

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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**In re:** : **Chapter 11 Case No.**  
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**DELTA AIR LINES, INC., et al.,** : **05-17923 (ASH)**  
:  
**Debtors.** : **(Jointly Administered)**  
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**STIPULATION AND CONSENT ORDER BETWEEN  
THE DEBTORS, THE COMMITTEE AND DP3**

**Background**

Delta Air Lines, Inc. (“**Delta**”) and those of its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”)<sup>1</sup> each commenced with the Bankruptcy Court a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) on September 14, 2005 (the “**Petition Date**”).

DP3, Inc. is a Delaware not-for-profit corporation formed in October 2003 with the stated intent of seeking to preserve pensions, health insurance and other benefits of retired Delta pilots and their dependents and survivors.

DP3 states that it has 2,700 members, which constitutes approximately 48% of Delta’s retired pilots, and has actively participated in these cases since their inception in an effort to protect the pension rights of retired Delta pilots.

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<sup>1</sup> The Debtors are the following entities: ASA Holdings, Inc.; Comair Holdings, LLC; Comair, Inc.; Comair Services, Inc.; Crown Rooms, Inc.; DAL Aircraft Trading, Inc.; DAL Global Services, LLC; DAL Moscow, Inc.; Delta AirElite Business Jets, Inc.; Delta Air Lines, Inc.; Delta Benefits Management, Inc.; Delta Connection Academy, Inc.; Delta Corporate Identity, Inc.; Delta Loyalty Management Services, LLC; Delta Technology, LLC; Delta Ventures III, LLC; Epsilon Trading, Inc.; Kappa Capital Management, Inc.; and Song, LLC.

On May 9, 2006, the Debtors filed a Motion Pursuant to Section 363 of the Bankruptcy Code for Authority to Enter into Amendments to Delta's Pilot Working Agreement with the Air Line Pilots Association, International (together with notices subsequently filed thereto, the "**Section 363 Motion**").<sup>2</sup> By the Section 363 Motion, the Debtors seek authorization, pursuant to section 363 of the Bankruptcy Code, to enter into certain modifications to the Pilot Working Agreement (the "**PWA**") between Delta and the Air Line Pilots Association, International ("**ALPA**"). The modifications are embodied in Letter of Agreement #51 between Delta and ALPA (together with all attachments thereto, "**LOA #51**"). The Section 363 Motion is scheduled for hearing on May 31, 2006.

On May 23, 2006, DP3 filed its Objection to Debtors' Motion Pursuant to Section 363 of the Bankruptcy Code for Authority to Enter into Amendments to Delta's Pilot Working Agreement with the Air Line Pilots Association, International (the "**DP3 Objection**"). The DP3 Objection referred in part to DP3's earlier Motion to Appoint an Authorized Representative to Defend the Delta Retired Pilots' Pension Benefits Rights, filed on April 17, 2006 (together with the related Notice of Motion, the "**DP3 Representative Motion**").

DP3 has also, since the Petition Date, made several other pension-related filings in these chapter 11 cases. On September 23, 2005, DP3 filed a Motion and Memorandum of Law to Compel the Continued Payment of Collectively Bargained for Pension Benefits (together with related filings, the "**DP3 Motion to Compel**"). When the Bankruptcy

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<sup>2</sup> Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Section 363 Motion.

Court denied the DP3 Motion to Compel on procedural grounds on October 17, 2005, DP3 (and others) filed an appeal with the District Court for the Southern District of New York (the “**DP3 Appeal**”) as well as an adversary proceeding with the Bankruptcy Court that was docketed as case number 05-03278 seeking substantially the same relief as was originally requested in the DP3 Motion to Compel (the “**DP3 Adversary Proceeding**,” and together with the DP3 Objection, the DP3 Representative Motion, the DP3 Motion to Compel and the DP3 Adversary Proceeding, the “**DP3 Matters**”). The District Court subsequently reversed the Bankruptcy Court’s procedural denial of the DP3 Motion to Compel and remanded the matter to the Bankruptcy Court for consideration on the merits.

The Debtors, with the support of the Official Committee of Unsecured Creditors, (the “**Committee**”) have been engaged in negotiations with DP3 to resolve all of the DP3 Matters. On May 24, 2006, the parties reached a settlement of the DP3 matters, which is embodied herein.

**Agreement to Resolve the DP3 Matters**

IT IS HEREBY STIPULATED AND AGREED by and between Delta Air Lines, Inc. (“**Delta**”), the Committee and DP3, Inc. d\|a Delta Pilots’ Pension Preservation Organization, James H. Gray, James Haigh, Reuben Black, William Wirth, James Bomar, Ronald Stowe, Richard Colby, and Donald Mairose (collectively for the purpose of this Stipulation and Order, “**DP3**”), by their undersigned counsel, as follows:

1. Except for the DP3 Adversary Proceeding, which is addressed in paragraph 9 below, all of the DP3 Matters are, and shall immediately be deemed,

dismissed, in each case with prejudice, provided however, that should further section 1113 proceedings be resumed or instituted during these cases with respect to the PWA, DP3 reserves the right to refile a motion seeking an authorized 1113 representative for retired pilots, and Delta and the Committee reserve all their rights with respect thereto. This agreed dismissal with prejudice of the DP3 Representative Motion and the 363 Objection shall have no res judicata or collateral estoppel effect on any argument either party may make with respect to a new 1113 representative motion.

2. Except to the limited extent provided in paragraph 1 with respect to 1113 proceedings, in paragraph 6 regarding the Post Termination Claims or in paragraph 9 with respect to the DP3 Adversary Proceeding, DP3 will not prosecute or re-file, directly or indirectly, any of the DP3 Matters, the DP3 Appeal or any actions seeking similar relief (including any direct or indirect objection to the Debtors' Section 363 Motion or LOA #51) in connection with the Debtors, these cases or the Non-Qualified Plans (as defined below). Other than with respect to the matters settled herein, nothing in this paragraph shall prohibit retired pilots from objecting to any provision of any plan of reorganization in these cases.

3. As used herein, the Delta Pilots Retirement Plan and the Western Air Lines Pilots Defined Benefit Plan shall be together referred to as the "**Qualified Plans**", and the Delta Pilots Bridge Plan and the Delta Pilots Supplemental Annuity Plan shall together be referred to as the "**Non-Qualified Plans**".

4. For the period commencing on the Petition Date and ending on the termination date of the Non-Qualified Plans (the "**NQ Termination Date**"), pilots who retired prior to the NQ Termination Date and have accrued and unpaid benefits arising

under the Non-Qualified Plans (“**Covered Pilots**”) shall collectively have an allowed administrative claim in the aggregate amount of \$9 million (the “**NQ Admin Claim**”) and an allowed general non-priority unsecured claim for the balance of the Non-Qualified Plan benefits accrued and unpaid from the Petition Date to the NQ Termination Date (the “**Balance Claim**”). Delta and the Committee acknowledge that benefits under the Non-Qualified Plans have been accruing since the Petition Date at a rate of approximately \$7 million per month. No later than 60 days after the termination of the Non-Qualified Plans, Delta will file an omnibus order allowing the NQ Admin Claim and the Balance Claim for each individual Covered Pilot as set forth herein. Distributions in respect of both the NQ Admin Claim and the Balance Claim shall be made to Covered Pilots under a plan of reorganization pro rata according to their individual percentages of the total accrued and unpaid NQ Benefits as of the NQ Termination Date, less any allowed legal expenses as provided in paragraph 5 below. The NQ Admin Claim and the Balance Claim shall be in full and complete satisfaction of all rights of all Covered Pilots arising under the Non-Qualified Plans prior to the NQ Termination Date, and, except as expressly set forth in paragraph 6 below (i) neither DP3 nor any Covered Pilot shall have or assert any other claim or cause of action against any Debtor or any fiduciaries, or their respective agents, employees, directors, professionals or other representatives, relating to any Non-Qualified Plan and (ii) DP3 shall neither have nor assert any other claim or cause of action against ALPA or its agents, employees, directors, professionals or other representatives relating to any Non-Qualified Plan. For the avoidance of doubt, clause (ii) of the immediately preceding sentence shall not bind individual Covered Pilots. The

distribution in satisfaction of the NQ Administrative Claim shall be made as soon as practicable after the effective date of the plan of reorganization.

5. Neither DP3 nor the professionals working on its behalf shall seek any reimbursement of fees or expenses from the Debtors or from these estates or fiduciaries (or their respective agents, employees, directors, professionals or other representatives) in connection with, inter alia, the DP3 Matters, this Stipulation and Order, and all work in connection with the Post-Termination Claim (as defined below). Rather, such fees and expenses shall include a reasonable percentage of the actual distribution value on account of, and shall be paid entirely out of, the NQ Admin Claim and the Balance Claim. The percentage shall be determined by this Court after proper notice. The Debtors and the Committee agree not to oppose any request for such fees and expenses to be paid from the NQ Admin Claim and the Balance Claim so long as such request does not exceed 10% of the actual distribution value on account of such claims.

6. While the parties have agreed hereunder that (a) there is a claim in favor of Covered Pilots for accrued and unpaid benefits under the Non-Qualified Plans arising subsequent to the Petition Date and prior to the NQ Termination Date (which claim shall be treated as set forth in paragraph 4 above) and (b) to the extent there is any claim arising in connection with the Non-Qualified Plans for the period on and after the NQ Termination Date (any such claim, a “**Post-Termination Claim**”), such claim is a general non-priority unsecured claim, the parties do not presently agree as to whether there is any such Post-Termination Claim, and, if so, in what amount. Therefore, all parties fully reserve their rights as to the existence, allowability and amount of any general unsecured non-priority Post-Termination Claim. Should Delta, the Committee or

any other party allege that LOA # 51 has itself extinguished the right to, or existence of, a Post-Termination Claim, then DP3 shall be free to argue, solely and exclusively for the purposes of advocating for the existence of a non-priority general unsecured Post-Termination Claim, that any such effect of LOA #51 on the rights of Covered Pilots under the Non-Qualified Plans is improper and unlawful for the reasons set forth in the DP3 Objection or under ERISA.

7. This Stipulation may be signed in counterparts, any of which may be transmitted by facsimile, and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8. The signatories to this Stipulation represent that they have been represented by experienced counsel and are duly authorized by their clients to execute this Stipulation.

9. Notwithstanding the possible applicability of Bankruptcy Rules 4001(d), 6006(d), 7062, 9014, or otherwise, the terms and conditions of this Stipulation shall be immediately effective and enforceable upon its entry, provided however, that notice of entry of this Stipulation and Order shall be served (i) in accordance with the Case Management Order and (ii) all Covered Pilots, with an explanatory cover letter. If no Covered Pilots serve and file objections to this Stipulation and Order on or before June 20, 2006, this Stipulation and Order will conclusively be deemed to bind all Covered Pilots. Should any interested person, including a Covered Pilot appropriately file an objection hereto (in compliance with the Case Management Order – Docket no. 660 ) on or before June 20, 2006, the Debtors, the Committee and DP3 will work with any such objectors to resolve such timely filed objections. Should any objections not be resolved

by July 15, 2006, the Debtors shall schedule a hearing on these matters. At that hearing, DP3 shall seek to certify all Covered Pilots as a class in connection with the DP3 Adversary Proceeding for the purpose of implementing this settlement with respect to, inter alia, such objecting pilots, with such class to be represented by MILLER & MARTIN PLLC. The DP3 Adversary Proceeding shall be, and shall be deemed, dismissed with prejudice as of July 15, 2006, or the later of the date on which any objection to the stipulation is resolved by a final order or the conclusion of the class certification proceedings referred to in the immediately preceding sentence if they become necessary to bind objecting Covered Pilots to the terms of this Stipulation and Order or to implement the payment of legal fees as set forth in paragraph 5 hereof.

Dated: May 25, 2006  
New York, New York

By: 

Marshall S. Huebner (MH 7800)

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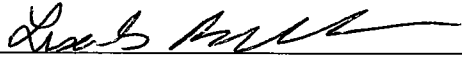
Dated: May 26, 2006  
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Dated: May 25, 2006  
New York, New York

By:   
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Attorneys for Official Committee of  
Unsecured Creditors

SO ORDERED:

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UNITED STATES BANKRUPTCY JUDGE

Dated: \_\_\_\_\_, 2006  
White Plains, New York