

COURT FILE NUMBER 2401-02664
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION
and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT **SIXTH REPORT OF FTI CONSULTING CANADA INC., IN
ITS CAPACITY AS MONITOR OF LYNX AIR HOLDINGS
CORPORATION and 1263343 ALBERTA INC. dba LYNX
AIR**

September 9, 2024

ADDRESS FOR SERVICE AND
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SIXTH REPORT OF THE MONITOR

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INTRODUCTION

1. On February 22, 2024 (“**Initial Filing Date**”), Lynx Air Holdings Corporation (“**Lynx Holdco**”) and 1263343 Alberta Inc. dba Lynx Air (“**Lynx Opco**”, together with Lynx Holdco, “**Lynx Air**” the “**Applicants**” or the “**Company**”), sought and obtained an initial order (“**Initial Order**”) by the Court of King’s Bench of Alberta (“**Court**”) to commence proceedings (“**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”).
2. The Initial Order, among other things, established a stay of proceedings (the “**Stay of Proceedings**”) in favour of the Applicants until March 4, 2024, and appointed FTI Consulting Canada Inc. as monitor (the “**Monitor**”) of the Applicants in these CCAA Proceedings.
3. On March 1, 2024, this Honourable Court granted an Amended and Restated Initial Order (the “**ARIO**”) which, among other things, provided the following relief:
 - (a) declared that the Applicants are companies to which the CCAA applies;
 - (b) authorized the Applicants to remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated including all proceeds thereof (the “**Property**”) and continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) or their Property;
 - (c) extended the Stay of Proceedings, until and including April 15, 2024, (the “**Stay Period**”), all proceedings, and remedies against the Applicants or its business or Property, except as otherwise set forth in the Initial Order or otherwise permitted by law;

- (d) granted a charge in favour of the Monitor, its legal counsel, and the Applicants' legal counsel in respect of their fees and disbursements in the amount of \$500,000 under section 11.52 of the CCAA (the "**Administrative Charge**");
- (e) granted a \$500,000 charge in favour of the Applicants' directors and officers ("**Directors' Charge**") as protection against obligations and liabilities that they may incur as directors and officers against obligations and liabilities that they may incur as directors and or officers of the Applicants after the commencement of these CCAA Proceedings;
- (f) increased the amount available to the Applicants under an interim financing term sheet ("**Term Sheet**") made as of February 21, 2024, with Indigo Northern Ventures LP (the "**Interim Lender**" or "**Indigo**") from approximately \$1.0 million (US\$750,000) to approximately \$5.0 million (as same is denominated in USD, the "**Interim Facility**") and a corresponding increase to the court-ordered priority charge on the Property of the Applicants to secure the Interim Facility (the "**Interim Lender's Charge**");
- (g) granted a charge against the Applicants' Property for a key employee retention plan ("**KERP**") in the maximum amount of \$1.2 million (the "**KERP Charge**");
- (h) sealed the Confidential Affidavit of Michael Woodward in accordance with the terms of a restricted court access order granted by the Court; and
- (i) declared pursuant to section 5(5) of the Wage Earner Protection Program Act (Canada), S.C. 2005, c. 47, s.1 ("**WEPPA**"), that the Applicants and their former employees meet the criteria prescribed by section 3.2 of the Wage Earner Protection Program Regulations SOR/2008-222 (the "**WEPP Regulations**") and are individuals to whom the WEPPA applies as of the date of the Initial Order.

4. Also on March 1, 2024, this Honourable Court approved a sale and investment solicitation process (“**SISP**”) and granted an Order (the “**SISP Order**”) authorizing and directing the Applicants and the Monitor to implement the SISP in accordance with the terms thereof (the “**SISP Procedures**”).

5. On April 2, 2024, this Honourable Court granted the following Orders:
 - (a) an Order (the “**Termination Approval Order**”) approving a termination agreement and mutual release (the “**Termination Agreement**”) between The Boeing Company (“**Boeing**”) and Lynx Opco in respect of Purchase Agreement No. PA-04427 (the “**Boeing Purchase Agreement**”);
 - (b) a restricted Court access Order sealing the confidential affidavit of Michael Woodward, sworn March 25, 2024, which contains an unredacted copy of the Termination Agreement;
and
 - (c) a restricted Court access Order sealing the confidential supplement to the second Report of the Monitor dated March 27, 2024.

6. On April 15, 2024, this Honourable Court granted the following Orders:
 - (a) authorizing the Applicants, with the approval of the Monitor, to repay the borrowings to the Interim Lender in an amount equal to the amounts owing to the Interim Lender under the Term Sheet;
 - (b) authorizing the Applicants to make further distributions to Indigo up to an amount equal to the secured obligations and amounts owing by the Applicants under the terms of the note purchase agreement dated December 20, 2018 (the “**Initial Notes**”), and the five bridge note purchase agreements, as amended (the “**Bridge Notes**” and collectively with the Initial Notes, the “**Secured Obligations**”); and

(c) extending the Stay Period up to and including June 28, 2024.

7. On May 21, 2024, this Honourable Court granted the following Orders:

(a) authorizing and approving (the “**BOCA AVO**”) the transaction (the “**BOCA Transaction**”) contemplated by the asset purchase and sale agreement between Lynx Opco and BOC Aviation (Cayman) Limited (“**BOCA**”) dated May 13, 2024 (the “**BOCA APA**”);

(b) authorizing and approving (the “**AERO AVO**”) the transaction (the “**AERO Transaction**”) and together with the BOCA Transaction, the “**Transactions**”) contemplated by an asset purchase and sale agreement between Lynx Opco and AERO3 Inc. (“**AERO**”) dated May 10, 2024 (the “**AERO APA**”); and

(c) an order (the “**Restricted Court Access Order**”) sealing the Confidential Affidavit of Michael Woodward, sworn May 13, 2024 (the “**Confidential Woodward Affidavit**”).

8. On June 28, 2024, this Honourable Court granted the following Orders:

(a) approving a procedure for the solicitation, determination and resolution of claims against the current and former directors and officers of the Applicants (the “**D&O Claims Process**”);

(b) enhancing the Monitor’s powers with respect to the Applicants;

(c) extending the Stay Period up to and including September 30, 2024; and

(d) approving the activities and conduct of the Monitor, along with the fees and disbursements of the Monitor and its counsel, for the period from February 22, 2024, to May 31, 2024.

9. On September 9, 2024, the Monitor, filed and served notices of application returnable on September 13, 2024, seeking orders:
- (a) authorizing and approving the Assignment of Rights Agreement (the “**Assignment of Rights Agreement**”) between Lynx Opco and Indigo;
 - (b) extending the Stay Period up to and including January 31, 2025; and
 - (c) an interim distribution to Indigo in the amount of up to \$6.0 million in partial repayment of the Secured Obligations and in accordance with previous Orders of this Honourable Court,
- (the “**September 13 Application**”).
10. Electronic copies of all materials filed by the Applicants in connection with the September 13 Application and other statutory materials are available on the Monitor’s website at: <http://cfcanada.fticonsulting.com/lynxair/>.

PURPOSE

11. The purpose of this report (this “**Report**”) is to provide this Honourable Court and the Applicants’ stakeholders with information and the Monitor’s comments with respect to the following:
- (a) the activities of the Monitor since its fifth report dated June 21, 2024 (the “**Fifth Report**”);
 - (b) the status of the wind-down of the Applicants’ business and operations including the assignment of any residual funds owing to the Applicants’ from Elavon to Indigo under the Assignment of Rights Agreement;

- (c) the Applicants' actual cash receipts and disbursements for the twelve-week period ended September 7, 2024, as compared to the cash flow statement presented to this Honourable Court attached to the Fifth Report;
- (d) the Applicants updated cash flow statement (the "**Sixth CFS**") for the period of September 8, 2024, to January 31, 2025 (the "**Forecast Period**") as well as the Monitor's view on the reasonableness of the Cash Flow Statement and assumptions therein;
- (e) an update on the status of the D&O Claim Process;
- (f) the Monitor's recommendations with respect to the above.

TERMS OF REFERENCE

- 12. Capitalized terms used but not defined herein have the same meaning ascribed to them in the ARIIO, as the context may require.
- 13. In preparing this Report, the Monitor has relied upon unaudited financial information, other information available to the Monitor and, where appropriate, the Applicants' books and records and discussions with various parties (collectively, the "**Information**").
- 14. Except as described in this Report:
 - (a) the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants of Canada Handbook*;
 - (b) the Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the *Chartered Professional Accountants of Canada Handbook*; and

- (c) future oriented financial information reported or relied on in preparing this Report is based on assumptions regarding future events; actual results may vary from forecast and such variations may be material.
- 15. The Monitor has prepared this Report in connection with the September 13 Application. This Report should not be relied on for other purposes.
- 16. Information and advice described in this Report that has been provided to the Monitor by its legal counsel, McCarthy Tétrault LLP (the “**Monitor’s Counsel**”), was provided to assist the Monitor in considering its course of action, is subject to solicitor client privilege, not intended as legal or other advice to, and may not be relied upon by, any other person.
- 17. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

BACKGROUND INFORMATION

- 18. Detailed information with respect to the Applicants’ business, operations and causes of financial difficulty are described in Affidavit of Mike Woodward sworn on February 22, 2024.
- 19. Additional background information on the Applicants and the CCAA Proceedings is available on the Monitor’s Website.
- 20. The Applicants, with the assistance of the Monitor, completed the SISP and the realization of the Applicants’ Property is substantially complete and no further proceeds are anticipated to be realized upon, aside from any residual amount owing by Elavon pursuant to the Assignment of Rights Agreement.

ACTIVITIES OF THE MONITOR

21. The Monitor’s activities since the Fifth Report include the following:
- (a) monitoring the Applicants’ finances and cash flows;
 - (b) continuing to administer the WEPPA claims process;
 - (c) administering the D&O Claims Process;
 - (d) preparing this Report including the Sixth CFS; and
 - (e) responding to inquiries from suppliers and creditors who contacted the Monitor in connection with these CCAA Proceedings.

STATUS OF OPERATIONS AND BUSINESS

22. As of the date of this Report, the wind-down of the Applicants’ operations is substantially complete with the exception of certain administrative matters including the return of security in the form of deposits and letters of credit, completing the D&O Claims Process and addressing certain outstanding claims (as discussed in further detail below).

Employees

23. As of the date of this Report the Applicants have no remaining employees and the Monitor has retained three consultants to assist with the administration of the CCAA Proceedings.
24. The Monitor provided eligible employees with an instruction letter (“**WEPPA Instruction Letter**”) setting out the Applicants’ calculation of eligible wages owed under WEPPA and instructions on how to submit claims with Service Canada.

25. The following summarizes the status of WEPPA claims administered by the Monitor to date:
- (a) sent 490 WEPPA Instruction Letters to eligible employees;
 - (b) 455 eligible employees have submitted a proof of claim (“**WEPPA Proofs of Claim**”) to the Monitor in accordance with the WEPPA Instruction Letter and in accordance with the requirements under WEPPA; and
 - (c) the Monitor has reviewed the WEPPA Proofs of Claim received to date and has submitted 455 WEPPA Proofs of Claim to Service Canada for processing. The Monitor continues to review and process claims as received from eligible employees.
26. The Applicants, in consultation with the Monitor, determined that a total of approximately \$1.5 million was owed to former employees for unpaid vacation and a total of \$1.5 million for severance and termination pay, which are considered eligible wages under the WEPP (the “**WEPP Claims**”).
27. Pursuant to section 81.4(4) of the *Bankruptcy and Insolvency Act*, the WEPP Claims are secured against the Applicants’ current assets to the extent of \$2,000 per employee for wages and compensation (including vacation pay, but excluding severance and termination pay).
28. On June 12, 2024, the Monitor received a statement from the Canada Revenue Agency outlining the amount of the subrogated super-priority claim (“**WEPP Priority Claim**”) to be \$727,012.10. The Monitor estimates the total WEPP Priority Claim to be approximately \$785,679.08 based on outstanding claims not yet received.
29. On April 19, 2024, the Monitor received a letter from Koskie Minsky LLP (“**Koskie Minsky**”), in its capacity as counsel to CUPE as the bargaining agent for and on behalf of former cabin crew employees, that it continued to disagree with the calculation of the termination and severance pay

30. The Monitor notes that the positions articulated by CUPE in the above-noted letter do not impact the quantum of the WEPP Priority Claim inasmuch as severance and termination pay are not included in the definition of ‘compensation’ under 81.4(4) of the *Bankruptcy and Insolvency Act*.
31. Koskie Minsky scheduled an application with this Honourable Court on October 3, 2024, for determination of the matter. The Monitor will report to this Honourable Court on the outcome of this application in due course.

Trust Claims for Airport Improvement Fees

32. The Applicants received notice from counsel to the Greater Toronto Airport Authority (“GTAA”) and to Vancouver Airport Authority, Calgary Airport Authority, Edmonton Regional Airport Authority, Winnipeg Airport Authority Inc. and Halifax International Airport Authority (collectively, the “**Airport Authorities**”) asserting trust claims for unpaid AIF pursuant to various agreements between the Lynx Opco and the Airport Authorities (the “**AIF Trust Claims**”).
33. This Honourable Court heard an application on June 24, 2024, for determination of this matter. On August 26, 2024, the Honourable Justice B.E. Romaine released reasons for decision that held in respect of:
 - (a) the GTAA, that it had a valid trust claim and was entitled to apply the proceeds from the letter of credit it held firstly on account of amounts owing to the GTAA for indebtedness other than AIF leaving approximately \$1.7 million owing to the GTAA on account of the AIF. The Monitor will be distributing amounts owed to the GTAA on account of the AIF given Lynx has advised it is not seeking leave to appeal Justice Romaine’s decision; and
 - (b) the Airport Authorities, that they do not have a valid trust claim in respect of their respective AIF Trust Claims.
34. The Monitor continues to hold \$5.8 million which, based the materials filed by the Airport Authorities, are sufficient funds for the full amount of the asserted AIF Trust Claims. Such funds

have been held by the Monitor on the basis that such withholding is without prejudice to the positions the Applicants may take with respect to any or all of the asserted AIF Trust Claims.

35. The Monitor proposes to distribute the amounts being held back for the for the Airport Authorities AIF Trust Claims to Indigo on account of the Secured Obligations following expiration of the appeal period on September 16, 2024.

Claims for US Immigration User Fees and Customs User Fees

36. On May 7, 2024, the Applicants and the Monitor received notice from counsel to the U.S. Transportation Security Administration, U.S. Customs and Border Protection, U.S. Department of Agriculture and US Department of Homeland Security, Customs and Boarder Protection (the “**US Government**”) asserting that the US Government has trust claims for unpaid Immigration User Fees and Customs User Fees (the “**US Claims**”).
37. The Monitor, the Monitor’s Counsel, and counsel to the US Government continue to evaluate the US Claims. The Applicants have estimated the total amount of the asserted US Claims to be approximately \$1.5 million. There is sufficient cash on hand if the US Claims are ultimately determined to be valid trust claims and enforceable as against the Applicants’ cash on hand.

ASSIGNMENT OF RIGHTS AGREEMENT

38. As described previously, Elavon was the Applicants’ credit card processor and has maintained a hold back to limit its exposure for customer refunds and chargebacks from credit card providers. Due to the length of time required for Elavon to maintain the hold back to allow for customer refunds and chargebacks. The Monitor is seeking approval to assign any residual funds owing to the Applicants from Elavon to Indigo pursuant to the Assignment of Rights Agreement. A copy of the Assignment of Rights Agreement is attached at Appendix “A”.

39. It is anticipated that any residual funds would be remitted in approximately October 2025 and thus the Monitor, determined it to be more practicable to assign Lynx Opco’s right to any residual funds to Indigo rather than continuing these proceedings for the duration of that period.
40. The Monitor notes that the remaining funds anticipated to be received from Elavon are between nil and \$5.0 million (depending on the number of chargebacks and associated fees) and therefore it is still expected that any distribution received by Indigo would result in a shortfall on the Secured Obligations.
41. This Honourable Court previously approved the Applicants’ ability, with approval of the Monitor, to make distributions to Indigo up to the amount of the Secured Obligations.

INDIGO SECURED OBLIGATIONS

42. As at April 15, 2024, the Secured Obligations owing to Indigo and secured against the Applicants’ Property were approximately \$71.2 million plus accrued interest and fees of \$21.9 million owing under the terms of the Initial Notes and approximately \$42.4 million plus accrued interest and fees owing of approximately \$4.7 million under the terms of the Bridge Notes.
43. Pursuant to the terms of a previous Order of this Honourable Court the Applicants have distributed approximately \$81.7 million in partial satisfaction of the Secured Obligations resulting in approximately \$58.6 million outstanding.

Secured Obligations (C\$ 000s)	
Initial Notes	\$ 71,242
Initial Notes accrued interest	21,877
Bridge Notes	42,426
Bridge Notes accrued interest	4,744
Total - Secured Obligations	140,289
Interim Distribution	(81,722)
Total - Secured Obligations Outstanding	\$ 58,567

BUDGET TO ACTUAL RESULTS

44. The Monitor prepared a cash flow statement (the “**Fifth CFS**”) which was appended to the Fifth Report.
45. Actual cash flow as compared to those contained in the Fifth CFS for the 12-week period of June 16, 2024, to September 7, 2024, are summarized below.

(C\$ 000s)			
	For the period of June 16, 2024 to September 7, 2024		Variance
	Actual	Forecast	
Receipts			
Revenue	-	-	\$ -
Other / Recovery of Deposits	905	1,033	(128)
Total - Receipts	905	1,033	(128)
Disbursements			
Payroll and employee related obligations	(47)	(105)	57
WEPP Priority Claim	-	(1,000)	1,000
SG&A expense	(19)	(19)	(0)
Operating costs	-	(138)	138
Professional fees	(253)	(704)	451
KERP	(636)	(625)	(11)
Maintenance reserves	-	-	-
Air Travellers Security Charge	-	(261)	261
Lease payments / deferrals	-	-	-
Total - Disbursements	(955)	(2,852)	1,898
Net change in cash	(49)	(1,819)	1,770
Opening cash	15,856	15,856	-
Ending Cash	\$ 15,806	\$ 14,036	\$ 1,770

46. The variances in actual receipts and disbursements are primarily due to the following:
- (a) receipts were slightly lower than anticipated due to the return of letters of credit or deposits that exceeded the amount owed to such parties. A portion of these amounts are still anticipated to be collected in future periods; and
 - (b) lower than anticipated disbursements of approximately \$1.8 million primarily related to the following:
 - timing of payment of the WEPP Priority Claim expected to be paid in future periods;
 - professional fees have been lower than forecast, a portion of this variance is timing related and expected to reverse in future periods; and
 - timing of payment of Air Travelers Security Charge (“ATSC”) expected to reverse in future periods.

CASH FLOW STATEMENT

47. The Monitor prepared the Sixth CFS to set out the liquidity requirements of the Applicants during the Forecast Period. The Sixth CFS is attached hereto as Appendix “B”. The Sixth CFS is summarized in the following table.

(C\$ 000s)	
For the period of September 8, 2024 to February 1, 2025	21 Week
	Total
Receipts	
Revenue	\$ -
Other / Recovery of Deposits	459
Total - Receipts	459
Disbursements	
Payroll and employee related obligations	(50)
WEPP Priority Claim	(1,000)
SG&A expense	(25)
Professional fees	(400)
Air Travellers Security Charge	(261)
Total - Disbursements	(1,736)
Net change in cash	(1,277)
Opening cash	15,806
Ending Cash	\$ 14,529

48. The Sixth CFS indicates that during the Forecast Period (period ending on February 1, 2025), the Applicants will have negative net cash flow of approximately \$1.3 million comprising cash receipts of approximately \$0.5 million less total disbursements of \$1.7 million.
49. The Sixth CFS is based on the following key assumptions:
- (a) No revenue receipts in the Forecast Period, any residual funds will be collected by Indigo pursuant to the Assignment of Rights Agreement, subject to approval of this Honourable Court;
 - (b) Other receipts include recovery of certain deposits on account and return of letters of credit;

- (c) Contractors includes estimate for the three contractors retained to assist to complete the administration of the CCAA Proceedings;
 - (d) WEPP Priority Claim based on the calculation of Service Canada’s subrogated super-priority claim;
 - (e) SG&A expense includes information technology and ongoing software costs to maintain access to the Applicants’ systems, and other costs required during the CCAA Proceedings;
 - (f) Professional fees for the Monitor and the Monitor’s Counsel; and
 - (g) Air Travelers Security Charge (“ATSC”) based on the final reconciliation of amounts owed.
50. The Monitor notes that the Applicants entered into a trust indenture dated September 20, 2023 (the “**Trust Indenture**”) establishing a trust for the benefit of the directors and officers to fund the payment of certain liabilities. The termination date in the Trust Indenture is September 30, 2024, however, we understand that the parties intend to amend the Trust Indenture to extend the termination date to March 31, 2025.
51. The amounts held pursuant to the Trust Indenture are not reflected in the Sixth CFS as they are held by the Trustee.

Monitor's Comments on the Cash Flow Statement

52. Section 23(1)(b) of the CCAA states that the Monitor shall, “review the company’s cash-flow statement as to its reasonableness and file a report with the court on the Monitor’s findings”.
53. Pursuant to section 23(1)(b) of the CCAA, and in accordance with the Canadian Association of Insolvency and Restructuring Professionals Standard of Practice 09-1, the Proposed Monitor hereby reports as follows:

- (a) the Sixth CFS has been prepared for the purpose described in the notes to the Sixth CFS, using the probable assumptions and the hypothetical assumptions set out therein; and
- (b) the Monitor's review consisted of inquiries, analytical procedures and discussion related to information supplied by certain consultants retained by the Monitor. Since hypothetical assumptions need not be supported, the Monitor's procedures with respect to those assumptions were limited to evaluating whether they were consistent with the purpose of the Sixth CFS. The Monitor has also reviewed the information provided in support of the probable assumptions and the preparation and presentation of the Sixth CFS;
- (c) Based on its review, and as at the date of this Report, nothing has come to the attention of the Monitor that causes it to believe that, in all material respects:
 - the hypothetical assumptions are not consistent with the purpose of the Sixth CFS;
 - the probable assumptions developed are not suitably supported and consistent with the plans of the Applicants or do not provide a reasonable basis for the Sixth CFS, given the hypothetical assumptions; or
 - the Sixth CFS does not reflect the probable and hypothetical assumptions.

54. Since the Sixth CFS is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, the Monitor expresses no assurance as to whether the Sixth CFS will be achieved. The Monitor expresses no opinion or other form of assurance with respect to the accuracy of any financial information present in this Report, or relied upon by the Monitor in preparing this Report.

55. The Sixth CFS has been prepared solely for the purpose of estimating liquidity requirements of the Applicants during the Forecast Period. The Sixth CFS should not be relied upon for any other purpose.

DIRECTORS AND OFFICERS CLAIMS PROCESS

56. The D&O Claims Process provided for a mechanism to establish a claims procedure to identify and determine the quantum, validity and enforceability of all claims against the Applicants' officers and directors. Capitalized terms used below but not defined herein have the same meaning ascribed to them in the Claims Procedure Order.

57. In accordance with the Claims Procedure Order the Monitor:

- (a) served on the service list and posted on the Monitor's Website copies of the D&O Claims Procedure Order, the Notice to Claimants and the Proof of Claim; and
- (b) on July 5, 2024, the Notice to Claimants was published in the Globe and Mail (National Edition).

Adjudication of Claims

58. The Monitor is in the process of reviewing the claims received by the Claims Bar Date in consultation with the applicable Directors and Officers. After consultation the Monitor will accept, revise or disallow the amount of each D&O Claim set out therein.

59. The Monitor will report to this Honourable Court further once the claims have been adjudicated.

RELIEF SOUGHT BY THE APPLICANTS

Extending the Stay Period

60. The Monitor is seeking an extension to the Stay Period up to and including January 31, 2025. The Monitor has the following comments with respect to the proposed extension to the Stay Period:
- (a) based on the Sixth CFS the Applicants are projected to have sufficient available liquidity to fund the costs of the CCAA Proceedings during the term of the proposed extension of the Stay Period;
 - (b) there will be no material prejudice to the Applicants' creditors and other stakeholders resulting from the extension of the Stay of Period;
 - (c) the Applicants are continuing to act in good faith and with due diligence; and
 - (d) the proposed extension of the Stay of Period will provide sufficient time for the Applicants to conclude the D&O Claims Process and the administration of the CCAA Proceedings.

Interim Distribution

61. Pursuant to an Order of this Honourable Court made on April 1, 2024, the Applicants were authorized to make further distributions to Indigo up to an amount equal to the Secured Obligations. Given the realization of the Property is substantially complete, the Monitor does not anticipate the recoveries will be sufficient to repay the Secured Obligations in full.
62. As detailed above the Applicants currently have approximately \$15.8 million of cash on hand.
63. The Monitor is proposing to reserve certain amounts for:
- (a) \$1.3 million to administer the CCAA Proceedings as set out in the Sixth CFS;

- (b) \$1.7 million to be paid to the GTAA;
- (c) \$5.8 million in respect of the Airport Authorities AIF Claims, pending expiry of the appeal period;
- (d) \$1.5 million pending resolution or determination of the US Claims; and
- (e) \$1.3 million for contingency and other miscellaneous expenses,

(the “Reserve”).

64. The table below sets out the proposed distribution to Indigo, subject to the Reserve. Any residual amounts from the Reserve, up to the amount of the Secured Obligations, are proposed to be distributed to Indigo. The table illustrates that Indigo is still anticipated to experience a shortfall on the Secured Obligations of approximately \$52.6 million.

Proposed Distribution (C\$ 000s)	
Opening cash as at September 8, 2024	\$ 15,806
Net change in cash during the Forecast Period	(1,277)
Airport Authorities AIF Trust Claims	(4,099)
GTAA AIF Trust Claim	(1,660)
US Claims	(1,465)
Contingency	(1,305)
Total - Proposed Distribution	6,000
Secured Obligations Outstanding	(58,567)
Shortfall	\$ (52,567)

65. The Monitor notes that even with the distribution of the \$6.0 million illustrated above and any residual amounts under the Assignment of Rights Agreement, Indigo will still suffer a significant shortfall under the Secured Obligations.

66. There are no other secured creditors or claimants with claims against the Applicants that rank in priority to, or potentially in priority, to the secured claim of Indigo (other than, potentially, the WEPP Priority Claim and US Claims which have been reserved).

RECOMMENDATIONS

67. The Monitor recommends this Honourable Court approve:
- (a) the Assignment of Rights Agreement between Lynx Opco and Indigo; and
 - (b) the Monitor's request for an extension to the Stay of Period up to and including January 31, 2025.

All of which is respectfully submitted this 9th day of September 2024.

FTI Consulting Canada Inc.,
Licensed Insolvency Trustee in its capacity as
Monitor of Lynx Air and not in its personal or
corporate capacity.



Name: ~~Deryck Helkaa, CPA, CA, CIRP, LIT~~
Title: Senior Managing Director
FTI Consulting Canada Inc.



Name: Dustin Olver, CPA, CA, CIRP, LIT
Title: Senior Managing Director
FTI Consulting Canada Inc.

Appendix “A” – Assignment of Rights Agreement between Lynx Air and Indigo Northern Ventures LP

ASSIGNMENT OF RIGHTS AGREEMENT

THIS ASSIGNMENT OF RIGHTS AGREEMENT is made as of the 29th day of August, 2024.

BETWEEN:

1263343 ALBERTA INC. (d/b/a LYNX AIR), a corporation existing under the laws of the Province of Alberta (the "**Assignor**")

- and -

INDIGO NORTHERN VENTURES LP, an exempted limited partnership registered under the laws of the Cayman Islands (the "**Assignee**")

(the Assignor, and the Assignee are collectively, the "**Parties**")

RECITALS:

- A. On February 22, 2024, the Assignor was granted protection under the *Companies' Creditors Arrangement Act* (Canada) pursuant to an initial order granted by the Court of King's Bench of Alberta (the "**Court**") in proceedings bearing Court File No. 2401-02664 (as amended and restated on March 1, 2024, the "**Insolvency Proceedings**"). FTI Consulting Canada Inc. was appointed by the Court as Monitor in the Insolvency Proceedings (the "**Monitor**").
- B. On June 29, 2024, the Court pronounced an order in the Insolvency Proceedings which enhanced the powers of the Monitor. Such enhanced powers of the Monitor include, *inter alia*, empowering the Monitor to manage, operate and carry on the business of the Assignor, including the power to enter into any agreements for and on behalf of the Assignor.
- C. The Assignor is party to a Master Services Agreement among the Assignor, Elavon Canada Company ("**Elavon**"), U.S. Bank National Association ("**U.S. Bank**") and U.S. Bank National Association, acting through its Canadian Branch (together with U.S. Bank and Elavon, the "**Providers**", and each a "**Provider**"), dated August 9, 2021 (the "**MSA**").
- D. The Assignor has agreed to assign to the Assignee all of the Assignor's right, title and interest to receive any residual amount of Deposits or other Reserve Funds held by the Providers pursuant to the MSA as security for the payment and performance of the Obligations (including any refunds under section 9.6 of the MSA), such residual amount to be determined by the Providers in accordance with the MSA after all Obligations are satisfied or paid in full and net of any Chargebacks (with Obligations, Chargebacks, Deposits and Reserved Fund each having the meaning ascribed thereto in the MSA)

(collectively, the "**Assigned Interest**") and the Assignee has agreed to accept such assignment, all pursuant to and subject to the provisions of this Agreement.

- E. The Assignor shall not assign any other rights, title or interests under the MSA other than the Assigned Interest.
- F. The Assignor requires an Approval Order (as defined herein) to be granted by the Court which authorizes, approves and confirms this Agreement and the assignment contemplated herein, with the terms and conditions contained herein.
- G. Terms not otherwise defined herein shall have the meaning ascribed to them in the MSA.

NOW THEREFORE, in consideration of the respective covenants, agreements, representations, warranties and indemnities of the Parties set out in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party, the Parties agree as follows:

- 1. Assignment.** Within four days (exclusive of Saturdays, Sundays and statutory holidays in the Province of Alberta) after the Assignor obtains the Approval Order (the "**Effective Date**"), the Assignor shall absolutely assign, set over, transfer and convey unto the Assignee, effective as of the Effective Date, the Assigned Interest and all benefits and advantages derived or to be derived therefrom, to have and to hold the same for the Assignee's sole use and benefit absolutely.
- 2. Representations and Warranties of the Assignor.** The Assignor represents and warrants to the Assignee as follows and acknowledges that the Assignee is relying upon such representations and warranties in entering into this Agreement and in connection with the completion of the transactions contemplated herein:
 - (a) Subject to Assignor obtaining the Approval Order, the execution and delivery of and performance by the Assignor of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Assignor;
 - (b) Subject to Assignor obtaining the Approval Order, the execution and delivery of and performance by the Assignor of this Agreement:
 - (i) does not and will not have an impact on any of the rights, title or interests, of the Assignor under the MSA outside of the rights, title and interests relating to the Assigned Interest;
 - (ii) does not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a violation or breach of, or conflict with, or allow any other person to exercise any rights under, any of the terms or provisions of its constating documents or by-laws, as applicable;


- (iii) does not and will not (or would not with the giving of notice, the lapse of time or the happening or any other event or condition) constitute or result in a breach or violation of, or conflict with or allow any other person to exercise any rights under, any of the terms or provisions of any agreement to which it is a party; and
 - (iii) does not and will not result in the violation of any law;
 - (c) Subject to Assignor obtaining the Approval Order, this Agreement has been duly executed and delivered by the Assignor and this Agreement constitutes a valid and binding obligation of the Assignor enforceable against the Assignor in accordance with its terms, subject, as to enforcement, to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law);
 - (d) No person has any right, privilege, option or agreement, contingent or otherwise, to acquire, directly or indirectly, the Assigned Interest;
 - (e) Other than any defaults arising as a result of the commencement of the Insolvency Proceedings by the Assignor, the MSA is in good standing and there are no obligations owing by the Assignor to the Provider under the MSA;
 - (f) Provider has consented to the assignment of the Assigned Interest; and
 - (g) Other than the Approval Order, there is no requirement to obtain any consent, approval or waiver from any third party or governmental authority in respect of the assignment, transfer and conveyance of the Assigned Interest from the Assignor to the Assignee pursuant to the terms hereof.
3. **Representations and Warranties of the Assignee.** The Assignee represents and warrants to the Assignor as follows and acknowledges that the Assignor is relying upon such representations and warranties in entering into this Agreement and in connection with the completion of the transactions contemplated herein:
- (a) The execution and delivery of and performance by the Assignee of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Assignee;
 - (b) The execution and delivery of and performance by the Assignee of this Agreement:
 - (i) does not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a violation or breach of, or conflict with, or allow any other person to exercise any rights under, any of the terms or provisions of its constating documents or by-laws;

- (ii) does not and will not (or would not with the giving of notice, the lapse of time or the happening or any other event or condition) constitute or result in a breach or violation of, or conflict with or allow any other person to exercise any rights under, any of the terms or provisions of any agreement to which it is a party; and
 - (iii) does not and will not result in the violation of any law;
 - (c) This Agreement has been duly executed and delivered by the Assignee and this Agreement constitutes a valid and binding obligation of the Assignee enforceable against the Assignee in accordance with its terms, subject, as to enforcement, to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law).
4. **Approval Order.** Each of the Parties agree that it is a condition precedent to the effectiveness of the assignment set forth in this Agreement that an order be granted by the Court in connection with the Insolvency Proceedings, in form and substance acceptable to the Parties, each acting reasonably. which authorizes, approves, and confirms this Assignment Agreement and the assignment contemplated hereby in accordance with the terms and conditions contained herein (the "**Approval Order**"). Each of the Parties agrees that it will take those actions reasonably necessary to carry out the matters contemplated by this Agreement or any of its provisions, including without limitation, anything reasonably necessary in order for the Assignor to obtain the Approval Order.
 5. **Further Assurances.** The Parties shall execute such further assurances and do all such further acts as may be reasonably required to give full effect to the provisions hereof.
 6. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral, of the Parties, and there are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth or referred to herein.
 7. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein and the Parties irrevocably attorn to the jurisdiction of the Province of Alberta.
 8. **Enurement.** This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.
 9. **Counterparts.** This Agreement may be executed by facsimile or other electronic transmission and in separate counterparts, and all of the executed counterparts together constitute one instrument and shall have the same force and effect as if all of the Parties executing such counterparts had executed the same agreement.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date first written above.

**1263343 ALBERTA INC., by FTI Consulting
Canada Inc. under and pursuant to the
authority conferred upon it by order of the
Court of King's Bench of Alberta
pronounced on June 28, 2024, and not in its
personal or corporate capacity**

By: 
Name: Brett Wilson
Title: Managing Director

**INDIGO NORTHERN VENTURES LP, BY
ITS GENERAL PARTNER INDIGO
NORTHERN VENTURES GP, LLC**


By: _____
Name:
Title:

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date first written above.

**1263343 ALBERTA INC., by FTI Consulting
Canada Inc. under and pursuant to the
authority conferred upon it by order of the
Court of King's Bench of Alberta
pronounced on June 28, 2024, and not in its
personal or corporate capacity**

By: _____
Name:
Title:

**INDIGO NORTHERN VENTURES LP, BY
ITS GENERAL PARTNER INDIGO
NORTHERN VENTURES GP, LLC**

By:  _____
Name: *Brian Franke*
Title: *Vice President*

Appendix “B” – Cash Flow Statement for the period ending February 1, 2024

Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx Air
Consolidated Cash Flow Statement
For the period of September 8, 2024 to February 1, 2025

(C\$ 000s)																						
For the period of September 8, 2024 to February 1, 2025																						
	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16	Week 17	Week 18	Week 19	Week 20	Week 21	21 Week
	14-Sep	21-Sep	28-Sep	5-Oct	12-Oct	19-Oct	26-Oct	2-Nov	9-Nov	16-Nov	23-Nov	30-Nov	7-Dec	14-Dec	21-Dec	28-Dec	4-Jan	11-Jan	18-Jan	25-Jan	1-Feb	Total
Receipts																						
Revenue	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other / Recovery of Deposits	-	-	19	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	440
Total - Receipts	-	-	19	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	440
Disbursements																						
Contractors	-	-	(10)	-	-	-	(10)	-	-	-	-	(10)	-	-	-	(10)	-	-	-	(10)	-	(50)
WEPP Priority Claim	-	-	(1,000)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(1,000)
SG&A expense	-	-	(5)	-	-	-	(5)	-	-	-	-	(5)	-	-	-	(5)	-	-	-	(5)	-	(25)
Professional fees	-	-	(150)	-	-	-	(75)	-	-	-	-	(75)	-	-	-	(50)	-	-	-	(50)	-	(400)
Air Travellers Security Charge	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(261)
Total - Disbursements	-	-	(1,165)	-	-	-	(90)	-	-	-	-	(90)	-	-	-	(65)	-	-	-	(65)	(261)	(1,736)
Net change in cash	-	-	(1,146)	-	-	-	(90)	-	-	-	-	(90)	-	-	-	(65)	-	-	-	(65)	179	(1,277)
Opening cash	15,806	15,806	15,806	14,660	14,660	14,660	14,660	14,570	14,570	14,570	14,570	14,570	14,480	14,480	14,480	14,480	14,415	14,415	14,415	14,415	14,350	15,806
Ending Cash	\$ 15,806	\$ 15,806	\$ 14,660	\$ 14,660	\$ 14,660	\$ 14,660	\$ 14,570	\$ 14,570	\$ 14,570	\$ 14,570	\$ 14,570	\$ 14,480	\$ 14,480	\$ 14,480	\$ 14,480	\$ 14,415	\$ 14,415	\$ 14,415	\$ 14,415	\$ 14,350	\$ 14,529	\$ 14,529

Notes:

The Cash Flow Statement includes estimated receipts and disbursements of Lynx Air during the Forecast Period. FTI Consulting Canada Inc., in its capacity as Monitor, prepared the Cash Flow Statement based primarily on estimated receipts and disbursements related to the CCAA proceedings. Receipts and disbursements are denominated in Canadian dollars (the foreign exchange conversion rate used to convert USD to CAD is 1.35).

1. No revenue receipts in the Forecast Period, any residual funds will be collected by Indigo pursuant to the Assignment of Rights Agreement, subject to approval of this Honourable Cour
2. Other receipts include recovery of certain deposits on account and return of letters of credit
3. Contractors includes estimate for the three contractors retained to assist to complete the administration of the CCAA Proceedings
4. WEPP Priority Claim based on the calculation of subrogated super-priority claim
5. SG&A expense includes information technology and ongoing software costs to maintain access to the Applicants' systems, and other costs required during the CCAA Proceeding
6. Professional fees for the Monitor and the Monitor's Counsel
7. Air Travelers Security Charge ("ATSC") based on the final reconciliation of amounts owed