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*Proposed Counsel for Debtors and
Debtors-In-Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:	: Chapter 11
AVIANCA HOLDINGS S.A., <i>et al.</i> , ¹	: Case No. 20-11133 (MG)
Debtors.	: (Joint Administration Requested)
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**APPLICATION FOR AN ORDER APPOINTING KURTZMAN
CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING
AGENT FOR THE DEBTORS PURSUANT TO 28 U.S.C. § 156(c),
11 U.S.C. § 105(a), AND S.D.N.Y. L.B.R. 5075-1
NUNC PRO TUNC TO THE PETITION DATE**

¹ The Debtors in these chapter 11 cases, and each Debtor’s federal tax identification number (to the extent applicable), are as follows: Avianca Holdings S.A. (N/A); Aero Transporte de Carga Unión, S.A. de C.V. (N/A); Aeroinversiones de Honduras, S.A. (N/A); Aerovías del Continente Americano S.A. Avianca (N/A); Airlease Holdings One Ltd. (N/A); America Central (Canada) Corp. (00-1071563); America Central Corp. (65-0444665); AV International Holdco S.A. (N/A); AV International Holdings S.A. (N/A); AV International Investments S.A. (N/A); AV International Ventures S.A. (N/A); AV Investments One Colombia S.A.S. (N/A); AV Investments Two Colombia S.A.S. (N/A); AV Taca International Holdco S.A. (N/A); Avianca Costa Rica S.A. (N/A); Avianca Leasing, LLC (47-2628716); Avianca, Inc. (13-1868573); Avianca-Ecuador S.A. (N/A); Aviaservicios, S.A. (N/A); Aviateca, S.A. (N/A); Avifreight Holding Mexico, S.A.P.I. de C.V. (N/A); C.R. Int’l Enterprises, Inc. (59-2240957); Grupo Taca Holdings Limited (N/A); International Trade Marks Agency Inc. (N/A); Inversiones del Caribe, S.A. (N/A); Isleña de Inversiones, S.A. de C.V. (N/A); Latin Airways Corp. (N/A); Latin Logistics, LLC (41-2187926); Nicaraguense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aereo y Rampa S.A. (N/A); Servicios Aeroportuarios Integrados SAI S.A.S. (92-4006439); Taca de Honduras, S.A. de C.V. (N/A); Taca de México, S.A. (N/A); Taca International Airlines S.A. (N/A); Taca S.A. (N/A); Tampa Cargo S.A.S. (N/A); Technical and Training Services, S.A. de C.V. (N/A). The Debtors’ principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.



TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Avianca Holdings S.A. and its affiliated debtors in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), as debtors and debtors-in-possession (collectively, the “Debtors”) respectfully represent as follows in support of this application (the “Application”):

RELIEF REQUESTED

1. By this Application, the Debtors seek entry of an order pursuant to 28 U.S.C. § 156(c), section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (as amended, the “Bankruptcy Code”), and S.D.N.Y. LBR 5075-1, substantially in the form annexed hereto as **Exhibit A** (the “Proposed Order”), appointing Kurtzman Carson Consultants LLC (“KCC”) as the claims and noticing agent for the Debtors in connection with these Chapter 11 Cases *nunc pro tunc* to the date hereof (the “Petition Date”), including assuming full responsibility for the distribution of notices and the maintenance, processing, and docketing of proofs of claim filed in the Debtors’ Chapter 11 Cases. In support of this Application, the Debtors submit the Declaration of Robert Jordan, Managing Director at KCC (the “Jordan Declaration”), attached hereto as **Exhibit B** and incorporated by reference herein.

2. The Debtors’ selection of KCC to act as the claims and noticing agent has satisfied the Court’s *Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c)* (the “Claims Agent Protocol”), in that the Debtors have obtained and reviewed engagement proposals from at least two (2) other court-approved claims and noticing agents to ensure selection through a competitive process. Moreover, the Debtors submit, based on all engagement proposals obtained and reviewed, that KCC’s rates are competitive and reasonable given KCC’s quality of services and expertise. The terms of retention are set forth in the Agreement for Services and Addendum annexed hereto as **Exhibit C** (the “Services Agreement”); provided, however, that

KCC is seeking approval solely on the terms set forth in this Application and the proposed order attached hereto.

3. Although the Debtors have not yet filed their schedules of assets and liabilities, they anticipate that there will be thousands of entities to be noticed. In light of the number of anticipated claimants and the complexity of the Debtors' businesses, the Debtors submit that the appointment of a claims and noticing agent is both necessary and in the best interests of both the Debtors' estates and their creditors.

4. By appointing KCC as the claims and noticing agent in these cases, the distribution of notices and the processing of claims will be expedited, and the clerk's office will be relieved of the administrative burden of processing what may be an overwhelming number of claims.

JURISDICTION

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
6. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
8. The bases for the relief requested herein are section 105(a) of the Bankruptcy Code, 28 U.S.C. § 156(c), and S.D.N.Y. LBR 5075-1.

STATUS OF CASE

9. On the date hereof, each of the Debtors filed with this Court voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

10. Each Debtor is continuing to operate its business and manage its properties as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No creditors' committee has yet been appointed in these Chapter 11 Cases (as defined below). No trustee or examiner has been appointed.

11. The Debtors have filed a motion requesting joint administration of the Chapter 11 Cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (as amended, the “Bankruptcy Rules”).

BACKGROUND

12. Avianca is the second-largest airline group in Latin America and the most important carrier in the Republic of Colombia and in the Republic of El Salvador. It is the largest airline in the Republic of Colombia (the third largest Latin American economy), a code-share partner of United Airlines, and a member of the Star Alliance which, with 26 members, is the world’s largest global airline alliance. Established in 1919, Avianca has a 100-year legacy as a leading provider of air travel and cargo services in the Latin American market and around the globe. Avianca is well respected throughout Latin America and maintains significant customer brand equity and market share in the regions it services.

13. The Debtors operate an extensive network of routes from their primary hubs in Bogotá and San Salvador (in addition to other focus markets) and offer passenger services on more than 5,350 weekly flights to more than 76 destinations in 27 countries. With approximately 18,900 employees and approximately \$3.9 billion in annual revenues, the Debtors play a key role in the Latin American airline market.

14. Despite an effective debt reprofiling executed in the second half of 2019, a significant improvement in Avianca’s liquidity position in early 2020, and the successful 2019 launch of the “Avianca 2021” transformation plan, the Debtors have been compelled to file these Chapter 11 Cases for one principal reason: the COVID-19 pandemic, which has affected the world’s population and economies in ways that have never been experienced. The reduction in travel as a result of the virus, and the measures undertaken to combat the virus, including

restrictions commercial flights and on travel, have had and will continue to have an adverse impact on the Debtors. As a result of the ongoing pandemic and its consequences, the Debtors are facing significantly reduced revenues from ticket sales and ancillary revenues, government prohibitions globally on international flights, substantial ongoing contractual obligations to their lessors, lenders and other creditors, and a near complete standstill of the global economy—all with significant continued impact and limited visibility as to the potential market recovery.

15. On March 20, 2020, the Republic of Colombia, consistent with what numerous other governments around the world have done, announced that it would close its airspace to address the spread of COVID-19. As a result of the restrictions imposed by the Colombian government, as well as similar measures in various other of the Debtors' primary markets, on March 24, 2020 the Debtors announced that they were suspending all scheduled passenger flights from March 25, 2020 until at least the end of April 2020; this situation has now been extended and is ongoing, and no date has been established for restart of flights.

16. Additional information regarding the Debtors' business, capital structure, and the circumstances leading to the commencement of these Chapter 11 Cases is set forth in the *Declaration of Adrian Neuhauser in Support of Chapter 11 Petitions and First Day Motions* (the "First Day Declaration"), which is being filed contemporaneously herewith and is incorporated by reference herein.

KCC'S QUALIFICATIONS

17. KCC is comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. KCC's professionals have experience in noticing, claims administration, solicitation, balloting, and facilitating other administrative aspects of chapter 11 cases, as well as experience on matters of this size and complexity. KCC's professionals have acted as debtors' administrative advisor and/or official

claims and noticing agent in many large bankruptcy cases in this district and in other districts nationwide, including: The McClatchy Company, Case No. 20-10418 (Bankr. S.D.N.Y. Feb. 13, 2020); In re The College of New Rochelle, Case No. 19-23694 (Bankr. S.D.N.Y. Sep. 20, 2019); In re Windstream Holdings, Inc., Case No. 19-22312 (Bankr. S.D.N.Y. Feb. 25, 2019); In re Waypoint Leasing Holdings Ltd., Case No. 18-13648 (Bankr. S.D.N.Y. Nov. 25, 2018); In re 21st Century Oncology Holdings, Inc., Case No. 17-22770 (Bankr. S.D.N.Y. May 26, 2017); In re Westinghouse Electric Company LLC, Case No. 17-10751 (Bankr. Mar. 30, 2017); In re Toisa Limited, Case No. 17-10184 (Bankr. S.D.N.Y. Jan. 29, 2017); In re AOG Entertainment, Inc., Case No. 16-11090 (Bankr. S.D.N.Y. May 2, 2016); In re MPM Silicones, LLC, Case No. 14-22503 (Bankr. S.D.N.Y. Apr. 13, 2014); In re Metro Affiliates, Inc., Case No. 13-13592 (Bankr. S.D.N.Y. Dec. 3, 2013); In re Flat Out Crazy, LLC, Case No. 13-22094 (Bankr. S.D.N.Y. Feb. 20, 2013); In re Broadview Networks Holdings, Inc., Case No. 12-13581 (Bankr. S.D.N.Y. Sept. 14, 2012); In re Sunco Liquidation, Inc. Case No. 17-10561 (Bankr. D. Del. Mar. 13, 2017); In re Aquion Energy, Inc., Case No. 17- 10500 (Bankr. D. Del. Mar. 8, 2017); In re Eastern Outfitters, LLC, Case No. 17-10243 (Bankr. D. Del. Feb. 5, 2017). KCC will follow procedures that conform to applicable guidelines promulgated by the Clerk of the Court and the Judicial Conference, and as may be entered by the Court's order.

SERVICES TO BE PROVIDED

18. This Application pertains only to the work to be performed by KCC under the Clerk's delegation of duties permitted by 28 U.S.C. § 156(c) and S.D.N.Y. LBR 5075-1, and any work to be performed by KCC outside of this scope is not covered by this Application or by any Order granting approval hereof. Specifically, KCC will perform the following tasks in its role as claims and noticing agent (the "Claims and Noticing Services"), as well as all quality control relating thereto:

- (a) Prepare and serve required notices and documents in these Chapter 11 Cases in accordance with the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) in the form and manner directed by the Debtors and/or the Court, including (i) notice of the commencement of these Chapter 11 Cases and the initial meeting of creditors under Bankruptcy Code § 341(a), (ii) notice of any claims bar date, (iii) notices of transfers of claims, (iv) notices of objections to claims and objections to transfers of claims, (v) notices of any hearings on a disclosure statement and confirmation of the Debtors’ plan or plans of reorganization, including under Bankruptcy Rule 3017(d), (vi) notice of the effective date of any plan, and (vii) all other notices, orders, pleadings, publications and other documents as the Debtors or Court may deem necessary or appropriate for an orderly administration of these Chapter 11 Cases;
- (b) Maintain an official copy of the Debtors’ schedules of assets and liabilities and statement of financial affairs (collectively, the “Schedules”), listing the Debtors’ known creditors and the amounts owed thereto;
- (c) Maintain (i) a list of all potential creditors, equity holders and other parties-in-interest; and (ii) a “core” mailing list consisting of all parties described in sections 2002(i), (j) and (k) of the Bankruptcy Code and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010; and update said lists and make said lists available upon request by a party-in-interest or the Clerk;
- (d) Furnish a notice to all potential creditors of the last date for the filing of proofs of claim and a form for the filing of a proof of claim, after such notice and form are approved by this Court, and notify said potential creditors of the existence, amount, and classification of their respective claims as set forth in the Schedules, which may be effected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;
- (e) Maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;
- (f) For *all* notices, motions, orders or other pleadings or documents served, prepare and file or caused to be filed with the Clerk an affidavit or certificate of service within seven (7) business days of service which includes (i) either a copy of the notice served or the docket numbers(s) and title(s) of the pleading(s) served, (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses, (iii) the manner of service, and (iv) the date served;

- (g) Process all proofs of claim received, including those received by the Clerk's Office, and check said processing for accuracy, and maintain the original proofs of claim in a secure area;
- (h) Provide an electronic interface for filing proofs of claim;
- (i) Maintain the official claims register for each Debtor (the "Claims Registers") on behalf of the Clerk on a case specific website; upon the Clerk's request, provide the Clerk with certified, duplicate unofficial Claims Registers; and specify in the Claims Registers the following information for each claim docketed: (i) the claim number assigned, (ii) the date received, (iii) the name and address of the claimant and agent, if applicable, who filed the claim, (iv) the amount asserted, (v) the asserted classification(s) of the claim (*e.g.*, secured, unsecured, priority, *etc.*), (vi) the applicable Debtor, and (vii) any disposition of the claim;
- (j) Provide public access to the Claims Registers, including complete proofs of claim with attachments, if any, without charge;
- (k) Implement necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;
- (l) Record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
- (m) Relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of KCC, not less than weekly;
- (n) Upon completion of the docketing process for all claims received to date for each case, turn over to the Clerk copies of the Claims Registers for the Clerk's review (upon the Clerk's request);
- (o) Monitor the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the Claims Registers and any service or mailing lists, including to identify and eliminate duplicative names and addresses from such lists;
- (p) Identify and correct any incomplete or incorrect addresses in any mailing or service lists;
- (q) Assist in the dissemination of information to the public and respond to requests for administrative information regarding the case as directed by the Debtors or the Court, including through the use of a case website and/or call center;

- (r) If the case is converted to a case under chapter 7 of the Bankruptcy Code, contact the Clerk's Office within three (3) days of the notice to KCC of entry of the order converting the case;
- (s) Thirty (30) days prior to the close of these Chapter 11 Cases, to the extent practicable, request that the Debtors submit to the Court a proposed Order dismissing KCC and terminating the services of such agent upon completion of its duties and responsibilities and upon the closing of these cases;
- (t) Within seven (7) days of notice to KCC of entry of an order closing these Chapter 11 Cases, provide to the Court the final version of the Claims Registers as of the date immediately before the close of the Chapter 11 Cases; and
- (u) At the close of these cases, box and transport all original documents, in proper format, as provided by the Clerk's Office, to (i) the Federal Archives Record Administration, located at Central Plains Region, 200 Space Center Drive, Lee's Summit, MO 64064 or (ii) any other location requested by the Clerk's Office.

19. The Claims Registers, if any, shall be open to the public for examination without charge on a case-specific website maintained by KCC.

PROFESSIONAL COMPENSATION

20. The Debtors respectfully request that the undisputed fees and expenses incurred by KCC in the performance of the above services be treated as administrative expenses of the Debtors' chapter 11 estates pursuant to 28 U.S.C. § 156(c) and 11 U.S.C. § 503(b)(1)(A), and be paid in the ordinary course of business without further application to or order of the Court. KCC agrees to maintain records of all services showing dates, categories of services, fees charged, and expenses incurred, and to serve monthly invoices on the Debtors, the office of the United States Trustee for the Southern District of New York, counsel for the Debtors, counsel for any official committee, if any, monitoring the expenses of the Debtors, and any party-in-interest who specifically requests service of the monthly invoices. If any dispute arises relating to the Services Agreement or

monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute; if resolution is not achieved, the parties may seek resolution of the matter from the Court.

21. Prior to the Petition Date, the Debtors provided KCC a retainer in the amount of \$65,000. KCC seeks to first apply the retainer to all pre-petition invoices, and thereafter, to have the retainer replenished to the original retainer amount, and thereafter, to hold the retainer under the Services Agreement during these Chapter 11 Cases as security for the payment of fees and expenses incurred under the Services Agreement.

KCC'S DISINTERESTEDNESS

22. Although the Debtors do not propose to employ KCC under section 327 of the Bankruptcy Code through this Application (such retention, if required, will be sought by separate application), KCC nonetheless has reviewed its electronic database to determine whether it has any relationships with the creditors and parties in interest provided by the Debtors, and, to the best of the Debtors' knowledge, information, and belief, and except as disclosed in the Jordan Declaration, KCC has represented that it neither holds nor represents any interest materially adverse to the Debtors' estates in connection with any matter on which it would be employed.

23. Moreover, in connection with its retention as claims and noticing agent, KCC represents in the Jordan Declaration, among other things, that:

- a. KCC is not a creditor of the Debtors;
- b. KCC does not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the claims and noticing agent in these Chapter 11 Cases;
- c. by accepting employment in these Chapter 11 Cases, KCC waives any rights to receive compensation from the United States government in connection with these Chapter 11 Cases;
- d. in its capacity as the claims and noticing agent in these Chapter 11 Cases, KCC will not be an agent of the United States and will not act on behalf of the United States;

- e. KCC will not employ any past or present employees of the Debtors in connection with its work as the claims and noticing agent in these Chapter 11 Cases;
- f. KCC is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code with respect to the matters upon which it is engaged;
- g. in its capacity as claims and noticing agent in these Chapter 11 Cases, KCC will not intentionally misrepresent any fact to any person;
- h. KCC shall be under the supervision and control of the Clerk’s Office with respect to the receipt and recordation of claims and claim transfers;
- i. KCC will comply with all requests of the Clerk’s Office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c); and
- j. none of the services provided by KCC as claims and noticing agent in these Chapter 11 Cases shall be at the expense of the Clerk’s Office.

24. KCC will supplement its disclosure to the Court if any facts or circumstances are discovered that would require such additional disclosure.

BASIS FOR RELIEF

25. Section 156(c) of title 28 of the United States Code, which governs the staffing and expenses of bankruptcy courts, and authorizes the Court to use “facilities” or “services” other than the Clerk’s Office for administration of bankruptcy cases, provides as follows:

Any court may utilize facilities or services, either on or off the court’s premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

28 U.S.C. § 156(c).

26. In addition, Local Bankruptcy Rule 5075-1(b) provides in pertinent part as follows:

The Court may permit, subject to the supervision of the Clerk, the use of services and agents to maintain Court records, issue notices, file certain documents, and maintain and disseminate other administrative information when the costs of such services and agents are paid for by the estate.

S.D.N.Y. L.B.R. 5075-1(b).

27. The Court has promulgated the Claims Agent Protocol “to ensure the use of competitive process in the selection of claims and noticing agents in instances where the Court has authorized such use under 28 U.S.C. § 156(c).” In compliance with the Claims Agent Protocol, the Debtors obtained and reviewed engagement proposals from three court-approved claims and noticing agents, including KCC. The Debtors provided each court-approved claims and noticing agent the basic facts about these Chapter 11 Cases and asked each agent to submit a written proposal based upon such facts. The Debtors then asked each agent case-specific pricing questions. Ultimately, the Debtors chose KCC as their claims and noticing agent based on its capability and favorable price terms.

28. Local Bankruptcy Rule 5075-1(b) requires the retention—pursuant to an order of the Court—of an approved claims and noticing agent in a case having 250 or more creditors and/or equity security holders. These Chapter 11 Cases are such a case.

29. Given the number of creditors and other parties in interest involved in these Chapter 11 Cases, the Debtors seek an order appointing KCC as the claims and noticing agent in these Chapter 11 Cases pursuant to 28 U.S.C. § 156(c), Local Bankruptcy Rule 5075-1, and the Claims Agent Protocol to relieve this Court and the Clerk’s Office of the administrative burdens associated with these cases.

NUNC PRO TUNC RELIEF IS APPROPRIATE

30. At the Debtors’ request, KCC has been serving in a claims and noticing agent capacity since prior to the Petition Date with assurances that the Debtors would seek approval of its employment and retention effective *nunc pro tunc* to the Petition Date, so that KCC may be compensated for its pre-application services in these Chapter 11 Cases. The Debtors believe that no party in interest will be prejudiced by the granting of the *nunc pro tunc* employment, as provided

herein, because KCC has provided and continues to provide valuable services to the Debtors' estates in the interim period.

31. Courts in this district have routinely approved *nunc pro tunc* employment for claims and noticing agents in a similar manner to that requested herein. See, e.g., In re Chassix Holdings, Inc., Case No. 15-10578 (MEW) (Bankr. S.D.N.Y. Apr. 20, 2015) (approving *nunc pro tunc* employment to perform bankruptcy administration services); In re dELiA*s, Inc., Case No. 14-23678 (RDD) (Bankr. S.D.N.Y. Feb. 10, 2015) (same); In re NII Holdings, Inc., Case No. 14-12611 (SCC) (Bankr. S.D.N.Y. Oct. 14, 2014) (same); In re MPM Silicones, LLC, Case No. 14-22503 (RDD) (Bankr. S.D.N.Y. May 16, 2014) (same); In re Sbarro LLC, Case No. 14-10557 (MG) (Bankr. S.D.N.Y. Apr. 7, 2014) (same).

32. This Application complies with the Claims Agent Protocol and conforms to the standard application in use in this Court.

33. To the extent there is any inconsistency between this Application, the Order, and the Services Agreement, the Order shall govern.

NOTICE

34. The Debtors will provide notice of this Motion to the following parties: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the forty (40) largest unsecured claims against the Debtors (on a consolidated basis); (c) the holders of the five (5) largest secured claims against the Debtors (on a consolidated basis); (d) the Internal Revenue Service; (e) the Securities and Exchange Commission; (f) the Federal Aviation Administration; and (g) any party that requests service pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

NO PRIOR REQUEST

35. No prior request for the relief sought in this Application has been made to this or any other court.

WHEREFORE, the Debtors respectfully request entry of an order, substantially in the form of the Proposed Order, authorizing KCC to serve as claims and noticing agent in these Chapter 11 Cases pursuant to 28 U.S.C. § 156(c), and granting such other relief as this Court deems just and proper.

Dated: New York, New York
May 10, 2020

MILBANK LLP

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*Proposed Counsel for Debtors and
Debtors-in-Possession*

EXHIBIT A

PROPOSED ORDER

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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:
In re: : Chapter 11
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AVIANCA HOLDINGS S.A., *et al.*,¹ : Case No. 20-11133 (MG)
:
Debtors. : (Joint Administration Requested)
:
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**ORDER AUTHORIZING RETENTION AND APPOINTMENT
OF KCC AS CLAIMS AND NOTICING AGENT UNDER 28 U.S.C. § 156(c),
11 U.S.C. § 105(a), AND S.D.N.Y. L.B.R. 5075-1 NUNC PRO TUNC
TO THE PETITION DATE AND GRANTING RELATED RELIEF**

Upon consideration of the application (the “Application”)² of the above-captioned debtors and debtors-in-possession (the “Debtors”), for entry of an order (this “Order”) authorizing the retention and appointment of Kurtzman Carson Consultants LLC (“KCC”) as claims and noticing agent under 28 U.S.C. § 156(c), section 105(a) of the Bankruptcy Code, and S.D.N.Y. LBR 5075-1 to, among other things, (i) distribute required notices to parties in interest; (ii) receive, maintain, docket, and otherwise administer the proofs of claim filed in the Debtors’ Chapter 11 Cases; and

¹ The Debtors in these chapter 11 cases, and each Debtor’s federal tax identification number (to the extent applicable), are as follows: Avianca Holdings S.A. (N/A); Aero Transporte de Carga Unión, S.A. de C.V. (N/A); AeroInversiones de Honduras, S.A. (N/A); Aerovías del Continente Americano S.A. Avianca (N/A); Airlease Holdings One Ltd. (N/A); America Central (Canada) Corp. (00-1071563); America Central Corp. (65-0444665); AV International Holdco S.A. (N/A); AV International Holdings S.A. (N/A); AV International Investments S.A. (N/A); AV International Ventures S.A. (N/A); AV Investments One Colombia S.A.S. (N/A); AV Investments Two Colombia S.A.S. (N/A); AV Taca International Holdco S.A. (N/A); Avianca Costa Rica S.A. (N/A); Avianca Leasing, LLC (47-2628716); Avianca, Inc. (13-1868573); Avianca-Ecuador S.A. (N/A); Aviaservicios, S.A. (N/A); Aviateca, S.A. (N/A); Avifreight Holding Mexico, S.A.P.I. de C.V. (N/A); C.R. Int’l Enterprises, Inc. (59-2240957); Grupo Taca Holdings Limited (N/A); International Trade Marks Agency Inc. (N/A); Inversiones del Caribe, S.A. (N/A); Isleña de Inversiones, S.A. de C.V. (N/A); Latin Airways Corp. (N/A); Latin Logistics, LLC (41-2187926); Nicaraguense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aereo y Rampa S.A. (N/A); Servicios Aeroportuarios Integrados SAI S.A.S. (92-4006439); Taca de Honduras, S.A. de C.V. (N/A); Taca de México, S.A. (N/A); Taca International Airlines S.A. (N/A); Taca S.A. (N/A); Tampa Cargo S.A.S. (N/A); Technical and Training Services, S.A. de C.V. (N/A). The Debtors’ principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

(iii) provide such other administrative services—as required by the Debtors—that would fall within the purview of services to be provided by the Clerk’s Office; and upon the Jordan Declaration submitted in support of the Application; and the Debtors having estimated that there are in excess of a thousand creditors in these Chapter 11 Cases, many of which are expected to file proofs of claim, and it appearing that the receiving, docketing and maintaining of proofs of claim would be unduly time consuming and burdensome for the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtors’ expense, outside agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied that KCC has the capability and experience to provide such services and that KCC does not hold an interest adverse to the Debtors or the estates respecting the matters upon which it is to be engaged; and good and sufficient notice of the Application having been given; and no other or further notice being required; and it appearing that the employment of a claims and noticing agent is in the best interest of the Debtors, their estates and creditors; and sufficient cause appearing therefor; it is hereby

ORDERED that the Application is approved solely as set forth in this Order; and it is further

ORDERED that the Debtors are authorized to retain KCC effective *nunc pro tunc* to the Petition Date under the terms of the Services Agreement, and KCC is authorized and directed to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in these Chapter 11 Cases, and all related tasks, as described in the Application and as modified herein, by the Bankruptcy Rules or other orders of this Court; and it is further

ORDERED that should KCC agree, upon the Debtors' request, to provide additional service not set forth in the Application, KCC shall file a notice on the docket detailing such additional services; and it is further

ORDERED that KCC shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these Chapter 11 Cases and is authorized and directed to maintain official claims registers for each of the Debtors, to provide public access to every proof of claim unless otherwise ordered by the Court and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk; and it is further

ORDERED that KCC is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim; and it is further

ORDERED that KCC is authorized to take such other action to comply with all duties set forth in the Application; and it is further

ORDERED that the Debtors are authorized to compensate KCC in accordance with the terms of the Services Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and to reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for KCC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses; and it is further

ORDERED that prior to any increase in KCC's billing rates, KCC shall file an affidavit with the Court and provide ten business days' notice to the Debtors, the United States Trustee and any official committee, which supplemental affidavit shall explain the basis for the requested rate increase and state whether the Debtors have consented to such rate increase. The United States

Trustee retains all rights to object to any rate increase and all rates and rate increases are subject to review by the Court.

ORDERED that KCC shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtors, the office of the United States Trustee, counsel for the Debtors, counsel for any official committee, if any, and any party-in-interest who specifically requests service of the monthly invoices; and it is further

ORDERED that the parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Services Agreement or monthly invoices, and that the parties may seek resolution of the matter from the Court if resolution is not achieved; and it is further

ORDERED that, pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC under this Order shall be an administrative expense of the Debtors' estates; and it is further

ORDERED that KCC may apply its retainer to all pre-petition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, KCC may hold its retainer under the Services Agreement during these Chapter 11 Cases as security for the payment of fees and expenses incurred under the Services Agreement; and it is further

ORDERED that the Debtors shall indemnify KCC under the terms of the Services Agreement; and it is further

ORDERED that to the extent applicable in the Services Agreement, all requests by KCC for the payment of indemnification or attorney fees shall be made by means of an application to the Court and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Services Agreement and is reasonable under the circumstances of the

litigation or settlement in respect of which indemnity is sought, *provided, however*, that in no event shall KCC be indemnified in the case of its own bad-faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct; and it is further

ORDERED that in the event KCC is unable to provide the services set out in this order, KCC will immediately notify the Clerk and Debtors' attorney and cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and Debtors' attorney; and it is further

ORDERED that the Debtors may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any applicable law, for services that are to be performed by KCC that are not specifically authorized by this Order; and it is further

ORDERED that the Debtors and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application; and it is further

ORDERED that, notwithstanding any term in the Services Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order; and it is further

ORDERED that KCC shall not cease providing claims processing services during the chapter 11 case(s) for any reason, including nonpayment, without an order of the Court; and it is further

ORDERED that in the event of any inconsistency between the Services Agreement, the Application and the Order, the Order shall govern.

Dated: May _____, 2020
New York, New York

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

JORDAN DECLARATION

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re: : Chapter 11
: :
AVIANCA HOLDINGS S.A., *et al.*,¹ : Case No. 20-11133 (MG)
: :
Debtors. : (Joint Administration Requested)
: :
-----X

**DECLARATION OF ROBERT JORDAN IN SUPPORT OF DEBTORS' APPLICATION
FOR ENTRY OF AN ORDER APPOINTING KURTZMAN CARSON CONSULTANTS
LLC AS CLAIMS AND NOTICING AGENT FOR THE DEBTORS PURSUANT
TO 28 U.S.C. § 156(c), 11 U.S.C. § 105(a), AND S.D.N.Y. L.B.R 5075-1
NUNC PRO TUNC TO THE PETITION DATE**

I, Robert Jordan, under penalty of perjury, declare as follows:

1. I am a Managing Director of Kurtzman Carson Consultants LLC ("KCC"), a chapter 11 administrative services firm, whose offices are located at 1120 Avenue of the Americas, 4th Floor, New York, New York 10036. Except as otherwise noted, I have personal knowledge of the matters set forth herein and, if called and sworn as a witness, I could and would testify competently thereto.

¹ The Debtors in these chapter 11 cases, and each Debtor's federal tax identification number (to the extent applicable), are as follows: Avianca Holdings S.A. (N/A); Aero Transporte de Carga Unión, S.A. de C.V. (N/A); Aeroinversiones de Honduras, S.A. (N/A); Aerovías del Continente Americano S.A. Avianca (N/A); Airlease Holdings One Ltd. (N/A); America Central (Canada) Corp. (00-1071563); America Central Corp. (65-0444665); AV International Holdco S.A. (N/A); AV International Holdings S.A. (N/A); AV International Investments S.A. (N/A); AV International Ventures S.A. (N/A); AV Investments One Colombia S.A.S. (N/A); AV Investments Two Colombia S.A.S. (N/A); AV Taca International Holdco S.A. (N/A); Avianca Costa Rica S.A. (N/A); Avianca Leasing, LLC (47-2628716); Avianca, Inc. (13-1868573); Avianca-Ecuador S.A. (N/A); Aviaservicios, S.A. (N/A); Aviateca, S.A. (N/A); Avifreight Holding Mexico, S.A.P.I. de C.V. (N/A); C.R. Int'l Enterprises, Inc. (59-2240957); Grupo Taca Holdings Limited (N/A); International Trade Marks Agency Inc. (N/A); Inversiones del Caribe, S.A. (N/A); Isleña de Inversiones, S.A. de C.V. (N/A); Latin Airways Corp. (N/A); Latin Logistics, LLC (41-2187926); Nicaraguense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aereo y Rampa S.A. (N/A); Servicios Aeroportuarios Integrados SAI S.A.S. (92-4006439); Taca de Honduras, S.A. de C.V. (N/A); Taca de México, S.A. (N/A); Taca International Airlines S.A. (N/A); Taca S.A. (N/A); Tampa Cargo S.A.S. (N/A); Technical and Training Services, S.A. de C.V. (N/A). The Debtors' principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.

2. I submit this declaration in support of the *Debtors' Application for An Order Appointing Kurtzman Carson Consultants LLC as Claims and Noticing Agent for the Debtors Pursuant to 28 U.S.C. §156(c), 11 U.S.C. §105(a), and S.D.N.Y LBR 5075-1 Nunc Pro Tunc to the Petition Date* for the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"), which was filed contemporaneously herewith (the "Application").²

3. KCC is composed of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. KCC's professionals have experience in noticing, claims administration, solicitation, balloting, and facilitating other administrative aspects of chapter 11 cases, and have experience in matters of this size and complexity. KCC's professionals have acted as debtors' administrative advisor and/or official claims and noticing agent in many large bankruptcy cases in this district and in other districts nationwide, including: The McClatchy Company, Case No. 20-10418 (Bankr. S.D.N.Y. Feb. 13, 2020); In re The College of New Rochelle, Case No. 19-23694 (Bankr. S.D.N.Y. Sep. 20, 2019); In re Windstream Holdings, Inc., Case No. 19-22312 (Bankr. S.D.N.Y. Feb. 25, 2019); In re Waypoint Leasing Holdings Ltd., Case No. 18-13648 (Bankr. S.D.N.Y. Nov. 25, 2018); In re 21st Century Oncology Holdings, Inc., Case No. 17-22770 (Bankr. S.D.N.Y. May 26, 2017); In re Westinghouse Electric Company LLC, Case No. 17-10751 (Bankr. Mar. 30, 2017); In re Toisa Limited, Case No. 17-10184 (Bankr. S.D.N.Y. Jan. 29, 2017); In re AOG Entertainment, Inc., Case No. 16-11090 (Bankr. S.D.N.Y. May 2, 2016); In re MPM Silicones, LLC, Case No. 14-22503 (Bankr. S.D.N.Y. Apr. 13, 2014); In re Metro Affiliates, Inc., Case No. 13-13592 (Bankr. S.D.N.Y. Dec. 3, 2013); In re Flat Out Crazy, LLC, Case No. 13-22094 (Bankr. S.D.N.Y. Feb. 20, 2013); In re Broadview Networks Holdings, Inc., Case No. 12-13581 (Bankr. S.D.N.Y. Sept. 14,

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

2012); In re Sunco Liquidation, Inc., Case No. 17-10561 (Bankr. D. Del. Mar. 13, 2017); In re Aquion Energy, Inc., Case No. 17- 10500 (Bankr. D. Del. Mar. 8, 2017); In re Eastern Outfitters, LLC, Case No. 17-10243 (Bankr. D. Del. Feb. 5, 2017).

4. As agent and custodian of Court records pursuant to 28 U.S.C. § 156(c), KCC will perform, at the request of the Office of the Clerk of the Bankruptcy Court (the “Clerk’s Office”), the services specified in the Application and the Services Agreement, and, at the Debtors’ request, any related administrative, technical, and support services as specified in the Application and the Services Agreement. In performing such services, KCC will charge the Debtors the rates set forth in the Services Agreement, which is attached as Exhibit C to the Application.

5. KCC represents, among other things, the following:

- a. KCC is not a creditor of the Debtors;
- b. KCC does not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the claims and noticing agent in these Chapter 11 Cases;
- c. by accepting employment in these Chapter 11 Cases, KCC waives any rights to receive compensation from the United States government in connection with these Chapter 11 Cases;
- d. in its capacity as the claims and noticing agent in these Chapter 11 Cases, KCC will not be an agent of the United States and will not act on behalf of the United States;
- e. KCC will not employ any past or present employees of the Debtors in connection with its work as the claims and noticing agent in these Chapter 11 Cases;
- f. KCC is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code with respect to the matters upon which it is engaged;
- g. in its capacity as claims and noticing agent in these Chapter 11 Cases, KCC will not intentionally misrepresent any fact to any person;
- h. KCC shall be under the supervision and control of the Clerk’s Office with respect to the receipt and recordation of claims and claim transfers;

- i. KCC will comply with all requests of the Clerk's Office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c); and
- j. none of the services provided by KCC as claims and noticing agent in these Chapter 11 Cases shall be at the expense of the Clerk's Office.

6. To the best of my knowledge, and based solely upon information provided to me by the Debtors, and except as provided herein, neither KCC, nor any employee thereof, has any materially adverse connection to the Debtors, their creditors, or other relevant parties. KCC may have relationships with certain of the Debtors' creditors as a vendor or in connection with cases in which KCC serves or has served in a neutral capacity as noticing, claims, and balloting agent for another chapter 11 debtor.

7. KCC personnel may have relationships with some of the Debtors' creditors or other parties-in-interest. However, to the best of my knowledge, such relationships, to the extent they exist, are of a personal nature and completely unrelated to these Chapter 11 Cases. KCC has and will continue to represent clients in matters unrelated to these Chapter 11 Cases. In addition, KCC has had and will continue to have relationships in the ordinary course of its business with certain vendors, professionals, and other parties-in-interest that may be involved in the Debtors' cases in matters unrelated to these cases. KCC may also provide professional services to entities or persons that may be creditors or parties-in-interest in these Chapter 11 Cases, which services do not directly relate to, or have any direct connection with, these Chapter 11 Cases or the Debtors. To the best of my knowledge, neither KCC, nor any employees thereof, represents any interest materially adverse to the Debtors' estates with respect to any matter upon which KCC is to be engaged.

8. KCC is an indirect subsidiary of Computershare Limited ("Computershare"). Computershare is a financial services and technologies provider for the global securities industry and is the transfer agent for Blackrock, Inc., a significant equityholder of the Debtors. Within the

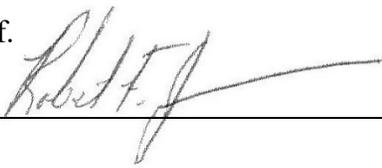
Computershare corporate structure, KCC operates as a separate, segregated business unit. As such, and in light of the administrative nature of the services to be performed by KCC, any relationships that Computershare and its affiliates, or Blackrock, Inc. and its affiliates, maintain do not create an interest of KCC that would be materially adverse to the Debtors' estate or any class of creditors or equity security holders.

9. Although the Debtors do not propose to retain KCC under section 327 of the Bankruptcy Code (such retention will be sought by separate application), KCC has nonetheless reviewed its electronic database to determine whether it has any relationships with the entities provided by the Debtors. At this time, we are not aware of any relationship which would present a disqualifying conflict of interest. Should KCC discover any new relevant facts or relationships bearing on the matters described herein during the period of its retention, KCC will use reasonable efforts to promptly file a supplemental declaration. KCC will also comply with all requests of the Clerk's Office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c).

10. Based on the foregoing, I believe that KCC is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
and correct to the best of my information, knowledge and belief.

New York, New York
Dated: 5/10/2020



Robert Jordan
Managing Director
Kurtzman Carson Consultants LLC

EXHIBIT C

SERVICES AGREEMENT