

Kenric D. Kattner
State Bar No. 11108400
Kourtney Lyda
State Bar No. 24013330
HAYNES AND BOONE, LLP
1221 McKinney Street, Suite 2100
Houston, TX 77010
Telephone: 713.547.2000
Facsimile: 713.547.2600
Email: kenric.kattner@haynesboone.com
Email: kourtney.lyda@haynesboone.com

Ian T. Peck
State Bar No. 24013306
David Staab
State Bar No. 24093194
HAYNES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: ian.peck@haynesboone.com
Email: david.staab@haynesboone.com

PROPOSED ATTORNEYS FOR DEBTORS

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: § **Chapter 11**
§
ERICKSON INCORPORATED, et al.,¹ § **Case No. 16-34393-hdh**
§
Debtors. § **(Joint Administration Requested)**

DEBTORS’ EMERGENCY MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO PAY CERTAIN PREPETITION TAXES AND ASSESSMENTS AND (II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS PURSUANT TO SECTIONS 105(a), 363(b), 507(a)(8), AND 541(d) OF THE BANKRUPTCY CODE

Erickson Incorporated and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), file this *Debtors’ Emergency Motion for Entry of Interim and Final Orders (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Assessments and (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers Pursuant to Sections 105(a), 363(b), 507(a)(8), and 541(d) of the Bankruptcy Code* (the “**Motion**”), and respectfully represent:

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Erickson Incorporated (7561); EAC Acquisition Corporation (3733); Erickson Helicopters, Inc. (5052); Erickson Transport, Inc. (9162); Evergreen Helicopters International, Inc. (1311); Evergreen Equity, Inc. (9209); and Evergreen Unmanned Systems, Inc. (3961). The location of the Debtors’ service address is 5550 SW Macadam Avenue, Suite 200, Portland, OR 97239.



Jurisdiction and Venue

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

Background

2. The Debtors, together with their non-debtor affiliates (collectively, “**Erickson**”), are a vertically-integrated manufacturer and operator of the powerful heavy-lift Erickson S-64 Aircrane helicopter (the “**Aircrane**”), and are a leading global provider of aviation services. Erickson currently possesses a diverse fleet of 69 rotary-wing and fixed-wing aircraft that support a variety of government and civil customers worldwide. These customers rely on Erickson for a broad range of aerial services, including critical supply and logistics for deployed military forces, humanitarian relief, firefighting, timber harvesting, infrastructure construction, and crewing.

3. Included among Erickson’s fleet are 20 Aircranes, for which Erickson owns the Type and Production Certificates. Erickson manufactures the Aircranes and related components for sale to government and commercial customers. Erickson also provides aftermarket support and maintenance, repair, and overhaul services for the Aircranes and other aircraft.

4. To facilitate a further restructuring of the Debtors’ businesses, on the date hereof (the “**Petition Date**”), each of the Debtors commenced cases (the “**Chapter 11 Cases**”) under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). 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. Concurrently with the filing of the Motion, the Debtors have requested procedural consolidation and joint administration of the Chapter 11

Cases. No request for the appointment of a trustee or examiner has been made in the Chapter 11 Cases, and no committees have been appointed or designated.

5. Additional information about Erickson's businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases can be found in the *Declaration of David Lancelot in Support of the Debtors' Chapter 11 Petitions and Request for First Day Motions* (the "**Lancelot Declaration**"), filed concurrently herewith.

Relief Requested

6. The Debtors request, pursuant to sections 105(a), 363(b), 507(a)(8), and 541(d) of the Bankruptcy Code and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), (i) the authority, but not direction, to pay certain pre-petition Taxes² (as defined below) due and owing to various taxing authorities and governmental regulatory bodies (collectively, the "**Taxing Authorities**"), including any Taxes determined owing postpetition for the period prior to the Petition Date, and (ii) that the Court authorize applicable banks and financial institutions (collectively, the "**Banks**") to receive, honor, process, and pay all checks issued or to be issued and electronic funds transfers requested or to be requested relating to the above.

7. A proposed form of order approving the relief requested herein on an interim basis is annexed hereto as **Exhibit A** (the "**Interim Order**") and, pending a final hearing on the Motion (the "**Final Hearing**"), on a final basis as **Exhibit B** (the "**Final Order**"). A non-

² By this Motion, the Debtors are not seeking authority to pay employee withholding taxes, income taxes, healthcare taxes, contribution taxes, and payroll taxes, which are addressed separately in the *Debtors' Emergency Motion for Order (I) Authorizing Debtors to Pay Certain Prepetition (A) Employee Wages, Other Compensation and Reimbursable Employee Expenses and (B) Independent Contractor Obligations; (II) Continuing Employee Benefits Programs; (III) Modifying the Automatic Stay with Respect to Workers' Compensation Claims; and (IV) Authorizing Financial Institutions to Honor and Process Checks and Transfers Related to Such Obligations Pursuant to Sections 105(a), 363(a), and 507(a) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004*, filed contemporaneously herewith.

exclusive list of the Taxing Authorities is annexed as **Exhibit 1** (the “**Taxing Authorities List**”) to the proposed Interim Order and Final Order. Although the Taxing Authorities List is substantially complete, the relief requested herein is to be applicable with respect to all Taxing Authorities and is not limited to those Taxing Authorities listed on the Taxing Authorities List.

The Debtors’ Prepetition Taxes

8. In the ordinary course of their businesses, the Debtors collect, remit, withhold, and pay, among other taxes, certain use, withholding tax for U.S. Source Income of foreign persons, excise, property, and foreign taxes, and also incur certain regulatory assessments and other charges.

A. Use Taxes

9. The Debtors self-assess use taxes (the “**Use Taxes**”) on some supplies and parts imported into certain jurisdictions as well as on certain asset purchases. The Debtors then remit such Use Taxes to the applicable Taxing Authorities according to the requirements and timing imposed by such authorities. The timing and frequency of remittance and payment of the Use Taxes differs depending on the taxing jurisdiction. The Debtors estimate that they owe approximately \$20,000 in Use Taxes relating to periods prior to the Petition Date.

B. Withholding Tax for U.S. Source Income of Foreign Persons (NRA Withholding)

10. Generally, a foreign person (which includes a foreign corporation) is subject to U.S. tax on its U.S. source income. Most types of U.S. source income received by a foreign person are subject to U.S. tax of 30%. A reduced rate, including exemption, may apply if an Internal Revenue Code Section provides for a lower rate, or there is a tax treaty between the foreign person's country of residence and the United States. The tax is generally withheld (NRA withholding) from the payment made to the foreign person.

11. Erickson Helicopters, Inc. leases helicopters used in Alaska from a Canadian lessor, Eagle Copters. Eagle Copters is not exempt from withholding. Thus, the Debtors withhold 10% from each lease payment, whether fixed or variable, and are required to remit such withholdings to the Internal Revenue Service (the “**NRA Withholding**”). The Debtors estimate that they owe approximately \$20,600 in for NRA Withholding relating to periods prior to the Petition Date, with an additional amount of \$13,700 expected to become due in the next thirty (30) days.

C. Excise Taxes

12. The Debtors report federal excise taxes on a quarterly basis and make monthly deposits of approximately \$3,600. These excise taxes are related to passenger and freight services that the Debtors provide in Alaska. The Debtors next monthly deposit is due in November, 2016, and the Debtors request authority to pay such amount.

D. Property Taxes

13. The Debtors own or lease certain real and personal properties in domestic and non-U.S. jurisdictions that are subject to local property taxes (the “**Property Taxes**”). The Debtors pay Property Tax in numerous locations, including, but not limited to, City of Nome, AK; Jackson County, OR; Multnomah County, OR; Municipality of Anchorage, AK; and North Slope Borough, AK. The Property Taxes are generally assessed in estimated amounts once per year. The Debtors estimate that they owe approximately \$320,000 in Property Taxes relating to periods prior to the Petition Date, which the Debtors believe is due and payable in the next thirty (30) days.

E. Regulatory Assessments and Other Miscellaneous Payments

14. The Debtors incur, in the ordinary course of business, certain domestic and foreign regulatory assessments, permitting fees, licensing and registration fees, franchise taxes, levies,

and other miscellaneous obligations (collectively, the “**Regulatory Assessments**” and, collectively with the Sales Taxes, and the Property Taxes, the “**Taxes**”) to governmental regulatory bodies (the “**Regulatory Bodies**”). The continued payment of these Regulatory Assessments, including any amounts due and owing on account of prepetition Regulatory Assessments, is necessary to satisfy business licensing requirements to conduct business in various jurisdictions. The Debtors estimate that they owe approximately \$80,000 in Regulatory Assessments relating to the period prior to the Petition Date, which the Debtors believe is due and payable in the next thirty (30) days.

F. Estimate of Total Prepetition Taxes

15. In summary, as of the Petition Date, the Debtors estimate that approximately \$20,000 in Use Taxes, \$20,600 in NRA Withholding, \$320,000 in Property Taxes, and \$80,000 in Regulatory Assessments are due and owing to the Taxing Authorities and Regulatory Bodies relating to periods prior to the Petition Date, as well as certain additional amounts that will become due and owing within (30) days.

16. The amounts of the Taxes listed above are good faith estimates based on the Debtors’ books and records and remain subject to potential audits and other adjustments. As such, the Debtors also seek authorization to pay any prepetition Taxes due and owing following audit and review.

Basis for Relief Requested

17. Ample cause exists to authorize the payment of the prepetition Taxes, including, among other things, that (i) the failure to pay the prepetition Taxes may interfere with the Debtors’ continued operations and successful reorganization efforts; (ii) funds representing certain of the unremitted prepetition Taxes may not be property of the Debtors’ estates; (iii) the failure to pay prepetition Property Taxes may increase the scope of secured and priority claims

held by the applicable Taxing Authorities against the Debtors' estates; (iv) the payment of prepetition Taxes affects only the timing of payments as most, if not all, of the Taxes are afforded priority or secured status under the Bankruptcy Code; and (v) the Court has authority to grant the requested relief under Sections 105(a) and 363(b) of the Bankruptcy Code, and payment of the prepetition Taxes is a valid exercise of the Debtors' fiduciary duties pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

A. Failure to Pay the Prepetition Taxes May Interfere with the Debtors' Continued Operations and Successful Reorganization Efforts

18. The Debtors seek to obtain authority to pay the prepetition Taxes to ensure continued uninterrupted operation of their business. Nonpayment of these obligations may cause Taxing Authorities to take precipitous action, including, but not limited to, asserting liens, preventing the Debtors from conducting business in the applicable jurisdictions, or seeking to lift the automatic stay, which would disrupt the Debtors' day-to-day operations and could potentially impose significant costs on the Debtors' estates. Failure to satisfy the prepetition Taxes may jeopardize the Debtors' maintenance of good standing to operate in the jurisdictions in which they do business.

19. To the extent that any prepetition Taxes remain unpaid by the Debtors, certain of the Debtors' officers and directors may be subject to lawsuits or criminal prosecution during the pendency of these Chapter 11 Cases. The dedicated and active participation of the Debtors' directors, officers and other employees is not only integral to the Debtors' continued, uninterrupted operations, but also essential to the orderly administration of these Chapter 11 Cases. The threat of a lawsuit or criminal prosecution, and any ensuing liability, would distract the Debtors and their personnel from important tasks, to the detriment of all parties in interest.

20. Further, with respect to certain taxes and assessments, foreign governmental authorities may consider themselves beyond the jurisdiction of this Court or disregard the automatic stay imposed pursuant to Section 362 of the Bankruptcy Code. Foreign governmental authorities that believe the automatic stay does not govern their actions may exercise self-help (if permitted under local law), which may include, among other things, taking control of the Debtors' businesses to sell them at auction – a risk that is heightened by the fact that many of the Debtors' assets are located outside of the United States. Accordingly, the Debtors submit that the proposed relief is in the best interests of the Debtors' estates.³

B. Certain of the Prepetition Taxes May Not Be Property of the Debtors' Estates

21. The Debtors submit that funds representing some of the prepetition Taxes, including the Sales Taxes and certain value-added, goods and services, and withholding taxes, may constitute “trust fund” taxes, which the Debtors are required to collect and/or hold in trust for payment to the Taxing Authorities. Section 541(d) of the Bankruptcy Code provides, in relevant part:

Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate . . . only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

11 U.S.C. § 541(d).

22. To the extent the Debtors have collected or hold taxes in trust for payment to the Taxing Authorities, such funds may not constitute property of the Debtors' estates. *See, e.g., Begier v. IRS*, 496 U.S. 53, 60-62 (1990) (holding that excise and withholding taxes are property

³ Notwithstanding the self-executing and global nature of the automatic stay, not all parties affected or potentially affected by the commencement of these Chapter 11 Cases are aware of its significance and impact. As a result, in an exercise of prudence, the Debtors are seeking an order enforcing the automatic stay in the *Motion of Debtors for Entry of Order Enforcing the Protections of Sections 362, 365, 525, and 541(c) of the Bankruptcy Code Pursuant to Section 105 of the Bankruptcy Code*, filed contemporaneously herewith.

held by a debtor in trust for another and, as such, are not property of the debtor's estate); *Al Copeland Enters., Inc. v. Texas*, 991 F.2d 233, 235 (5th Cir. 1993) (stating that a debtor holds state sales tax revenues in trust for the state); *In re Equalnet Commc'ns Corp.*, 258 B.R. 368, 370 (Bankr. S.D. Tex. 2000) (“[C]ertain prepetition tax claims, such as sales taxes, could be trust fund claims.”); *Tex. Comptroller of Pub. Accts. v. Megafoods Stores, Inc. (In re Megafoods Stores, Inc.)*, 163 F.3d 1063, 1067-68 (9th Cir. 1998) (under Texas law, state sales taxes collected created statutory trust fund, if traceable, and were not property of the estate). The Debtors, therefore, generally do not have an equitable interest in such funds, and they should be permitted to pay those funds to the Taxing Authorities as they become due.

C. Failure to Pay Prepetition Taxes May Increase the Scope of Secured and Priority Claims Held by the Taxing Authorities

23. The Debtors' failure to pay certain Taxes may increase the amount of secured claims held by Taxing Authorities against the Debtors' estates, as Taxing Authorities may assert liens against any real and personal property for which these Taxes are due and owing. Furthermore, the postpetition creation and perfection of certain of these liens may not be subject to the automatic stay. *See* 11 U.S.C. §§ 362(b)(3), (18). Thus, nonpayment of certain Taxes may inadvertently allow the creation and perfection of additional liens on the Debtors' assets during these Chapter 11 Cases.

24. Moreover, to the extent the Taxing Authorities hold oversecured claims, if the prepetition Taxes are not paid, postpetition interest, fees, penalties and other charges may accrue. *See* 11 U.S.C. § 506(b); *United States v. Ron Pair Enters., Inc.*, 489 U.S. 235, 241-43 (1989) (holding that nonconsensual lienholders may receive interest on their claims under Section 506(b) of the Bankruptcy Code). Even if these Taxes are not treated as secured claims, they may still, as discussed below, be entitled to priority treatment pursuant to the Bankruptcy Code — as may any

penalties assessed by the applicable Taxing Authorities on delinquent taxes owed by the Debtors. *See* 11 U.S.C. § 507(a)(8). The Debtors' failure to pay the prepetition Taxes may increase the amount of the secured or priority claims held by the Taxing Authorities against the Debtors' estates.

25. Paying the prepetition Taxes now will avoid the imposition of liens and the accrual of interest charges and unnecessary fees and penalties on such claims, thereby preserving the value of the Debtors' estates and maximizing the distribution available for other creditors. Therefore, the Court should authorize the Debtors to pay prepetition Taxes because payment will benefit the estates' creditors and other parties in interest.

D. Paying the Prepetition Taxes Will Affect Only the Timing of Payments

26. Moreover, most, if not all, of the Taxes described herein are afforded priority status pursuant to Section 507(a)(8) of the Bankruptcy Code. *See* 11 U.S.C. § 507(a)(8)(A). Courts have authorized early payment of priority claims when such early payment is intended to prevent some harm or to procure some benefit for the estate. *See, e.g., In re CEI Roofing, Inc.*, 315 B.R. 50, 60-61 (Bankr. N.D. Tex. 2004) (finding that authorization of early payment of priority claims does not trigger concerns of either upsetting priority scheme of Bankruptcy Code or of unfair discrimination); *In re CoServ, L.L.C.*, 273 B.R. 487, 493 (Bankr. N.D. Tex. 2002) (implying that bankruptcy court may authorize early payment of prepetition priority claims in instances where nonpayment could impair debtor's ability to operate); *Equalnet Commc'ns Corp.*, 258 B.R. 368, 370 (Bankr. S.D. Tex. 2000) (stating that court may authorize pre-plan payment of priority claims, because "the need to pay these claims in an ordinary course of business time frame is simple common sense").

27. To the extent the prepetition Taxes are priority claims, they must be paid in full before any general unsecured obligations of the Debtors may be satisfied. The Debtors submit

that sufficient assets exist to pay certain of the prepetition Taxes. Accordingly, the proposed relief will affect only the timing of payment of the prepetition Taxes and will not prejudice the rights of any general unsecured creditor or other party in interest. The Court, therefore, should grant the Debtors authority to pay the prepetition Taxes in the ordinary course.

E. The Court has Authority to Grant the Requested Relief Under Sections 363(b) and 105(a) of the Bankruptcy Code and Payment of Prepetition Taxes is a Valid Exercise of the Debtors' Fiduciary Duties Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code

28. The Court may grant the relief requested herein pursuant to the Bankruptcy Code. Section 363(b) provides, in pertinent part, that “[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Courts have long recognized that, where a sound business justification can be articulated, payment of prepetition claims under Section 363(b) of the Bankruptcy Code is permitted. *See In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (holding that Section 363(b) gives a bankruptcy court “broad flexibility” to authorize a debtor to expend funds on account of prepetition claims if there is “some business justification” to justify payment).

29. The Court also may grant the requested relief pursuant to its equitable powers under Section 105(a) of the Bankruptcy Code, which provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Courts generally recognize that payments to prepetition creditors are appropriate pursuant to Section 105(a) of the Bankruptcy Code under the “doctrine of necessity” or the “necessity of payment” rule, where such payments are necessary to the continued operation of the debtor’s business. *See, e.g., In re CoServ, L.L.C.*, 273 B.R. 487, 487 (Bankr. N.D. Tex. 2002) (“[I]t is only logical that the bankruptcy court be able to use § 105(a) of the Bankruptcy

Code to authorize satisfaction of the prepetition claim in aid of preservation or enhancement of the estate.”); *see also In re Matter of Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that a court may authorize payment of prepetition claims if such payment is essential to the continued operation of the debtor). Indeed, a bankruptcy court’s use of its equitable powers under the “doctrine of necessity” to “authorize the payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept.” *In re Ionosphere Clubs, Inc.*, 98 B.R. at 175. The United States Supreme Court first articulated the equitable common law principle commonly referred to as the “doctrine of necessity” over 130 years ago in *Miltenberger v. Logansport, C. & S.W.R. Co.*, 106 U.S. 286 (1882). Courts today continue to recognize that the rationale for the “doctrine of necessity” is consistent with the “paramount goal” of chapter 11: “facilitating the continued operation and rehabilitation of the debtor.” *In re Ionosphere Clubs, Inc.*, 98 B.R. at 176.

30. In addition, pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, debtors in possession are fiduciaries “holding the bankruptcy estate and operating the business for the benefit of creditors” *In re CoServ*, 273 B.R. at 497. Implicit in the duties of a chapter 11 debtor in possession is the duty “to protect and preserve the estate, including an operating business’s going-concern value.” *Id.* Courts have noted that there are instances in which a debtor in possession can fulfill its fiduciary duty “only . . . by the preplan satisfaction of a prepetition claim.” *Id.*; *see also In re Mirant Corp.*, 296 B.R. 427, 429-30 (Bankr. N.D. Tex. 2003) (allowing debtors to pay claims “reasonably believe[d]” to be authorized under the *CoServ* test or whose payment was necessary “in the exercise of their business judgment . . . in order for [the d]ebtors to continue their respective businesses”). This Court in *CoServ* noted that preplan satisfaction of prepetition claims would be a valid exercise of a debtor’s fiduciary duty when the payment “is

the only means to effect a substantial enhancement of the estate.” *In re CoServ*, 273 B.R. at 497.

The court provided a three-pronged test for determining whether a preplan payment on account of a prepetition claim was a valid exercise of a debtor’s fiduciary duty:

First, it must be critical that the debtor deal with the claimant. Second, unless it deals with the claimant, the debtor risks the probability of harm, or, alternatively, loss of economic advantage to the estate or the debtor’s going concern value, which is disproportionate to the amount of the claimant’s prepetition claim. Third, there is no practical or legal alternative by which the debtor can deal with the claimant other than by payment of the claim.

Id. at 498. Payment of the prepetition Taxes in this instance meets each element of the *CoServ* test.

31. Accordingly, pursuant to Sections 105(a), 363(b), 1107(a), and 1108 of the Bankruptcy Code, this Court is empowered to grant the relief requested herein and such relief is necessary, in the Debtors’ discretion and business judgment, in order to prevent damage to the Debtors’ businesses.

32. The Debtors submit that payment of the prepetition Taxes is an exercise of sound business judgment and necessary to permit a successful reorganization, as the Debtors’ satisfaction of the prepetition Taxes is necessary to avoid the obstacles to a smooth transition through these Chapter 11 Cases and additional expenses such as interest, fees, and penalties. Significant disruptions of the Debtors’ operations of the types described above threaten to irreparably impair the Debtors’ ability to conduct a successful reorganization process and thereby maximize the value of the Debtors’ estates for the benefit of creditors.

33. In fact, bankruptcy courts in this jurisdiction and others have entered orders granting relief similar to the relief requested herein. *See, e.g., In re Energy & Expl. Partners, Inc.*, Case No. 15-44931 (RFN) (Bankr. N.D. Tex. Dec. 9, 2015) (Doc. No. 49); *In re ERG Intermediate Holdings, Inc.*, Case No. 15-31858 (Bankr. N.D. Tex. May 22, 2015) (Doc. No.

145); *In re ALCO Stores, Inc.*, Case No. 14-34941 (Bankr. N.D. Tex. Nov. 14, 2014) (Doc. No. 322); *In re Reddy Ice Holdings, Inc.*, Case No. 12-32349 (Bankr. N.D. Tex. Apr. 17, 2012) (Doc. No. 88); *In re Lewis Equip. Co., Inc.*, Case No. 09-45785 (Bankr. N.D. Tex. Feb. 4, 2010) (Doc. No. 397); *In re Linn Energy LLC*, Case No. 16-60040 (Bankr. S. D. Tex. May 13, 2016 (Doc. No. 84); *In re Sandridge Energy, Inc.*, Case No. 16-32488 (Bankr. S.D. Tex. May 18, 2016) (Doc. No. 92). The Debtors submit that similar relief is warranted in these Chapter 11 Cases.

Banks Should be Authorized to Receive, Process, Honor and Pay Checks Issued and Transfers Requested to Pay the Prepetition Taxes

34. The Debtors have sufficient funds to pay the amounts described herein in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral. Also, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment made with respect to the Taxes. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that this Court should authorize all applicable financial institutions, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests in respect of the relief requested herein.

Request for Waiver of Stay

35. To the extent that the relief sought in the Motion constitutes a use of property under Bankruptcy Code Section 363(b), the Debtors seek a waiver of the fourteen-day stay under Bankruptcy Rule 6004(h). Further, to the extent applicable, the Debtors request that the Court find that the provisions of Bankruptcy Rule 6003 are satisfied. As explained herein, the relief requested in this Motion is immediately necessary for the Debtors to be able to continue to operate their business and preserve the value of the estates.

Reservation of Rights

36. Nothing contained herein is intended or should be construed as an admission as to the validity or priority of any claim against the Debtors, a waiver of the Debtors' rights to dispute any claim or an approval or assumption of any agreement, agreement, contract, or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve their rights to contest any claim. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity or priority of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

Notice

37. No trustee, examiner or creditors' committee has been appointed in these Chapter 11 Cases. Notice of this Motion will be provided to: (i) the Office of the United States Trustee; (ii) the holders of the 20 largest unsecured claims against Erickson Incorporated and Erickson Helicopters, Inc.⁴; (iii) Randall Klein, Goldberg Kohn, Ltd., 55 East Monroe Street, Suite 3300, Chicago, Illinois 60603-5792, lead counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (iv) David Weitman, K&L Gates LLP, 1717 Main Street, Suite 2800, Dallas, Texas 75201, local counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (v) Scott L. Alberino, Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, N.W., Washington, DC 20036-1564, counsel for an ad hoc group of holders of 8.25% Second Priority Senior Secured Promissory Notes due 2020; (vi) Edward M. Fox, Esq., Seyfarth Shaw LLP, 620 8th Avenue, New York, NY 10018, counsel to Wilmington Trust, National Association, as indenture trustee and notes collateral agent for the 8.25% Second Priority Senior Secured Promissory Notes due 2020; (vii) the Securities and Exchange Commission; and (viii) the Internal Revenue Service. Due to the urgency of the circumstances

⁴ Erickson Incorporated and Erickson Helicopters, Inc. are the only Debtors with holders of unsecured claims.

surrounding this Motion and the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is required.

WHEREFORE the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

RESPECTFULLY SUBMITTED this 9th day of November, 2016.

HAYNES AND BOONE, LLP

By: /s/ Kenric D. Kattner
Kenric D. Kattner
State Bar No. 11108400
Kourtney Lyda
State Bar No. 24013330
1221 McKinney Street, Suite 2100
Houston, TX 77010
Telephone: 713.547.2000
Facsimile: 713.547.2600
Email: kenric.kattner@haynesboone.com
Email: kourtney.lyda@haynesboone.com

and

Ian T. Peck
State Bar No. 24013306
David Staab
State Bar No. 24093194
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: ian.peck@haynesboone.com
Email: david.staab@haynesboone.com

PROPOSED ATTORNEYS FOR DEBTORS

CERTIFICATE OF CONFERENCE

I hereby certify that on or before November 8, 2016, the undersigned counsel for the Debtors conferred with and received comments to this Motion from (i) Randall Klein, Goldberg Kohn, Ltd., lead counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent, (ii) Scott L. Alberino and Brad M. Kahn, Akin Gump Strauss Hauer & Feld LLP, counsel for an ad hoc group of holders of 8.25% Second Priority Senior Secured Promissory Notes due 2020, and (iii) Edward M. Fox, Esq., Seyfarth Shaw LLP, counsel to Wilmington Trust, National Association, as indenture trustee and notes collateral agent for the 8.25% Second Priority Senior Secured Promissory Notes due 2020.

I hereby also certify that on November 8, 2016, the undersigned counsel for the Debtors conferred regarding this Motion with the Office of the United States Trustee for the Northern District of Texas, which has not indicated whether it consents or objects to this Motion.

/s/ Ian T. Peck

Ian T. Peck

EXHIBIT A

Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
	§	
ERICKSON INCORPORATED, et al.,¹	§	Case No. 16-34393-hdh
	§	
Debtors.	§	(Jointly Administered)

**INTERIM ORDER (I) AUTHORIZING DEBTORS
TO PAY CERTAIN PREPETITION TAXES AND
(II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND
PROCESS RELATED CHECKS AND TRANSFERS PURSUANT TO
SECTIONS 105(a), 363(b), 507(a)(8) AND 541(d) OF THE BANKRUPTCY CODE**

Upon the Motion (the “**Motion**”)² of Debtors, for an order (the “**Order**”) pursuant to Sections 105(a), 363(b), 507(a)(8), and 541(d) of title 11 of the United States Code (the

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s federal tax identification number are as follows: Erickson Incorporated (7561); Evergreen Helicopters International, Inc. (1311); EAC Acquisition Corporation (3733); Erickson Helicopters, Inc. (5052); Evergreen Unmanned Systems, Inc. (3961); Evergreen Equity, Inc. (9209); and Erickson Transport, Inc. (9162).

“**Bankruptcy Code**”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), authorizing, but not directing, the Debtors to satisfy certain Taxes due and owing to various local, state and foreign taxing authorities and governmental regulatory bodies (collectively, the “**Taxing Authorities**”³) that arose prior to the Petition Date, including Taxes subsequently determined upon audit or otherwise to be owed for periods prior to the Petition Date, and authorizing applicable banks and financial institutions (collectively, the “**Banks**”) to receive, honor, process and pay all checks issued or to be issued and electronic funds transfers requested or to be requested relating to the above, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to (i) the Office of the United States Trustee; (ii) the holders of the 20 largest unsecured claims against Erickson Incorporated and Erickson Helicopters, Inc.;⁴ (iii) Randall Klein, Goldberg Kohn, Ltd., 55 East Monroe Street, Suite 3300, Chicago, Illinois 60603-5792, lead counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (iv) David Weitman, K&L Gates LLP, 1717 Main Street, Suite 2800, Dallas, Texas 75201, local counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (v) Scott L. Alberino, Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, N.W., Washington, DC 20036-1564, counsel for an ad hoc group of holders

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

³ The definition of “Taxing Authorities” includes, but is not limited to, those parties set forth on the Taxing Authorities List attached hereto as **Exhibit 1**. The inclusion of any entity on, or the omission of any entity from, the Taxing Authorities List is not an admission by the Debtors that such entity is, or is not, a Taxing Authority to which the Debtors owe any amount, and the Debtors reserve all rights with respect to any such determination.

⁴ Erickson Incorporated and Erickson Helicopters, Inc. are the only Debtors with holders of unsecured claims.

of 8.25% Second Priority Senior Secured Promissory Notes due 2020; (vi) Edward M. Fox, Esq., Seyfarth Shaw LLP, 620 8th Avenue, New York, NY 10018, counsel to Wilmington Trust, National Association, as indenture trustee and notes collateral agent for the 8.25% Second Priority Senior Secured Promissory Notes due 2020; (vii) the Securities and Exchange Commission; (viii) the Internal Revenue Service and (ix) the Taxing Authorities listed Exhibit 1 annexed hereto; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion; and upon the *Declaration of David Lancelot in Support of the Debtors' Chapter 11 Petitions and Request for First Day Relief*, filed contemporaneously with the Motion, the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. The Motion is granted on an interim basis as set forth herein.
2. The Debtors are authorized, but not directed, to satisfy certain Taxes due and owing to the Taxing Authorities, including, without limitation, those Taxing Authorities listed on **Exhibit 1** annexed hereto, that arose prior to the Petition Date, including Taxes subsequently determined upon audit or otherwise to be owed for periods prior to the Petition Date, in an interim amount not to exceed estimate that approximately \$5,000 in Use Taxes, \$20,600 in NRA Withholding, \$316,000 in Property Taxes, and \$40,000 in Regulatory Assessments that are due and payable in the next thirty (30) days.
3. The Banks are authorized, at the Debtors' request, to receive, process, honor and pay, to the extent of cleared and sufficient funds on deposit, any and all checks issued or to be

issued or electronic funds transfers requested or to be requested by the Debtors relating to this Order. The Banks shall not be liable to any party on account of: (a) following the Debtors' representations, instructions, or presentations as to any order of the Court (without any duty of further inquiry); (b) the honoring of any prepetition checks, drafts, or wires in a good faith belief or upon a representation by the Debtors that the Court has authorized such prepetition check, draft, or wire; or (c) an innocent mistake made despite implementation of reasonable handling procedures. The Banks may rely on the representations of the Debtors regarding which checks that were drawn or instructions that were issued by the Debtors before the Petition Date should be honored postpetition pursuant to an Order of this Court.

4. The Debtors are authorized, but not directed, to issue new postpetition checks or effect new postpetition electronic funds transfers in replacement of any checks or transfer requests on account of the prepetition Taxes dishonored or rejected as a result of the commencement of the Debtors' Chapter 11 Cases.

5. The hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on _____, 2016 at ___:00 __.m. (**Prevailing Central Time**); and any objections to entry of such order shall be in writing, filed with the Court, and served upon the (i) counsel to the Debtors, (ii) the U.S. Trustee, (iii) Randall Klein, Goldberg Kohn, Ltd., 55 East Monroe Street, Suite 3300, Chicago, Illinois 60603-5792, lead counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (iv) David Weitman, K&L Gates LLP, 1717 Main Street, Suite 2800, Dallas, Texas 75201, local counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (v) Scott L. Alberino, Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, N.W., Washington, DC 20036-1564, counsel for an ad hoc group of holders of 8.25% Second Priority

Senior Secured Promissory Notes due 2020; (vi) Edward M. Fox, Esq., Seyfarth Shaw LLP, 620 8th Avenue, New York, NY 10018, counsel to Wilmington Trust, National Association, as indenture trustee and notes collateral agent for the 8.25% Second Priority Senior Secured Promissory Notes due 2020; and (vii) counsel for any statutory committee appointed in these cases, in each case so as to be received no later than **4:00 p.m. (Prevailing Central Time) on _____, 2016.**

6. Nothing contained in this Interim Order or any action taken by the Debtors in implementing this Interim Order shall be deemed (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for or validity of any claim of any Taxing Authority under applicable nonbankruptcy law, (iii) a waiver of any claims or causes of action which may exist against any Taxing Authority or (iv) an assumption, adoption or rejection of any contract or lease between the Debtors and any third party under Section 365 of the Bankruptcy Code.

7. Entry of this Interim Order is necessary to avoid immediate and irreparable harm and, to the extent the relief granted herein implicates the use of property of the estate and Section 363 of the Bankruptcy Code, the requirements under Bankruptcy Rule 6003(b) have been satisfied.

8. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

9. Notice of the Motion as provided herein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rules 4001(d) and 6004(a) are waived.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

11. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Interim Order.

###END OF ORDER###

Submitted By:

HAYNES AND BOONE, LLP

Kenric D. Kattner
State Bar No. 11108400
Kourtney Lyda
State Bar No. 24013330
1221 McKinney Street, Suite 2100
Houston, TX 77010
Telephone: 713.547.2000
Facsimile: 713.547.2600
Email: kenric.kattner@haynesboone.com
Email: kourtney.lyda@haynesboone.com

and

Ian T. Peck
State Bar No. 24013306
David Staab
State Bar No. 24093194
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: ian.peck@haynesboone.com
Email: david.staab@haynesboone.com

PROPOSED ATTORNEYS FOR DEBTORS

EXHIBIT 1

List of Taxing Authorities

Taxing Authority or Regulatory Body	Address	Type of Tax
ALABAMA DEPARTMENT OF REVENUE	BUSINESS PRIVILEGE TAX UNIT P.O. BOX 327431 MONTGOMERY, AL 36132-7431	STATE - FRANCHISE
BUREAU OF DANGEROUS GOODS LTD	BUREAU OF DANGEROUS GOODS LTD PO BOX 398 CRANBURY, NJ 08512	REGULATORY
CALIFORNIA STATE	BOARD OF EQUALIZATION P.O. BOX 942879 SACRAMENTO, CA 94279	STATE - SALES & USE
CANADA REVENUE AGENCY	NON RESIDENT SECTION 9755 KING GEORGE BLVD SURREY, BC V3T 5W6	CANADA - GOODS AND SERVICES (VAT)
CITY OF CENTRAL POINT	CITY OF CENTRAL POINT 140 S THIRD ST CENTRAL POINT, OR 97502	REGULATORY
CITY OF LONG BEACH	CITY OF LONG BEACH SPECIAL EVENTS AND FILMING ONE WORLD TRADE CENTER, SUITE 300 LONG BEACH, CA 90831	REGULATORY
CITY OF LOS ANGELES BUSINESS TAX	OFFICE OF FINANCE P.O. BOX 513996 LOS ANGELES, CA 90051-3996	LOCAL - BUSINESS LICENSE
CITY OF NOME	102 DIVISION STREET NOME, AK 99762	LOCAL - PROPERTY
CITY OF PORTLAND	REVENUE BUREAU 111 SW COLUMBIA ST STE 600 PORTLAND, OR 97201-5840	LOCAL - BUSINESS LICENSE
CITY OF SAN DIEGO	CITY ADMINISTRATION BUILDING 202 C STREET SAN DIEGO, CA 92101	LOCAL - BUSINESS LICENSE
COMMISSIONER OF TAXATION & FI	COMMISSIONER OF TAXATION & FI RPC-HUT, PO BOX 15166 ALBANY, NY 12212	REGULATORY
DELAWARE SECRETARY OF STATE	DIVISION OF CORPORATIONS P.O. BOX 5509 BINGHAMTON, NY 13902	REGULATORY
DEPARTMENT OF ENVIRONMENTAL QUALIT	DEPARTMENT OF ENVIRONMENTAL QUALITY ATTN: ACCOUNTING DEPT 811 SW SIXTH AVE PORTLAND, OR 97204	REGULATORY
DEPARTMENT OF TREASURY	INTERNAL REVENUE SERVICE CINCINNATI, OH 45999-0009	FEDERAL - EXCISE
DEPT OF CONSUMER & BUSINESS	DEPT OF CONSUMER & BUSINESS FISCAL SERVICES SECTION, PO BOX 14610 SALEM, OR 97309	REGULATORY
DEPT OF CONSUMER & BUSINESS SERVICES	DEPT OF CONSUMER & BUSINESS SERVICES REVENUE & ACCOUNTING SERVICES P.O. BOX 14610 SALEM, OR 97309	REGULATORY
DFAS 2ABO4R	DFAS 2ABO4R ATTN: TRACY BARE, ACCOUNTS RECEIVABLE PO BOX 182317, ATTN: DFAS-JAAA/CO-EBS, COLUMBUS, OH 43218	REGULATORY
DFAS 2ABOOD	DFAS 2ABOOD PO BOX 182317, ATTN: DFAS-JAA/CO-EBS COLUMBUS, OH 43218	REGULATORY
EMPLOYMENT DEVELOPMENT DEPARTMENT	EMPLOYMENT DEVELOPMENT DEPARTMENT PO BOX 826215 MIC 3A SACRAMENTO, CA 94230	REGULATORY
EUROPEAN AVIATION SAFETY AGENCY	KONRAD-ADENAUER-UFER 3 D-50668 COLOGNE, GERMANY	REGULATORY

EXHIBIT B

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: § **Chapter 11**
§
ERICKSON INCORPORATED, et al.,¹ § **Case No. 16-34393-hdh**
§
Debtors. § **(Jointly Administered)**

**FINAL ORDER (I) AUTHORIZING DEBTORS
TO PAY CERTAIN PREPETITION TAXES AND
(II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND
PROCESS RELATED CHECKS AND TRANSFERS PURSUANT TO
SECTIONS 105(a), 363(b), 507(a)(8) AND 541(d) OF THE BANKRUPTCY CODE**

Upon the Motion, dated November 9, 2016 (the “**Motion**”²), of Erickson Incorporated and its debtor affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”), for an

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s federal tax identification number are as follows: Erickson Incorporated (7561); Evergreen Helicopters International, Inc. (1311); EAC Acquisition Corporation (3733); Erickson Helicopters, Inc. (5052); Evergreen Unmanned Systems, Inc. (3961); Evergreen Equity, Inc. (9209); and Erickson Transport, Inc. (9162).

order pursuant to Sections 105(a), 363(b), 507(a)(8), and 541(d) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), authorizing, but not directing, the Debtors to satisfy Certain Taxes due and owing to various local, state and foreign taxing authorities and governmental regulatory bodies (collectively, the “**Taxing Authorities**”³) that arose prior to the Petition Date, including Taxes subsequently determined upon audit or otherwise to be owed for periods prior to the Petition Date, and authorizing applicable banks and financial institutions (collectively, the “**Banks**”) to receive, honor, process and pay all checks issued or to be issued and electronic funds transfers requested or to be requested relating to the above, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to (i) the Office of the United States Trustee; (ii) the holders of the 20 largest unsecured claims against Erickson Incorporated and Erickson Helicopters, Inc.;⁴ (iii) Randall Klein, Goldberg Kohn, Ltd., 55 East Monroe Street, Suite 3300, Chicago, Illinois 60603-5792, lead counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (iv) David Weitman, K&L Gates LLP, 1717 Main Street, Suite 2800, Dallas, Texas 75201, local counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (v) Scott L. Alberino, Akin Gump Strauss Hauer & Feld LLP,

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

³ The definition of “Taxing Authorities” includes, but is not limited to, those parties set forth on the Taxing Authorities List attached hereto as **Exhibit 1**. The inclusion of any entity on, or the omission of any entity from, the Taxing Authorities List is not an admission by the Debtors that such entity is, or is not, a Taxing Authority to which the Debtors owe any amount, and the Debtors reserve all rights with respect to any such determination.

⁴ Erickson Incorporated and Erickson Helicopters, Inc. are the only Debtors with holders of unsecured claims.

1333 New Hampshire Avenue, N.W., Washington, DC 20036-1564, counsel for an ad hoc group of holders of 8.25% Second Priority Senior Secured Promissory Notes due 2020; (vi) Edward M. Fox, Esq., Seyfarth Shaw LLP, 620 8th Avenue, New York, NY 10018, counsel to Wilmington Trust, National Association, as indenture trustee and notes collateral agent for the 8.25% Second Priority Senior Secured Promissory Notes due 2020; (vii) the Securities and Exchange Commission; (viii) the Internal Revenue Service and (ix) the Taxing Authorities Listed on Exhibit 1 annexed hereto; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the “**Final Hearing**”); and the appearances of all interested parties having been noted in the record of the Final Hearing; and upon the *Declaration of David Lancelot in Support of the Debtors’ Chapter 11 Petitions and Request for First Day Relief*, filed contemporaneously with the Motion, the record of the Final Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Motion is granted as set forth herein.
2. The Debtors are authorized, but not directed, to satisfy certain Taxes due and owing to the Taxing Authorities, including, without limitation, those Taxing Authorities listed on **Exhibit 1** annexed hereto, that arose prior to the Petition Date, including Taxes subsequently determined upon audit or otherwise to be owed for periods prior to the Petition Date.
3. The Banks are authorized, at the Debtors’ request, to receive, process, honor and pay, to the extent of cleared and sufficient funds on deposit, any and all checks issued or to be issued or electronic funds transfers requested or to be requested by the Debtors relating to this

Order. The Banks shall not be liable to any party on account of: (a) following the Debtors' representations, instructions, or presentations as to any order of the Court (without any duty of further inquiry); (b) the honoring of any prepetition checks, drafts, or wires in a good faith belief or upon a representation by the Debtors that the Court has authorized such prepetition check, draft, or wire; or (c) an innocent mistake made despite implementation of reasonable handling procedures. The Banks may rely on the representations of the Debtors regarding which checks that were drawn or instructions that were issued by the Debtors before the Petition Date should be honored postpetition pursuant to an Order of this Court.

4. The Debtors are authorized, but not directed, to issue new postpetition checks or effect new postpetition electronic funds transfers in replacement of any checks or transfer requests on account of the prepetition Taxes dishonored or rejected as a result of the commencement of the Debtors' Chapter 11 Cases.

5. Nothing contained in this Order or any action taken by the Debtors in implementing this Order shall be deemed (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for or validity of any claim of any Taxing Authority under applicable nonbankruptcy law, (iii) a waiver of any claims or causes of action which may exist against any Taxing Authority or (iv) an assumption, adoption or rejection of any contract or lease between the Debtors and any third party under Section 365 of the Bankruptcy Code.

6. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. Notice of the Motion as provided herein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rules 4001(d) and 6004(a) are waived.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

###END OF ORDER###

Submitted By:

HAYNES AND BOONE, LLP

Kenric D. Kattner
State Bar No. 11108400
Kourtney Lyda
State Bar No. 24013330
1221 McKinney Street, Suite 2100
Houston, TX 77010
Telephone: 713.547.2000
Facsimile: 713.547.2600
Email: kenric.kattner@haynesboone.com
Email: kourtney.lyda@haynesboone.com

and

Ian T. Peck
State Bar No. 24013306
David Staab
State Bar No. 24093194
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: ian.peck@haynesboone.com
Email: david.staab@haynesboone.com

PROPOSED ATTORNEYS FOR DEBTORS

EXHIBIT 1

List of Taxing Authorities

Taxing Authority or Regulatory Body	Address	Type of Tax
ALABAMA DEPARTMENT OF REVENUE	BUSINESS PRIVILEGE TAX UNIT P.O. BOX 327431 MONTGOMERY, AL 36132-7431	STATE - FRANCHISE
BUREAU OF DANGEROUS GOODS LTD	BUREAU OF DANGEROUS GOODS LTD PO BOX 398 CRANBURY, NJ 08512	REGULATORY
CALIFORNIA STATE	BOARD OF EQUALIZATION P.O. BOX 942879 SACRAMENTO, CA 94279	STATE - SALES & USE
CANADA REVENUE AGENCY	NON RESIDENT SECTION 9755 KING GEORGE BLVD SURREY, BC V3T 5W6	CANADA - GOODS AND SERVICES (VAT)
CITY OF CENTRAL POINT	CITY OF CENTRAL POINT 140 S THIRD ST CENTRAL POINT, OR 97502	REGULATORY
CITY OF LONG BEACH	CITY OF LONG BEACH SPECIAL EVENTS AND FILMING ONE WORLD TRADE CENTER, SUITE 300 LONG BEACH, CA 90831	REGULATORY
CITY OF LOS ANGELES BUSINESS TAX	OFFICE OF FINANCE P.O. BOX 513996 LOS ANGELES, CA 90051-3996	LOCAL - BUSINESS LICENSE
CITY OF NOME	102 DIVISION STREET NOME, AK 99762	LOCAL - PROPERTY
CITY OF PORTLAND	REVENUE BUREAU 111 SW COLUMBIA ST STE 600 PORTLAND, OR 97201-5840	LOCAL - BUSINESS LICENSE
CITY OF SAN DIEGO	CITY ADMINISTRATION BUILDING 202 C STREET SAN DIEGO, CA 92101	LOCAL - BUSINESS LICENSE
COMMISSIONER OF TAXATION & FI	COMMISSIONER OF TAXATION & FI RPC-HUT, PO BOX 15166 ALBANY, NY 12212	REGULATORY
DELAWARE SECRETARY OF STATE	DIVISION OF CORPORATIONS P.O. BOX 5509 BINGHAMTON, NY 13902	REGULATORY
DEPARTMENT OF ENVIRONMENTAL QUALIT	DEPARTMENT OF ENVIRONMENTAL QUALITY ATTN: ACCOUNTING DEPT 811 SW SIXTH AVE PORTLAND, OR 97204	REGULATORY
DEPARTMENT OF TREASURY	INTERNAL REVENUE SERVICE CINCINNATI, OH 45999-0009	FEDERAL - EXCISE
DEPT OF CONSUMER & BUSINESS	DEPT OF CONSUMER & BUSINESS FISCAL SERVICES SECTION, PO BOX 14610 SALEM, OR 97309	REGULATORY
DEPT OF CONSUMER & BUSINESS SERVICES	DEPT OF CONSUMER & BUSINESS SERVICES REVENUE & ACCOUNTING SERVICES P.O. BOX 14610 SALEM, OR 97309	REGULATORY
DFAS 2ABO4R	DFAS 2ABO4R ATTN: TRACY BARE, ACCOUNTS RECEIVABLE PO BOX 182317, ATTN: DFAS-JAAA/CO-EBS, COLUMBUS, OH 43218	REGULATORY
DFAS 2ABOOD	DFAS 2ABOOD PO BOX 182317, ATTN: DFAS-JAA/CO-EBS COLUMBUS, OH 43218	REGULATORY
EMPLOYMENT DEVELOPMENT DEPARTMENT	EMPLOYMENT DEVELOPMENT DEPARTMENT PO BOX 826215 MIC 3A SACRAMENTO, CA 94230	REGULATORY
EUROPEAN AVIATION SAFETY AGENCY	KONRAD-ADENAUER-UFER 3 D-50668 COLOGNE, GERMANY	REGULATORY