and the Extension Period (collectively, the “Extended Section 1110 Period”), Lessee will: (i) make monthly rent payments to the Aircraft Creditor based on the amounts set forth in the Term Sheet attached hereto for each month during the Extension Period (collectively, the “Forbearance Payments”); (ii) two (2) business days after Court approval of this Stipulation, pay to the Aircraft Creditor the Section 1110 Period Payment (defined in the Term Sheet); and (iii) comply with the other terms of this Stipulation and the Aircraft Agreements, as modified during the Extended Section 1110 Period by the Stipulation including the Term Sheet.

11. Any payments made by Lessee or setoff effected by the Aircraft Creditor pursuant to this Stipulation may be applied by the Aircraft Creditor in accordance with the terms of the Aircraft Agreements and shall not be subject to avoidance, disgorgement, clawback or subordination on any grounds, and Lessee and the Debtors, on behalf of its (and their) bankruptcy estate(s), waives and releases any claims to such amounts paid, whether such claims arise under Sections 510, 544, 547, 548 or 550 of the Bankruptcy Code or otherwise. The set off rights provided for in the Term Sheet are hereby approved and shall not be subject to, or in violation of, Section 362(a) of the Bankruptcy Code.

### **Termination**

12. This Stipulation will terminate (i) three (3) business days after receipt by the Aircraft Creditor of written notice from Lessee explicitly terminating this Stipulation and rejecting the Aircraft Agreements, or (ii) upon receipt by Lessee of written notice from the Aircraft Creditor of the occurrence of a Stipulation Default (as defined below) and specifying the Aircraft Creditor's intent to terminate this Stipulation, unless such Stipulation Default is cured, if capable of being cured, within a three (3) business day period or if such Stipulation Default is an Event of Default under the Aircraft Agreements as modified by this Stipulation, then within the period specified in the Aircraft Agreements (such date, the "Termination Date"). "Stipulation Default" shall mean: (a) breach by the Debtors of any of their covenants contained herein, or in the Aircraft Agreements as modified by this Stipulation, with respect to any such Aircraft Equipment other than a failure to make a required payment or a default of the kind specified in section 365(b)(2) of the Bankruptcy Code; (b) breach by the Debtors of any payment obligation under the terms of this Stipulation or under the Aircraft Agreements, as modified by this Stipulation, with only the cure period set forth in (ii) above; (c) the appointment in the Chapter 11 Cases of a trustee or the appointment of an examiner with expanded powers (beyond those set forth in Sections 1106(a)(3) and (4) of the Bankruptcy Code) under Section 1106(b) of the Bankruptcy Code, but only if such expanded powers include that such examiner takes the place of and assumes the full responsibilities and duties of the Debtors' management and their board of directors; (d) cessation by the Debtors of their operations; (e) declaration by the Collateral Agent under that certain Financing Agreement dated as of November 13, 2013 by and among Global Aviation Holdings Inc., North American Airlines, Inc. and World Airways, Inc., each as debtor and debtor in possession, as Borrowers, certain subsidiaries of Global Aviation Holdings Inc., each as debtor and debtor in possession, as Guarantors, the Lenders, and Cerberus Business Finance,

LLC, as Collateral Agent and Administrative Agent (the "DIP Credit Agreement") of its intent to exercise its remedies pursuant to section 10.01 of the DIP Credit Agreement or the final order approving the DIP Credit Agreement; (f) conversion of one or more of the Chapter 11 Cases to cases under Chapter 7 of the Bankruptcy Code; or (g) rejection of an Aircraft Agreement covered by this Stipulation or abandonment of any Aircraft Equipment covered by this Stipulation by the Debtors, except as expressly provided for herein. Notwithstanding anything set forth in this Stipulation to the contrary, the Lessee shall have no right to terminate this Stipulation prior to the Aircraft Creditor's receipt of the Section 1110 Period Payment.

#### **Return of the Aircraft**

13. Two (2) Days after the Termination Date, Lessee agrees to (a) surrender and return the Aircraft Equipment to the Aircraft Creditor at the location provided in the Lease or such other location as Lessee and Lessor may agree and otherwise in an airworthy and ferriable condition and in full compliance with Section 1110(c) of the Bankruptcy Code and (b) from time to time upon the reasonable request of the Aircraft Creditor cooperate reasonably with the Aircraft Creditor or its representatives (i) to provide such information with respect to any or all of the Aircraft Equipment as may be requested by the Aircraft Creditor, and (ii) to perform any applicable governmental filings pertaining to the return of any or all of the Aircraft Equipment. Lessee shall not be required to make any Forbearance Payments based on the hours or cycles necessary for the ferry flight to return the Aircraft Equipment as contemplated by this paragraph.

14. Upon the return of the Aircraft Equipment to the Aircraft Creditor in accordance with Paragraph 13 above, the Aircraft Agreements shall be deemed rejected under Section 365(a) of the Bankruptcy Code without further action by either party or the Bankruptcy Court, and the entry by the Bankruptcy Court of an order approving this

Stipulation will also constitute approval by the Bankruptcy Court of such rejection. The rejection of the Aircraft Agreements effected thereby shall for the purposes of calculating rejection damages be effective as of the date set forth in Section 365(g)(1) of the Bankruptcy Code.

15. Any damage claim asserted by the Aircraft Creditor or any other party to any of the Aircraft Agreements in the Chapter 11 Cases that arises out of the rejection of the Aircraft Agreements (such claim to be determined as if the Aircraft Agreements were rejected, and the Aircraft Equipment returned, as of the Petition Date) shall be reduced by any and all amounts paid by Lessee pursuant to this Stipulation and any amounts received after the Petition Date by the Aircraft Creditor from any insurance related to the Aircraft Equipment.

#### **Administrative Claim**

16. Except as specifically limited below, Aircraft Creditor reserves its right to assert a post-petition administrative claim under section 503(b)(1) of the Bankruptcy Code for any further default by the Debtors under the Aircraft Agreements or the failure of the Debtors to fully perform their obligations under this Stipulation during the Extension Period and the Debtors reserve their rights to contest such administrative claim. Notwithstanding anything contained herein to the contrary, there shall not be allowed as an administrative expense (i) any damages payable by reason or in respect of the rejection of the Aircraft Agreements or the exercise by Aircraft Creditor of remedies with respect to the rejection of the Aircraft Agreements or the occurrence of any Event of Default under and as defined in the Aircraft Agreements and (ii) any amounts payable by Lessee in respect of the failure of the Aircraft Equipment to meet the minimum hour and cycle requirements or other return conditions specified in the Aircraft Agreements upon return of the Aircraft Equipment to Aircraft Creditor, provided that such return is in accordance with Paragraph 13(a) above.

Notwithstanding anything contained herein to the contrary, the parties hereto expressly acknowledge and agree that this Stipulation does not create or convert any return condition obligation under the Aircraft Agreements other than compliance with return obligations under this Stipulation into a claim entitled to administrative priority treatment.

#### **Miscellaneous**

17. The parties hereby agree and acknowledge that this Stipulation does not constitute an agreement to perform all obligations under the Aircraft Agreements under Section 1110(a) of the Bankruptcy Code beyond the term of the Extension Period; provided, however, during the Extension Period, the Debtors agree to continue to perform all of their obligations under the Aircraft Agreements, as amended and provided for in this Stipulation. The parties also agree and acknowledge that this Stipulation does not constitute an assumption of the Aircraft Agreements under Section 365(a) of the Bankruptcy Code (to the extent such section is applicable) and nothing contained herein shall be construed to constitute such an agreement or assumption. The Aircraft Creditor agrees that it shall not assert in any judicial proceeding that this Stipulation constitutes such an agreement or assumption.

18. This Stipulation does not constitute an amendment of the Lease or other Aircraft Agreements. Except as expressly set forth herein, Lessee and the Aircraft Creditor agree that (a) this Stipulation shall not affect any term, provision or condition of the Aircraft Agreements or applicable law, including, without limitation, Section 1110 of the Bankruptcy Code and (b) the parties hereto reserve all of their respective rights and remedies with respect to the Aircraft Agreements and other provisions of the Bankruptcy Code.

19. This Stipulation will be binding upon (a) Lessee, the Debtors and any trustee or examiner that may be appointed in the pending Chapter 11 Cases, or their respective successors and assigns, (b) the Aircraft Creditor and its successors and assigns, (c) the trustee

in the event that the above-captioned cases are converted to a case under Chapter 7 of the Bankruptcy Code and (d) all creditors and other parties in interest in this case.

20. This Stipulation is subject to the final approval of the Court. The Debtors shall promptly cause this Stipulation to be presented to the Court for approval.

21. This Stipulation, together with Section 1110 of the Bankruptcy Code and the Aircraft Agreements, each as modified and/or affected pursuant to the terms of the Stipulation, together contain the entire agreement between the Aircraft Creditor and Lessee as to the subject matter hereof, and all previous agreements and communications prior to the date hereof, whether express or implied, oral or written, relating to the subject matter hereof are fully and completely extinguished and superseded by the Stipulation and the Aircraft Agreements. In the event of any inconsistency between the Stipulation and the Aircraft Agreements, this Stipulation shall govern. This Stipulation shall not be altered, amended, modified or otherwise changed, and the rights hereunder may not be waived except by a writing duly signed by the Aircraft Creditor and Lessee.

22. Unless otherwise specifically provided herein, all notices required or permitted by the terms of the Aircraft Agreement or this Stipulation shall be in writing, and any such notice shall become effective upon the addressee's receipt of such notice by certified mail, return receipt requested, overnight courier service or facsimile to the following addresses:

(A) if to Lessee:

North American Airlines, Inc.  
101 World Drive  
Peachtree City, Georgia 30269  
Attn: Suzanne Muller

and

Polsinelli PC  
Christopher A. Ward  
Justin K. Edelson



222 Delaware Avenue, Suite 1101  
Wilmington, Delaware 19801  
Fax: (302) 252-0921  
Email: [cward@polsinelli.com](mailto:cward@polsinelli.com)  
Email: [jedelson@polsinelli.com](mailto:jedelson@polsinelli.com)

and

Haynes and Boone, LLP  
Kenric D. Kattner  
Henry Flores  
1221 McKinney Street, Suite 2100  
Houston, Texas 77010  
Fax: (713) 547-2600  
Email: [kenric.kattner@haynesboone.com](mailto:kenric.kattner@haynesboone.com)  
Email: [henry.flores@haynesboone.com](mailto:henry.flores@haynesboone.com)

(B) if to the Lessor:

Wells Fargo Bank Northwest, N.A., as Trustee  
260 North Charles Lindbergh Drive  
Salt Lake City, Utah 84116

and

AerCap Group Services, Inc.  
100 NE Third Avenue, Suite 800  
Fort Lauderdale, FL 33301  
Attn: Legal Counsel

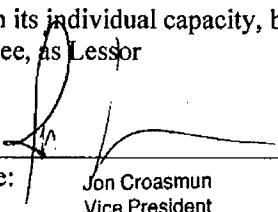
and

Arthur E Rosenberg  
Holland & Knight  
31 West 52nd Street  
New York NY 10019  
Phone 212.513.3482  
Fax 212.385.9010  
[arthur.rosenberg@hklaw.com](mailto:arthur.rosenberg@hklaw.com)

23. This Stipulation may be executed in one or more counterparts, by facsimile or otherwise, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

Dated: January \_\_, 2014

**WELLS FARGO BANK NORTHWEST,  
NATIONAL ASSOCIATION,**  
not in its individual capacity, but solely as  
Trustee, as Lessor

By:   
Name: Jon Croasmun  
Title: Vice President

**NORTH AMERICAN AIRLINES, INC.,**  
as Lessee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Dated: January \_\_, 2014

**WELLS FARGO BANK NORTHWEST,  
NATIONAL ASSOCIATION,**  
not in its individual capacity, but solely as  
Trustee, as Lessor

By: \_\_\_\_\_  
Name:  
Title:

**NORTH AMERICAN AIRLINES, INC.,**  
as Lessee

By:   
Name: William Garrett  
Title: CFO

**EXHIBIT A**

**FILED UNDER SEAL**