

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

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

**DECLARATION OF CHRISTOPHER SHEPARD, IN SUPPORT OF DEBTORS’  
EMERGENCY MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I)  
PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363 AND 364 AUTHORIZING THE  
DEBTORS TO (A) OBTAIN POSTPETITION ON A SUPER-PRIORITY  
SECURED AND PRIMING BASIS, (B) GRANT LIENS AND SUPERPRIORITY  
ADMINISTRATIVE EXPENSE STATUS, (C) USE CASH COLLATERAL OF  
THE EXISTING FIRST LIEN PARTIES AND EXISTING SECOND LIEN  
PARTIES, (D) GRANT ADEQUATE PROTECTION TO THE EXISTING FIRST  
LIEN PARTIES AND EXISTING SECOND LIEN PARTIES, AND (E) ENTER  
INTO DIP REVOLVING CREDIT FACILITY AND DIP TERM FACILITY; (II)  
MODIFYING THE AUTOMATIC STAY; (III) SCHEDULING A FINAL  
HEARING PURSUANT TO BANKRUPTCY RULES 4001(B) AND 4001(C); AND  
(IV) GRANTING RELATED RELIEF**

Pursuant to 28 U.S.C. § 1746, I, Christopher Shepard, hereby declare as follows under penalty of perjury:

1. I am the Co-Head of Investment Banking at the advisory and investment banking firm of Imperial Capital, LLC (“**Imperial**”), which maintains its principal office at 2000 Avenue of the Stars, 9th Floor, South Tower, Los Angeles, CA 90067. Imperial is the proposed investment banker to Erickson Incorporated and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**” and together with their non-debtor affiliates, “**Erickson**”).

<sup>1</sup> 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.



2. As Co-Head of Investment Banking, I oversee all aspects of Imperial's transaction advisory efforts, including mergers and acquisitions, restructurings and financings. In addition, I manage Imperial's capital raising efforts, including high yield, private debt, liability management, rescue and DIP financing, and equity capital markets transactions. I have over twenty-three years of transaction advisory experience and have advised on transactions in a wide range of industries (including transportation, healthcare, telecom, industrial, consumer, media, technology, energy, gaming and real estate). Prior to joining Imperial, I was an Associate, specializing in public securities and mergers, at the Los Angeles office of Milbank, Tweed, Hadley & McCloy, a New York-based corporate law firm. With respect to my educational background, I have obtained a Bachelor of Science degree (with a concentration in Accounting), a Masters of Business Administration and a Juris Doctorate degree from the University of Michigan.

3. Imperial is a full-service investment bank offering wide range of services, including institutional sales, trading and research, and advisory services for financings, mergers and acquisitions, and restructuring and recapitalizations. Imperial and its professionals have extensive experience working with financially-troubled companies in complex financial restructurings both in chapter 11 cases and in out-of-court situations. Imperial and its professionals also have significant knowledge of the aviation industry having advised numerous other aviation companies and their constituents in a variety of matters, including, but not limited to, Southern Air, Virgin America, Global Aviation Holdings, Pinnacle Airlines, Aloha Airlines, Hawaiian Airlines, Mesa Airlines, Spirit Airlines, Mesaba Aviation, and the Air Line Pilots Association and its United Master Executive Council.

4. The Debtors initially engaged Imperial on May 26, 2016 to provide investment banking services. Specifically, Imperial was engaged to provide services related to various strategic alternatives for the Debtors, including financing transactions and potential restructurings. In this role, Imperial became familiar with the Debtors' operations and finances.

5. I submit this declaration (this "**Declaration**") in support of the *Debtors' Emergency Motion for Entry of Interim and Final Orders (i) Authorizing the Debtors to Obtain Postpetition Financing and to Use Cash Collateral, (ii) Granting Adequate Protection to Prepetition Secured Parties, (iii) Scheduling a Final Hearing, and (iv) Granting Related Relief* (the "**Motion**").<sup>2</sup> Unless otherwise stated here, all statements in this Declaration are based upon my personal knowledge, information learned from my review of relevant documents, or information supplied to me by employees or representatives of the Debtors or the Debtors' advisors. I am authorized to make this Declaration in my capacity as a Senior Vice President at Imperial. If called upon to testify, I could and would testify competently to the facts stated in this Declaration.

#### ***The Debtors' Prepetition Indebtedness***

6. On May 2, 2013, Erickson Incorporated (f/k/a Erickson Air-Crane Incorporated), and Erickson Helicopters, Inc. (f/k/a Evergreen Helicopters, Inc.), as borrowers, Wells Fargo Bank, N.A. as the administrative agent, lead arranger, book runner, syndication agent and documentation agent (the "**Existing First Lien Agent**"), and certain lenders thereto (the "**Existing First Lien Lenders**") entered into that certain Credit Agreement (as amended, restated supplemented or otherwise modified from time to time, the "**Existing First Lien Credit Agreement**"), pursuant to which the First Lien Lenders made certain credit available to the Borrowers and the Guarantor-Debtors, as more fully described below (the "**Existing First Credit Lien Facility**"). As of the Petition Date, the principal amount of approximately

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<sup>2</sup> All otherwise undefined terms shall have the same meanings ascribed to them in the Motion. Further, additional information regarding the Debtors' debt structure and prepetition financing is described in the Motion.

\$128 million in borrowings and approximately \$ 3 million of letters of credit are currently outstanding under the Existing First Lien Credit Facility, together with all other obligations, liabilities, indebtedness of the Debtors to the Existing First Lien Agent and Existing First Lien Lenders, both absolute and contingent, existing prior to the commencement of the Chapter 11 Cases, together with all interest, fees, commissions, costs, expenses accrued and accruing with respect thereto, and other costs payable or reimbursable to the Existing First Lien Agent under the Existing First Lien Loan Documents<sup>3</sup> (the “**First Lien Obligations**”).

7. In connection with the Existing First Lien Credit Agreement, the Borrowers entered into that certain Guaranty and Security Agreement dated as of May 2, 2013 (as amended, restated supplemented or otherwise modified from time to time, the “**Existing First Lien Guarantee and Security Agreement**”) and the Line of Credit Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing (as amended, restated supplemented or otherwise modified from time to time, the “**Existing First Lien Deed of Trust**”). Pursuant to the Existing First Lien Loan Documents, the Debtors granted first priority liens and security interests (the “**Senior Liens**”) on all of the Debtors’ assets as described in the Existing First Lien Credit Facility Documents (collectively, the “**First Lien Collateral**”).

8. Erickson Incorporated issued 8.25% Second Priority Senior Secured Notes due 2020 (the “**Second Priority Notes**”), under that certain Indenture, dated as of May 2, 2013 (as amended, restated supplemented or otherwise modified from time to time, the “**Existing Indenture**”), among the Erickson Incorporated, the guarantors from time to time party thereto, and Wilmington Trust, National Association, as trustee and notes collateral agent (in such capacities, the “**Indenture Trustee**”). Holders of the Second Priority Notes (the “**Second**

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<sup>3</sup> True and correct copies of all of the documents (the “**Existing First Lien Loan Documents**”) evidencing the Existing First Lien Credit Facility, together with all evidence of perfection of liens by the Existing First Lien Agent, are attached to the Addendum to the Motion, which is being filed contemporaneously with the filing of the Motion.

**Priority Noteholders,**” and collectively with the Existing First Lien Lenders, the **“Prepetition Lenders”**) have second priority liens and security interests (the **“Second Liens,”** and collectively with the Senior Liens, the **“Prepetition Liens”**) on substantially all of the Debtors’ Assets (collectively, the **“Second Lien Collateral,”** and together with the First Lien Collateral, the **“Prepetition Collateral”**). As of the Petition Date, the amount of approximately \$355,000,000 in aggregate principal amount outstanding under the Second Priority Notes (the **“Second Priority Note Obligations”**).

9. On May 2, 2013, the Existing First Lien Agent and the Indenture Trustee entered into that certain Intercreditor Agreement with respect to the Existing First Lien Credit Agreement and the Existing Indenture (as amended, restated supplemented or otherwise modified from time to time, the **“Prepetition Intercreditor Agreement”**). Moreover, the Prepetition Intercreditor Agreement generally provides for the subordination of the claims, liens, and security interests of the Second Priority Note Obligations to the claims (including the First Lien Obligations), liens, and security interests of the Existing First Lien Lenders, who hold a first priority lien on all of the Debtors' assets, as more fully described in the Existing First Lien Loan Documents. Under the Prepetition Intercreditor Agreement, there is, among other things, a cap with respect to amounts that may be outstanding senior to the Second Priority Notes of approximately \$150,000,000 (the **“First Lien Cap”**). Pursuant to the terms and conditions of the DIP Intercreditor Agreement, the Indenture Trustee, on behalf of the holders of the Second Priority Notes, and the DIP Revolving Agent, on behalf of the DIP Revolving Lenders, have agreed to modify the terms of the Prepetition Intercreditor Agreement to permit the DIP financings contemplated under the Motion.

### *The Marketing Process*

10. When it became evident that the Debtors required additional sources of financing, the Debtors instructed Imperial to identify, assess and explore options to address the Debtors' liquidity concerns. Specifically, Imperial was tasked with evaluating and pursuing options to refinance the Existing First lien Facility. On June 13, 2016, Imperial launched a marketing process and contacted ninety-six (96) potential lenders. Forty-four (44) parties signed non-disclosure agreements and received an investor presentation and data room access.

11. On June 27, 2016, the Debtors signed a non-exclusive letter of intent with a potential lender (the "**Potential Lender**") for a new out-of-court \$150 million credit facility. The Potential Lender conducted diligence throughout the month of August, including field exams and appraisals.

12. In late August 2016, the Debtors concluded that a \$150 million credit facility would not be sufficient for the Debtors' liquidity needs, in light of certain contractual delays and capital expenditure needs. The Debtors came under increasing financial distress as a result of the Debtors' operating performance, the terms and conditions of the Existing First Lien Facility (and the availability thereunder), and interest payments obligations on the Second Priority Notes coming due in November 2016.

13. In October 2016, the Debtors and its advisors engaged in active dialogue with the Existing First Lien Agent and ad hoc committee of Second Priority Notes (the "**Ad-Hoc Noteholders**"). The Debtors also contacted fourteen (14) independent third-parties to solicit debtor-in-possession financing, in addition to the Potential Lender. Imperial discussed terms with potential debtor-in-possession lenders regarding financing that would allow the Debtors to obtain the necessary liquidity to successfully enter and exit bankruptcy. Specifically, the Potential

Lender submitted a preliminary term sheet to provide \$170 million through a debtor-in-possession financing facility. The Debtors, however, were unable to proceed further with the Potential Lender's term sheet, as the proposed financing would be in breach of the First Lien Cap. Further, the Existing First Lien Agent and Ad-Hoc Noteholders advised the Debtors that they would not consent to priming debtor-in-possession financing. Due to the capital structure and the financial condition of the Debtors, third-party lenders did not express any interest in providing financing junior to the Existing First Lien Facility and the Second Priority Notes. Another potential debtor-in-possession lender indicated a willingness to provide financing and serve as a stalking horse, but terms that were acceptable to the Existing First Lien Agent were not reached.

14. Ultimately, the Debtors were unable to negotiate acceptable terms on debtor-in-possession financing proposals from potential third-parties due to, among other things, the expedited need for liquidity and limited time to conduct adequate due diligence, unwillingness to engage in a priming dispute with the Existing First Lien Agent, unwillingness to provide junior financing, and lack of unencumbered assets sufficient to support financing. The complexity of the Debtors' prepetition capital structure and the First Lien Cap also contributed to an unwillingness of third parties to engage in substantive discussions regarding debtor-in-possession financing.

15. As the Debtors and their advisors reached the conclusion that third-party debtor-in-possession financing was unlikely to materialize, the Debtors and their advisors engaged in complex and difficult negotiations with the Existing First Lien Agent and the Ad Hoc Noteholders. The negotiation between the parties has resulted in the DIP Facility described in the Motion.

*The DIP Facility Terms are Fair and Reasonable*

16. Prior to filing the Chapter 11 Cases, the Debtors, Existing First Lien Agent and the Ad-Hoc Noteholders, exchanged term sheets regarding the DIP Facility. These negotiations, which were extensive and at arm's length, culminated in the DIP Facility, which will provide the Debtors with (a) a senior DIP Revolving Facility which will provide the Debtors with access to the DIP Revolving Loans subject to the terms detailed in the Motion, and (b) a junior DIP Term Facility in the amount of \$66,670,000.

17. The proceeds of the DIP Facility are sized to support the Debtors through the anticipated pendency of these chapter 11 cases. Moreover, I believe that the financial terms and covenants of the DIP Facility are fair and reasonable for financing of this kind. Specific to the Chapter 11 Cases, the DIP Facility sets certain milestones for confirmation of a plan of reorganization and other restructuring initiatives. The DIP Facility also entitles the DIP Lenders to certain fees which are fair and reasonable under the circumstances. Based on the extensive negotiations that took place, I believe that these are the only terms on which the DIP Lenders will provide the financing. In addition, I am generally aware that terms similar to those included in the DIP Credit Agreement have been approved in certain recent and/or ongoing cases.

18. It is my understanding that any alternative financing arrangement, including an arrangement provided by other potential debtor-in-possession lenders, likely would have led to a lengthy and potentially value-destructive priming fight. Moreover, I understand that the DIP Lenders would not have been amenable to providing financing without these heavily bargained-for provisions detailed in the Motion. In the course of negotiations with the DIP Lenders, the Debtors proposed that the DIP Lenders provide the DIP Facility with lower or no associated fees and free from procedural milestones. The DIP Lenders made clear that they



would not be willing to provide the DIP Facility on more favorable terms. Further, the Debtors successfully negotiated several key concessions from the DIP Lenders, including, for example, payment of budgeted estate professional fees, a carve-out for estate professionals' fees and expenses, budgeted use of funds for a statutory committee of unsecured creditors to investigate the prepetition liens and claims of the Existing First Lien Agent, Existing First Lien Lenders, Indenture Trustee and the Second Priority Noteholders, and the reduction of the financing fees from the amounts originally proposed.

19. I believe that the terms of the DIP Loan Documents, including the provisions described above, constitute, on the whole, the most favorable terms the Debtors could achieve on which the DIP Lenders will extend the necessary postpetition financing. Although the Debtors explored whether the DIP Lenders would provide the DIP Facility on better terms, in the course of negotiations, the DIP Lenders were not willing to provide the DIP Facility on any more favorable terms

20. In particular, it is my understanding that the effective "roll-up" feature of the Existing First lien Facility and the DIP Revolving Facility is a key component of consideration for the Existing First Lien Agent without which they have indicated they are unwilling to provide the DIP Revolving Facility. The Existing First Lien Agent and Existing First Lien Lenders have demanded adequate protection of their interests in the First Lien Collateral, with all proceeds of the First Lien Collateral first being applied against the Existing First Lien Obligations. Without the availability of the DIP Revolving Facility, the Debtors would not have sufficient liquidity to fund their operations. Accordingly, the Debtors, Imperial, and the Debtors' other advisors — recognizing the absence of more favorable competing proposals and the benefits to be provided under the DIP Revolving Facility — determined in their sound business judgment that the terms

of the DIP Revolving Facility were and remain superior to any other set of terms reasonably available to the Debtors at this time. Further, the lack of interest from third-parties in providing the DIP Term Facility on a junior basis to the Existing First Lien Facility and the DIP Revolving Facility, necessitated the terms and conditions provided to the Ad-Hoc Noteholders with respect to the DIP Term Facility.

21. I believe that the DIP Facility provides the Debtors with the best, most feasible, and most value-maximizing financing option available at this time.

***The Terms of Continued Cash Collateral Use are Fair and Reasonable***

22. In addition to the DIP Facility, the Debtors require the continued use of their existing Cash Collateral to pay down the Existing First Lien Facility. The Existing First Lien Agent, on behalf of the Existing First Lien Lenders, has demanded adequate protection of their interests in the First Lien Collateral and will only allow Cash Collateral to be applied in reduction of the Existing First Lien Facility, but this will nonetheless provide availability for the Debtors to borrow under the DIP Revolving Facility. The DIP Loan Documents and Interim Order thereby provide for the Debtors' continued access to Cash Collateral.

23. I believe that continued access to Cash Collateral is necessary for the Debtors to obtain access to the DIP Revolving Facility pursuant to the negotiations with the Existing First Lien Agent, which will ensure that the Debtors (a) have access to sufficient working capital to, among other things, pay their employees, aircraft and equipment lessors, vendors, and suppliers, (b) continue honoring their obligations under and in accordance with other "first-day" orders entered by the Court, and (c) satisfy administrative expenses incurred in connection with the commencement of the Chapter 11 Cases.

***The Superpriority Claims and Priming Liens Are Justified Under the Circumstances***

24. In the course of the Debtors' and Imperial's efforts to seek out alternative financing, the Debtors gauged whether parties would be willing to provide postpetition financing on a non-superpriority, unsecured, or non-priming basis. The Debtors and Imperial were unable to obtain financing, or even indicative offers to provide such financing, on such terms. In particular, I believe that the Debtors' significant prepetition secured debt precludes them from obtaining postpetition financing in the amount they require on terms other than on a senior secured and superpriority basis as contemplated under the Motion. Moreover, and in light of potential financiers' unwillingness to provide financing on a non-priming basis, I believe that potential lenders were unwilling to engage in a protracted priming fight with the Existing First Lien Agent and/or the Second Priority Noteholders — particularly within the available timeframe — thus deterring such parties from submitting financing offers.

25. In light of the likely disruptive effects of any priming fight, as well as the Debtors' desire to administer these cases on an efficient and consensual basis, I believe that entering into the DIP Facility with the DIP Lenders best maximizes the value of the Debtors' assets at this time.

***The DIP Facility Was Negotiated in Good Faith***

26. The terms outlined in the DIP Term Sheet are the result of good-faith, arms-length negotiation between the Debtors, the Existing First Lien Agent, and the Ad-Hoc Noteholders, and they represent the most favorable terms that the Debtors could obtain.

***The Debtors Require Immediate Access to the Cash Collateral and DIP Facility***

27. The Debtors will suffer immediate and irreparable harm if the interim relief sought in the Motion is not granted. Obtaining the interim (and ultimately, the final) relief

sought in the Motion will insure that the Debtors have the liquidity needed to maintain operations, satisfy post-bankruptcy obligations pursuant to the DIP Budget, including payroll, obligations to regulatory authorities, maintenance expenses, fuel expenses and other costs. Without access to the interim and final funding contemplated by the Motion, the Debtors will be unable to continue operations.

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

Executed on November 8, 2016

BY: /s/ Christopher Shepard