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Attorney for Debtor

UNITED STATES BANKRUPTCY COURT

DISTRICT OF IDAHO

In re:

JETSTREAM AVIATION, INC.,

Debtor.

Case No. 18-01346-TLM

Chapter 11

**MOTION SEEKING INTIRIM AND FINAL AUTHORITY TO USE CASH
COLLATERAL AND APPLICATION FOR AUTHORITY TO GRANT LIEN
AND OTHER RELIEF; AND NOTICE OF TIME FOR OBJECTIONS**

COMES NOW, the Debtor, Jetstream Aviation, Inc., by and through its attorney, Patrick J. Geile of the firm Foley Freeman, PLLC, and hereby moves this court for an order approving the use of cash collateral. Further, Debtor applies for permission to obtain secured credit. This motion is made pursuant to 11 U.S.C. § §363, 364, Rule 4001(b) and (c), Rule 9014 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 4001.1. Further Debtor is asking for authority to pay certain taxes post-petition and to honor pre-petition checks. In support of this motion Debtor asserts as follows:

1. This proceeding was filed on October 12, 2018.
2. The Debtor has not filed all of its schedules and it has not filed its Statement of Financial Affairs.

3. The Debtor's principle business operation is maintenance and staffing of private jets. The business has approximately 24 employees, and maintains two business locations, one in Boise and one in Seattle. The Debtor does not own any aircraft or real property.

4. The immediate cause of the bankruptcy was the offset of the Debtors account balance by Fundkite in the amount of approximately \$139,314 on September 7, 2018 which made operations almost impossible.

5. Pursuant to Local Rule 4001.1 the Debtor alleges as follows:

a. 4001.1(1) the identity of the creditors is as follows with corresponding lien information:

Jetstream Aviation, Inc.				
Creditor	Lien No.	Filing Date	Amount Owed	Monthly Adequate Protection at 5%
Wells Fargo Bank, NA 121 Park Center Plaza, 6th Floor San Jose, CA 95113	B20061017591	12/26/2006	\$60,000.00	\$250.00
Wells Fargo Bank, NA 121 Park Center Plaza, 6th Floor San Jose, CA 95113	B20071018394	1/10/2007		
BFS/ Secured Lender Solu PO Box 2576 Springfield, IL 62708	B20171194301	5/19/2017	\$22,000.00	\$91.67
Cardinal /Corporation Ser As Representative PO Box 2576 Springfield IL 62708	B20181213346	5/15/2018	\$103,000.00	\$429.17
AKF Inc., d/b/a Fundkite 29 W 17th Street New York, NY 10011	B20181213579	5/18/2018	\$128,000.00	\$533.33

b. 4001.1(2) The amount requested on an interim basis is set forth on **Exhibit B**

attached hereto.

- c. 4001.1(3) attached hereto as **Exhibit A** is a budget for one year.
- d. 4001.1(4), the amounts set forth to the creditors with secured liens is set forth above.
- e. 4001.1(5) the cash collateral does includes a rent derived from subleasing hangers in the amount of \$13,000 to \$17,000 per month, the net income is less than \$2,000 per month.
- f. 4001.1(6) The cash collateral does include accounts receivables. An aging report is attached as **Exhibit C**. The Debtor believes that of the listed A/R's approximately \$220,000 is collectible.
- g. 4001.1(7) The estimated fair market value of the collateral securing the liens is as follows:

i.	Cash in accounts at Wells Fargo	\$ 40,000.00
ii.	Accounts receivables Collectible	\$220,000.00
iii.	Personal Property (depreciated value)	\$ 13,623.00
iv.	Inventory	\$ 63,100.00
v.	Note from Tim Griffin(uncollectible)	\$294,222.37

The foregoing equipment and inventory is located wherein Debtor operates at 4700 W. Aeronca St., Boise, Idaho 83705 and 8555 Perimeter Rd. South, Seattle WA, 98108.

- h. 4001.1(8) the debtor intends to pay the creditors with secured liens 5% interest on the outstanding obligations in addition to granting post petition liens in the Debtors accounts and accounts receivables pursuant to the

creditor's pre petition security agreement.

- i. 4001.1(9) This motion does not seek anything outside the guidelines for use of cash collateral.

6. The cash collateral, which Debtor desires to use, consists of \$336,723.00 described in subparagraph 14 above. As disclosed on the budget attached hereto as **Exhibit A** and incorporated herein by this reference, Debtor shall use the proceeds from the Accounts receivable to pay expenses as more particularly described in the attached exhibit. Further Debtor shall generate new receivables and purchase new inventory after the Petition. In further support of the application to use this cash collateral the Debtor represents as follows:

- a. Debtor has exhausted all potential sources of secured or unsecured indebtedness enabling it to pay its ongoing operating expenses.
- b. The creditors known to the Debtor who are claiming liens in the cash collateral are disclosed above.

Pursuant to Rule 4001(b)(2) and (c)(2) of the Federal Rules of Bankruptcy Procedure, Debtor requests a preliminary hearing as Debtor requires the use of cash collateral prior to final hearing in an amount necessary to pay the expenses which are itemized on **Exhibit B** attached hereto and incorporated herein by this reference. These expenses include, among other things, operating expenses, utilities, fuel, supplies, inventory, insurance and funds to pay the payroll and payroll taxes. These expenses will need to be incurred before the final hearing on Debtor's motion. These are the expenses that will be incurred and the Debtor requests authority to pay until a final hearing can be conducted. Without the payment of the

expenses identified in the budget, immediate and irreparable harm shall occur as the employees may be required to obtain other employment. Also, Debtor must pay insurance, expenses and fuel needed to operate. Debtor is also concerned that if it does not pay utilities those companies shut off supply. Further, Debtor will not be able to fill customer orders so business will be reduced.

Exhibit A also sets forth the cash collateral, which the Debtor requests to be used through the date a plan is confirmed or further order of the Court; whichever first occurs. Without the payment of the expenses identified in the budget, immediate and irreparable harm shall occur as the employees may be required to obtain other employment. Also, Debtor must pay insurance, expenses and fuel needed to operate. Debtor is also concerned that if it does not pay utilities those companies shut off supply. Further, Debtor will not be able to fill customer orders so business will be reduced.

7. Pursuant to Local Bankruptcy Rule 4001.1 Debtor states as follows:
 - a. The adequate protection to be provided to the creditors listed in section 2 supra and any other entity proving an interest in the cash collateral shall be the grant of a post petition lien in the post petition accounts receivable, inventory and proceeds. Further Debtor shall provide any creditor who requests the same a copy of all monthly reports filed by it with the US Trustee. Further it shall provide a monthly report showing income projected as well as income received and expenses requested vs. expenses

incurred. The Debtor shall not vary in any expense category by more than 10% but in any event the total monthly expenses shall not exceed the total monthly expenses projected.

OTHER RELIEF REQUESTED

A. **Trust Funds held by Debtor must be paid.** Contained in the Budget are the following obligations which were accrued but which were not due or paid as of the Petition. Debtor is requesting authority to pay these obligations post-petition as these funds are held in trust by Debtor due to the withholding from employees (or re sales taxes from customers) and which should be paid as they would be a priority obligations in the bankruptcy under 11 USC 507 including (a)(5),(a)(4), and/or (a)(8)

B. **Taxes must be paid:** Contained in the Budget are the following obligations that were accrued but which were not due or paid as of the Petition. Debtor is requesting authority to pay these obligations post-petition as these obligations are taxes due and which should be paid as they would be a priority obligation in the bankruptcy under 11 USC 507(a)(8). While these are pre-petition obligations, Debtor is requesting authority to pay these from cash collateral as it will benefit the estate from avoiding further interest and penalties. These total less than \$1,000 and are identified as follows:

1. \$1,000 in current sales tax due.

C. **Prepetition checks written that have not cleared should be allowed to clear:**
The amounts reported in accounts set forth above is net of all checks that have been written but which not have cleared the bank account. There are currently \$12,034.72 in outstanding checks. This includes certain trade debt paid by check by Debtor prior to the Petition but which due to distance and timing of the deposit by the payee may not have

completely cleared Debtor's Bank account. Prior to the hearing on this matter Debtor shall provide a list of these checks that did not clear its accounts as of the time of the Petition. Debtor is requesting an order authorizing that these checks be honored as they were written pre-petition, delivered pre-petition and simply timing is creating a post-petition honor of the checks.

NOTICE OF TIME FOR WRITTEN OBJECTIONS

In the event you object to the Debtor's motion to be heard at the final hearing you must file a written objection on or before five (5) days before the Final hearing. Service of a copy of that written objection shall be made on the attorney for the Debtor described above. No objection shall be required before the preliminary hearing.

DATED this 12th day of October, 2018.

FOLEY FREEMAN, PLLC

/s/ Patrick J. Geile

Patrick J. Geile
Attorney for Debtor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of October, 2018, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Office of the U.S. Trustee
Washington Group Central Plaza
720 Park Blvd., Ste. 220
Boise, ID 83712

 X CM/ECF Notice

20 Largest Creditors

 X U.S. Mail

/s/ Patrick J. Geile

Patrick J. Geile

20 LARGEST CREDITORS

7023 Perimeter Road, LLC
PO BOX 2030
Bend, OR 97709

AKF Inc., d/b/a Fundkite
29 W 17th Street
New York, NY 10011

Ascensus
200 Dryden Road
Dresher, PA 19025

Avfuel
47 West Ellsworth
Ann Arbor, MI 48108

Corporation Services Company
As Representative
PO Box 2576
Springfield, IL 62708

GOGO Business Aviation, LLC
Department 1371
Denver, CO 80256-0001

IPFS Corporation
PO Box 412086
Kansas City, MO 64141-2086

IRS
PO Box 7346
Philadelphia, PA 19101-7346

Idaho State Tax Commission
Bankruptcy Division
P.O. Box 36
Boise, ID 83722

Idaho Steelheads
251 S Capitol Blvd
Boise, ID 83702

Immaculate Flight LLC
3677 Sysco Court
Grand Rapids, MI 49512

Jeppesen
55 Inverness Drive East
Englewood, CO 80112-5498

Kenmore Aero Service LLC
8555 Perimeter Road South
Seattle, WA 98108

Mercfuel, Inc
PO Box 24411
Seattle, WA 98124-0411

Secured Lender Solutions LLC
PO Box 2576
Springfield, IL 62708

Universal Weather Aviation
1150 Gemini Street
Houston, TX 77058

Wells Fargo Bank, NA
121 Park Center Plaza
6th Floor
San Jose, CA 95113

Wells Fargo Bank, NA
121 Park Center Plaza
6th Floor
San Jose, CA 95113

Western Aircraft
P.O. Box 31001-2167
Pasadena, CA 91110

World Fuel Services
2458 Paysphere Circle
Chicago, IL 60674-0024