IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re The Hertz Corporation, *et al.*,[1] Debtors.	Chapter 11 Case No. 20-11218 (MFW) (Jointly Administered) **Re: Docket Nos. 1153, 1154, 1249, 1254, & 1275** **Original Obj. Deadline: Sept. 10, 2020 at 4:00 p.m.** **Initial Hr'g Date: Sept. 17, 2020 at 1:00 p.m.** **Supplemental Hr'g Date: TBD**

DEBTORS' SUPPLEMENTAL BRIEF IN SUPPORT OF THEIR MOTION FOR ENTRY OF AN ORDER AUTHORIZING AND APPROVING THE DEBTORS' (I) KEY EMPLOYEE INCENTIVE PLAN AND (II) EMPLOYEE INCENTIVE PLAN

The Debtors hereby file this supplemental brief (the "**Supplemental Brief**") in support of their *Motion for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan and (ii) Employee Incentive Plan* (the "**Motion**") [D.I. 1153].[2] In support of the Supplemental Brief, and with reference to the Buenzow Declaration, the England Declaration, and the Pulliam Declaration (each as attached to the Motion); the declarations of Michael Buenzow, John England, and Matthew Pulliam attached to the Debtors' reply filed in support of the Motion [D.I. 1295] (the "**Reply**") as Exhibit A (the "**First Supplemental Buenzow Declaration**"), Exhibit B (the "**First Supplemental England Declaration**"), and Exhibit C (the "**First Supplemental Pulliam Declaration**"), respectively; and the supplemental declarations of

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[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of debtors in these chapter 11 cases, for which joint administration for procedural purposes has been requested, a complete list of the debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the debtors' claims and noticing agent at https://restructuring.primeclerk.com/hertz.

[2] Filed under seal pursuant to request at Docket No. 1155. A partially redacted copy of the Motion is filed publicly at Docket No. 1154. Where the context requires, capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

Michael Buenzow (attached hereto as **Exhibit A**, the "**Second Supplemental Buenzow Declaration**"), John England (attached hereto as **Exhibit B**, the "**Second Supplemental England Declaration**"), and Matthew Pulliam (attached hereto as **Exhibit C**, the "**Second Supplemental Pulliam Declaration**"), the Debtors state as follows:

PRELIMINARY STATEMENT

1. At a hearing on the Motion on September 17, 2020 (the "**Hearing**"), the Court expressed certain concerns about the proposed Incentive Plans. Specifically, the Court indicated that it was troubled that many of the Incentive Plan participants—and particularly the senior executives—received prepetition retention bonuses and that the Court was unconvinced that the ABS Debt Paydown Metric and the Donlen Metrics were truly incentivizing. The Court continued the Hearing and invited the Debtors to consider whether to revise or further justify the proposed Incentive Plans. In the face of the Court's strong statements, the Debtors seriously considered abandoning the Incentive Plans altogether. While that would certainly be the easiest course, the Debtors have determined that outright abandonment would not be in the best interests of their estates.

2. In the hope of addressing the Court's concerns while at the same time focusing their workforce on improved performance that will enhance the Debtors' ability to successfully restructure, the Debtors have decided to defer consideration of a KEIP until 2021 and to proceed only with the EIP at this time, subject to the modifications described below, which include reducing proposed awards for all Senior Vice Presidents and Vice Presidents by 20% and moving the three Senior Vice Presidents initially included in the KEIP to the EIP. The Debtors continue to be concerned that the other proposed KEIP Participants are undercompensated

relative to market[3] and that the lack of an incentive program for these individuals is inconsistent with past practice. But neither the Debtors nor their most senior executives want any concerns that the Court may have about the KEIP to stand in the way of providing immediate incentive payment opportunities to the broader group of non-insider employees covered by the EIP. Accordingly, the Debtors will rely on their most senior executives to continue their efforts to support the Debtors' restructuring and operations through the remainder of the year without an incentive plan and intend to return to the Court with a new key employee incentive plan for 2021 that will be designed to maximize value and drive the Debtors' emergence from chapter 11.

3. But in order to provide immediate incentives for their broader, non-insider management team to achieve superior performance, the Debtors are asking the Court to immediately approve a revised EIP. After accounting for (i) the addition of three Senior Vice Presidents originally included in the KEIP, (ii) the 20% reduction of Incentive Award opportunities for Senior Vice Presidents and Vice Presidents, and (iii) the resignation of nine EIP participants since the Debtors filed the Motion, the cost levels and headcount for the Debtors' revised Incentive Plan request have been reduced as follows:

	Count	Threshold	Target	Reach
Senior Vice Presidents/Vice Presidents	65	$1,749,446	$3,782,499	$4,728,123
Senior Directors/Directors	226	$1,222,500	$2,785,000	$3,481,250
EIP TOTAL	**291**	**$2,971,946**	**$6,567,499**	**$8,209,373**
Net change vs. original Motion EIP	(4)	($715,572)	($807,537)	($1,009,422)

[3] This concern was further validated when, shortly after the Hearing, the Debtors had their second CFO resignation in as many months. *See* Hertz Global Holdings, Inc. and The Hertz Corporation 8-K dated Sept. 28, 2020, *available at* https://www.sec.gov/ix?doc=/Archives/edgar/data/47129/000165785320000088/htz-20200922.htm.

4. Consistent with its prior statement of support for the Incentive Plans as originally proposed [D.I. 1251], the Creditors' Committee supports the revised EIP, subject to its ongoing review of certain minor adjustments made between the Creditors' Committee review of the revised EIP and the filing of this Supplemental Brief.

5. In addition to deferring the KEIP and reducing the target payments to the more senior EIP participants, the Debtors have taken further measures to respond to the Court's concerns. First, while EIP participants are not insiders and the EIP is therefore not legally required to be incentivizing, the Debtors believe this is and should be an incentive plan and have therefore modified or eliminated the Metrics that the Court found problematic. Specifically, the Debtors eliminated the ABS Paydown Metric entirely and eliminated the Donlen Threshold Goal, requiring the Debtors to achieve Target level performance before Donlen Participants can receive any Incentive Award. Second, the Debtors are submitting additional evidence to further explain why each of the Goals for each of the Metrics requires the Debtors to materially improve their performance as compared to the status quo at the time the Goals were set and to estimate the economic benefit to their estates of reaching these Goals. This analysis makes clear that not only does the achievement of the Goals require significant effort, but that the economic benefit to the estates of that achievement far exceeds the cost of the programs.

6. Further, the Debtors submit additional evidence to respond to the Court's concerns regarding to the Debtors' pre-petition retention bonus program. This evidence shows that retention programs and incentive programs are fundamentally different, not mutually exclusive, and that it is common for companies, including those that have commenced chapter 11 cases in response to COVID, to use both types of program as part of executives' and other employees' total compensation packages. The Debtors are grateful to the Court for providing

this opportunity to present their revised plan and supplemental evidence in support. The Debtors respectfully submit that given the modifications, the additional evidence presented with this Supplemental Brief, and for the reasons previously explained, the EIP, as modified, should be approved.

DISCUSSION

A. The EIP Is Justified Under the Facts and Circumstances of the Case

7. At the Hearing, the Court identified section 503(c)(3) of the Bankruptcy Code as the standard for evaluating the EIP.[4] The Debtors argue in the Motion that the EIP satisfies section 503(c)(3) of the Bankruptcy Code, Mot., ¶¶ 67-76, which requires the Debtors to show that it is "justified by the facts and circumstances of the case," 11 U.S.C. § 503(c)(3). Although many courts have equated or otherwise referred to this standard as a business judgment standard,[5] the Debtors understand that the Court will evaluate the EIP through a more exacting lens.

8. Courts evaluating incentive plans under section 503(c)(3) typically apply the factors identified in *In re Dana Corp.*, 358 B.R. 567, 576-77 (Bankr. S.D.N.Y. 2006) as described in paragraphs 68 through 75 of the Motion.[6] Like this Court, the *Dana Corp.* court

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4 Hr'g Tr., ¶ 133:8-14.

5 *See, e.g.*, *In re Velo Holdings*, 472 B.R. 201, 212 (Bankr. S.D.N.Y. 2012) (noting that the "'facts and circumstances' language of section 503(c)(3) creates a standard no different than the business judgment standard under section 363(b)"); *In re Alpha Nat. Res., Inc.*, 546 B.R. 348, 356 (Bankr. E.D. Va. 2016) ("a majority of courts . . . agree that the 'facts and circumstances' test of 503(c)(3) is identical to the business judgment standard under 363(b)(1)"); *cf. In re Glob. Home Prods., LLC*, 369 B.R. 778, 783, 786 (Bankr. D. Del. 2007) (concluding that all employee incentive plan proposals are subject to business judgment review; referring to *Dana Corp.* analysis as "business judgment standard").

6 *See, e.g.*, *In re Glob. Home Prods., LLC*, 369 B.R. 778, 786 (Bankr. D. Del. 2007); *In re Alpha Nat. Res., Inc.*, 546 B.R. at 362; *In re Patriot Coal Corp.*, 492 B.R. 518, 531 (Bankr. E.D. Mo. 2013); *GT Advanced Techs., Inc. v. Harrington*, 2015 U.S. Dist. LEXIS 94743, at *22-23 (D.N.H. July 21, 2015) (remanding bankruptcy court's denial of employee program for failure to

acknowledged that the standard requires the movant to show that incentive plans are allowable as administrative expenses as actual and necessary expenses of preserving the Debtors' estates. *Id.* at 576. As further explained below, the Debtors have made this showing.

1. The EIP Is Justified Notwithstanding that Most Participants Received Retention Bonuses Immediately Prior to the Petition Date

9. At the Hearing, the Court expressed concern about authorizing the Incentive Plans given that a large majority of the Participants received bonuses shortly before the Petition Date pursuant to the Debtors' Key Employee Retention Letter Agreement program (the "**KERP Bonuses**").[7] The EIP is justified notwithstanding the KERP Bonus payments for three primary reasons. *First*, the two programs serve distinct purposes. The EIP is designed to incentivize performance by the Participants, whereas the Debtors paid the KERP Bonuses in an attempt to keep their management structure intact as they transitioned into chapter 11. *Second*, because retention and incentive pay programs serve different purposes, it is common for employers to use both types simultaneously, including at least seven peer debtors post-COVID that have implemented post-petition incentive compensation plans even after the payment of retention bonuses to the same employees shortly before commencing chapter 11 cases. *Third*, if the Target Goal is achieved with respect to each Metric (which is far from certain), EIP Participants would, on the whole, still receive less compensation in 2020 than they were expected to receive in the absence of the pandemic.

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adequately consider *Dana Corp.* factors); *see also In re FirstEnergy Solutions Corp.*, 591 B.R. 688, 697 (Bankr. N.D. Ohio 2018) (noting widespread adoption of *Dana Corp.* factors).

The *Dana Corp.* factors are (i) whether the plan is calculated to achieve the desired performance; (ii) whether the cost of the plan is reasonable in relation to the debtor's assets, liabilities and earning potential; (iii) whether the scope of the plan fair and reasonable; (iv) whether the plan is consistent with industry standards; (v) the degree of the debtor's diligence in determining the need for the plan and selecting participants; and (vi) whether the debtor relied on independent counsel in performing due diligence and crafting the plan. *Dana Corp.*, 358 B.R. at 576-77.

[7] Approximately 85% of proposed EIP participants received KERP Bonuses.

a. The Distinct Purposes of the KERP Bonuses and the EIP

10. The KERP Bonuses and Incentive Plans serve two different purposes, both of which are critical to the Debtors' efforts to successfully prosecute and operate through these Chapter 11 Cases. The KERP Bonuses were intended solely to induce the Debtors' employees not to resign in the coming months, despite the Debtors' mounting challenges and the uncertainty that faced these employees as they contemplated their futures with the Debtors. Indeed, the KERP Bonuses are retention plans, and allow the recipients to retain the retention payments, provided that they remain with the Debtors through March 31, 2021, subject to certain exceptions. While the KERP Bonuses are a tool for retaining employees, they are not tethered to employees' or the Debtors' achievement of any specific goals. 2d Supp. England Decl. ¶ 6.

11. Hence the reason that the EIP is now so important. Unlike the KERP Bonuses, the EIP is a tool to motivate enhanced performance. *Id.* at ¶ 7. It relies on a collection of counterbalancing performance metrics that are based on the Debtors' post-COVID objectives, and provides variable incentive payments to employees who play a role in the Debtors' achievement of those goals. Buenzow Decl. ¶¶ 12-13. Unlike the KERP Bonuses, the primary goal of an incentive plan, like the EIP, is not simply to retain key employees, but to incentivize them to focus their energy and efforts on achieving specific, challenging performance goals for the benefit of the Debtors' stakeholders. 2d Supp. England Decl. ¶¶ 7, 10. Thus, while the KERP Bonuses discourage the Debtors' executives and other employees from leaving, the EIP provides those employees additional motivation to drive specific performance with respect to objectives that have been identified as critical to the Debtors' reorganization efforts. As set forth in John England's Second Supplemental Declaration, retention plans, such as the KERP Bonuses, and incentive plans, such as the EIP, are independent components of compensation and are often deployed in tandem. *Id.* at ¶ 8. The Debtors respectfully submit that, like so many of

their peer debtors identified in section A.1.b., below, they reasonably concluded that it was appropriate and in the Debtors' best interests to pay the KERP Bonuses in light of the extreme uncertainty that faced the Debtors and their remaining employees alike as the Debtors approached a chapter 11 filing.

12. The U.S. Trustee incorrectly argues that, in exchange for the KERP Bonuses, the Participants waived their right to any additional bonuses in 2020.[8] The recipients of the KERP Bonuses waived participation only in the Company's "annual bonus plan," which was the Debtors' 2020 Executive Incentive Compensation Plan. 2d Supp. England Decl. ¶ 10. As explained in Mr. England's Second Supplemental Declaration, the KERP Bonuses were never intended to preclude the Debtors from paying incentive awards for the remainder of 2020, and he recommended to the Compensation Committee that it approve a post-petition, July-December 2020 EIP because of the incentivizing effect such plans can have on a company's employees. *Id.* at ¶ 10.

b. There Is Substantial Precedent for Incentive Plans for Employees That Received Prepetition Retention Bonuses

13. At the Hearing the Court questioned whether other bankruptcy courts have approved incentive plans for participants that received retention bonuses shortly before the commencement of the case.[9] As Mr. Pulliam explains in his Second Supplemental Declaration, this is not uncommon, and has continued post-COVID. Indeed, more than half of the debtors identified in Mr. Pulliam's Post-COVID Peer Group and more than half of the debtors identified Mr. Pulliam's Bankruptcy Peer Group (each as defined in the Second Supplemental Pulliam Declaration) made some form of pre-petition retention payments to employees as to whom post-

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[8] Objection of the United States Trustee [D.I. 1254], ¶ 1.

[9] Hr'g Tr. 137:6-13.

petition incentive programs were later approved. 2d Supp. Pulliam Decl. ¶¶ 8-9. A summary of these instances Mr. Pulliam identified is listed below:

Case	Date of Retention Bonuses (Approx.)	Petition Date	Date of Incentive Plan Approval
Post-COVID Examples			
In re California Resources Corp., et al., Bankr. S.D. Tex. No. 20-22568 (DRJ)	May 26, 2020	July 15, 2020	Aug. 20, 2020
In re Diamond Offshore Drilling, Inc., et al., Bankr. S.D. Tex. No. 20-32307 (DRJ)	Apr. 21, 2020	Apr. 26, 2020	June 23, 2020
In re Exide Holdings, Inc. et al., Bankr. D. Del. No. 20-11157 (CSS)	May 15, 2020	May 19, 2020	June 20, 2020
In re Frontier Communications Corp., et al., Bankr. S.D.N.Y. No. 20-22476 (RDD)	Prepetition (unspecified)	Apr. 12, 2020	July 17, 2020
In re Intelsat S.A., et al., Bankr. E.D. Va. No. 20-32299 (KLP)	April 30, 2020	May 14, 2020	June 30, 2020
In re 24 Hour Fitness Worldwide, Inc., et al. Bankr. D. Del. No. 20-11558 (KBO)	April 2020	June 15, 2020	Sept. 22, 2020
In re Neiman Marcus Group Ltd LLC, et al., Bankr. S.D. Tex. No. 20-32519 (DRJ)	April 13, 2020	May 7, 2020	July 30, 2020
Pre-COVID Examples			
In re iHeartMedia, Inc., et al., Bankr. S.D. Tex. No. 18-31274	Feb. 23, 2020	Mar. 14, 2018	June 7, 2018
In re Linn Energy, LLC, et al., Bankr. S.D. Tex. No. 16-60040 (DRJ)	Prepetition (unspecified)	May 11, 2016	Aug. 1, 2016
In re McDermott International, Inc., et al., Bankr. S.D. Tex. No. 20-30336	Jan. 17, 2020	Jan. 21, 2020	Feb. 24, 2020
In re Peabody Energy Corp., et al., Bankr. E.D. Mo. No. 16-42529	Jan. 4, 2016	Apr. 13, 2016	Aug. 18, 2016
In re Waypoint Leasing Holdings Ltd., Bankr. S.D.N.Y. No. 18-13648 (SMB)	June 2018	Nov. 25, 2018	Mar. 1, 2019
In re Windstream Holdings, Inc., et al., Bankr. S.D.N.Y. No. 19-22312 (RDD)	Feb. 19, 2019	Feb. 25, 2019	Jan. 21, 2020

See 2d Supp. Pulliam Decl. ¶¶ 8-9.

14. As Mr. Pulliam explains, many companies that have commenced chapter 11 cases since the onset of the COVID-19 pandemic have recognized the need to modify their pre-crisis compensation programs in order to maintain compensation levels for employees that bear no fault in the original goals becoming obsolete. *Id*. at ¶ 10.

c. Payment of Incentive Awards in Addition to the KERP Bonuses Will Not Result in Excessive Pay to Participants

15. At the Hearing the Court questioned whether addressing Participants' below-market compensation through incentive plans is appropriate because the Debtors have historically offered below-market compensation.[10] In response to these comments, the Debtors have (a) reduced the Target Award Amounts for EIP Participants with a title of Vice President or Higher by 20%, and (b) offer the following supplemental analysis to show that, on the whole, the EIP Participants' compensation would remain below market and below their historical pay opportunities at Hertz.

16. As set forth in the England Declaration and further detailed in the Second Supplemental England Declaration, even with Incentive Awards at Target levels, aggregate pay for EIP Participants would continue to be below the market median ***and*** below what they were expected to earn in 2020 before the onset of the pandemic. This is true even when accounting for the KERP Bonuses.[11] 2d Supp. England Decl. ¶ 17 (pre-COVID target compensation for EIP participants, in total, was 2% below market median for equivalent group; EIP Participants' post-COVID aggregate compensation, including KERP Bonuses and EIP at Target, would be 11% below market median for equivalent group).

[10] Hr'g Tr. 134:4-6.

[11] This was also true before the Debtors reduced the Target Award Amounts for EIP Participants with a title of Vice President or higher. *See* England Decl., ¶ 37. This adjustment rendered the EIP Participants still farther below their pre-pandemic 2020 target earning opportunities.

17. At the Hearing, the Court expressed concern that individual pay opportunities were benchmarked against compensation offered by companies that are not in bankruptcy.[12] For the avoidance of doubt, the Debtors benchmarked the overall cost of the EIP against other programs approved for debtors in chapter 11. This aggregate plan benchmarking revealed that the overall cost of the plan was below the bankruptcy market median relative to peer debtors.[13] Moreover, because the number of Participants is high relative to the bankruptcy peers, the average cost per Participant was well below the bankruptcy market median.[14] In short, the EIP will have more participants and reach further down the management structure than most peer plans.

18. Pay Governance separately benchmarked individual total annual pay opportunities for EIP participants by class against overall market opportunities at going concern, non-debtor peer companies.[15] Benchmarking individual pay opportunities against non-debtors is appropriate because this represents the market for Participants' services. The Debtors' employees have the option and opportunity to work for employers that are not debtors in chapter 11. Just as courts have recognized that bankruptcy professionals should be compensated at levels equivalent to their peers in other fields to ensure adequate representation of debtors,[16] employees should not be

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[12] Hr'g Tr. 133:25-134:1.

[13] *See* Pulliam Decl. ¶ 21 (overall time-adjusted EIP cost at 43rd percentile).

[14] *Id.* at ¶ 22 ("In general, the proposed Incentive Plans have a larger number of participants and lower aggregate and average costs per participant relative to the Bankruptcy Peer Group."); *see also* 1st Supp. Pulliam Decl. ¶ 3 (in two company COVID-only peer group, average time-adjusted cost per EIP Participant in 12th percentile).

[15] Hr'g Tr. 19:7-20.

[16] *See, e.g.*, *In re Nucorp Energy*, 764 F.2d 655, 658 (9th Cir. 1985) (bankruptcy professionals should be compensated at rates equivalent to non-bankruptcy peers "to ensure adequate compensation for bankruptcy attorneys so that highly qualified specialists would not be forced to abandon the practice of bankruptcy law in favor of more remunerative kinds of legal work").

expected to work for less pay in the bankruptcy setting.[17] *Cf. Dana Corp.*, 358 B.R. at 575 ("[S]ection 503(c) was not intended to foreclose a chapter 11 debtor from *reasonably* compensating employees, including 'insiders,' for their contribution to the debtors' reorganization."). To hold otherwise would deprive debtors of access to skilled workers, including their own who have institutional knowledge critical to any restructuring. Accordingly, debtors and their professionals routinely benchmark against non-bankruptcy individual pay opportunities to establish the appropriateness of proposed payments to employees.[18]

19. Recent employee departures serve as a stark reminder that the proposed Participants have opportunities elsewhere. As recited in the Motion, the Debtors' CFO resigned shortly before the Debtors' filed the Motion. After accounting for resignations by ten proposed Participants after the Motion was filed, the Debtors have now seen more voluntary departures by employees with a Director or higher title in 2020 than they did in all of 2019, despite 2020 presenting a more challenging job market for employees. 1st Supp. England Decl. ¶ 6; 2d Supp. England Decl. ¶ 19. Indeed, the Debtors' CFO appointed in the wake of their prior CFO's

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[17] This is especially true given the additional burdens that employees are expected to undertake to support restructuring processes.

[18] *See, e.g.*, *In re 24 Hour Fitness Worldwide, Inc.*, et al., Bankr. D. Del. No. 20-11558 (KBO), ECF No. 668, ¶ 5 (individual pay opportunity benchmarking performed by FTI against "relevant market compensation data, including salaries, short-term compensation, and long-term compensation opportunities offered by the Debtors' peer group and companies in chapter 11"); *In Exide Holdings, Inc.*, et al., Bankr. D. Del. No. 20-11157 (CSS), ECF No. 384, ¶ 11 (individual pay opportunity benchmarking performed by Mercer against "opportunities at similarly sized companies in the [debtors'] industry."); *In re Neiman Marcus Group Ltd LLC*, et al., Bankr. S.D. Tex. No. 20-32519 (DRJ) ECF No. 983, ¶ 16 ("The proposed award opportunities reflect A&M's benchmarking analysis versus the Debtors' industry peers and historical practices, as well as a review of incentive-based compensation plans approved in other chapter 11 cases."); *In re Frontier Communications Corporation*, et al., Bankr S.D.N.Y. Case No. 20-22476 (RDD), ECF No. 500, at ¶ 22 (individual pay opportunity benchmarking performed by Willis Towers Watson against "a set of 15 peer companies operating in the telecommunications industry that the Debtors use for executive compensation benchmarking purposes" and had used prepetition).

August resignation also resigned shortly after the Hearing, requiring the Debtors to appoint their third CFO in two months.[19] These departures have occurred at the very time that the Debtors most require the committed service of their key employees.

20. To be clear, the primary purpose of the EIP is to incentivize the Participants. However, it is important to note that the Debtors' estates would further suffer if the Debtors were to lose additional employees because they were not permitted to offer their employees overall compensation that is at least competitive relative to opportunities with non-debtor employers.[20]

2. Numerous Incentive Plans Have Been Approved Since the Onset of the Pandemic and the EIP Is Reasonable Relative to Similar Plans of Peer Debtors

21. The Court expressed concern at the Hearing that the Debtors' post-COVID peer group was small.[21] As reflected in the First Supplemental Pulliam Declaration, at the time Mr.

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[19] *See* Hertz Global Holdings, Inc. and The Hertz Corporation 8-K dated Aug. 14, 2020, *available at* https://www.sec.gov/ix?doc=/Archives/edgar/data/47129/000110465920095605/tm2027700-1_8k.htm; Hertz Global Holdings, Inc. and The Hertz Corporation 8-K dated Sept. 28, 2020, *available at* https://www.sec.gov/ix?doc=/Archives/edgar/data/47129/000165785320000088/htz-20200922.htm.

[20] That the Incentive Plans may have a retentive effect does not render them retention plans subject to the limitations of section 503(c)(1) of the Bankruptcy Code. *See In re Global Home Prods., LLC*, 369 B.R. 778, 786 (Bankr. D. Del. 2007) ("The fact . . . that all compensation has a retention element does not reduce the Court's conviction that [the] Debtors' primary goal [is] to create value by motivating performance."); *In re Dana Corp*., 358 B.R. 567 at 584 (Bankr. S.D.N.Y. 2006) ("[I]ncentivizing plans with some components that arguably have a retentive effect do not necessarily violate section 503(c)."). In any event, because the EIP does not contain insiders, the EIP could be approved regardless of whether it is an incentive plan at all. *See* Mot. ¶¶ 55-57.

[21] Hr'g Tr., 134:2-3. The Debtors note that Mr. Pulliam's efforts to develop a robust, bespoke peer group to evaluate the Incentive Plans, including by reference to contemporary filers operating in the COVID environment, exceed those of other experts in this context. Indeed, experts routinely "recycle" peers, relying on the same companies over and over without regard to the particular circumstances of the subject debtor. To illustrate this behavior, Mr. Pulliam analyzed the peer groups used in relation to the incentive plans approved in the Expanded Bankruptcy Peer Group and found that, despite their differences in industry, multiple members of the Expanded Bankruptcy Peer Group used as comparables nine of the original sixteen

Pulliam developed the Debtors' bankruptcy peer group for benchmarking purposes, he identified and included in his analysis six post-COVID peers that had implemented executive incentive programs similar to the KEIP,[22] two of which had also offered employee incentive programs similar to the EIP. 1st Supp. Pulliam Decl., ¶ 3.

22. In response to the Court's concerns expressed at the Hearing, Mr. Pulliam obtained data on incentive plans that have been approved for COVID-affected debtors since he developed his original peer group. Through this process, including those he identified when he constructed his original bankruptcy peer group, Mr. Pulliam has now identified a total of 46 chapter 11 cases commenced since March 1, 2020 with petition-listed assets of between $1 billion and $50 billion. 2d Supp. Pulliam Decl. ¶ 5. Within those, Mr. Pulliam identified a total of eleven debtors that had obtained court approval for at least one form of employee incentive plan. All eleven had obtained approval of an insider employee incentive plan (like the KEIP) and five had also obtained approval of a non-insider incentive plan (like the EIP).[23] *Id.* at ¶ 6. Pulliam refers to this group as the "**Post-COVID Peer Group**" (five total EIP peers) and, together with the pre-COVID members of his original bankruptcy peer group, the "**Expanded Bankruptcy Peer Group**" (seven total EIP peers). *Id.* at ¶¶ 6, 11. After taking the new peers into account, Mr. Pulliam's analysis confirms that the proposed EIP is consistent with market norms in both the pre-COVID and post- COVID environments.

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members of the Bankruptcy Peer Group (each as defined in the Second Supplemental Pulliam Declaration). Based on the finite pool of debtors, it is virtually impossible to create a statistically viable list of comparable companies from a single industry (with the exception of Oil & Gas) or circumstance. Second Supp. Pulliam Decl. ¶ 12.

[22] These Debtors were (i) Diamond Offshore Drilling, (ii) Exide Holdings, Inc., (iii) Frontier Communications Corporation; (iv) Intelsat, S.A.; (v) Neiman Marcus Group Ltd. LLC; and (vi) OneWeb Global Limited. Hr'g Tr. 53:7-54:5.

[23] It is likely that others within the group will seek approval of plans of their own at a later date. Mr. Pulliam notes that many of these cases were filed relatively recently, including approximately twenty (20) since June 14, 2020. 2d Supp. Pulliam Decl. ¶ 5 n.4.

23. The EIP is reasonable on a total cost and per capita basis when compared to equivalent non-insider incentive plans approved in the Expanded Bankruptcy Peer Group. After adjusting for differences in measurement periods, the EIP's maximum aggregate annualized cost is in the 56th percentile. In terms of headcount and maximum individual annualized opportunity, the EIP is in the 39th and 62nd percentiles, respectively. *Id.* at ¶ 12.

24. The EIP also remains reasonable when benchmarked against the five non-insider plans in the Post-COVID Peer Group. While the total maximum annualized cost of the Debtors' EIP relative to the Post-COVID Peer Group is at the 84th percentile, the maximum annualized cost of the EIP is at the 69th percentile on an average per-Participant basis. *Id.* at ¶ 14. The proposed maximum annualized cost of the EIP on a per-Participant basis drops to the 58th percentile if an outlier is removed from the analysis. *Id.*[24]

25. Finally, in response to the Court's concerns regarding the size of the KERP Bonuses and subsequent payment of Incentive Awards, Mr. Pulliam analyzed whether the overall cost of the EIP would still be within market norms for incentive plans approved within the Expanded Bankruptcy Peer Group if the KERP Bonuses paid to the EIP Participants were added to the annualized (i.e., doubled) proposed EIP payments. Mr. Pulliam's concluded that they would be. *Id.* at ¶ 13 (total maximum annualized cost of EIP plus KERP Bonuses paid to EIP Participants at the 68th percentile). It is important to note that this analysis does not account for the prepetition retention bonuses paid by more than half of the ***other debtors*** in the Expanded Bankruptcy Peer Group because full information on those payments is not publicly available.

[24] Stage Stores, Inc. implemented a $5.6 million bonus program for 2,900 customer-facing employees. This plan has an extensive group of participants and a far lower average reward per person than the remainder of the Expanded Bankruptcy Peer Group ($1,931 vs. $83,497). Excluding this outlier from the analysis, the EIP's cost-per-participant drops to the 58th percentile within the Expanded Bankruptcy Peer Group. 2d Supp. Pulliam Decl. ¶ 14 n.6.

Had this information been available and included for a true apples-to-apples comparison, the EIP would compare even more favorably to the peer programs.

26. Based on Mr. Pulliam's analysis, the EIP is reasonable and within market norms as compared to other non-insider incentive plans approved by bankruptcy courts across the country, including with respect to size, total aggregate cost and cost per Participant. *Id.* at ¶ 16.

3. Achievement of the Goals Will Deliver Substantial Benefits to the Debtors Estates

27. At the Hearing the Court questioned whether achievement of the various Goals would benefit the estates on the basis that the Debtors had not adequately demonstrated that achievement of each Goal represented a "stretch." The Court specifically questioned (i) whether the Goals were set in a "trough," such that improvement would result merely from an improving business environment,[25] and (ii) with respect to the Donlen and ABS Debt Paydown Metrics, whether the Goals would drive performance above and beyond what the Debtors were already doing.[26] Pursuant to the Court's invitation to either modify the Goals for these Metrics or provide additional bases for why they are appropriate, the Debtors have done both.

a. Revisions to the Donlen and ABS Debt Paydown Metrics

28. The Threshold Donlen EBITDA and Donlen Revenue Goals were originally set at or about a 10% discount to the Debtors' 5+7 forecast, with Target set at or about the forecast level and Reach set at or about 10% above the forecast. Mr. Buenzow believed these Goals represented a "reach" or "stretch" even at Threshold because, despite the Debtors' projections, the Donlen business was facing headwinds as a result of (i) Donlen's status as a debtor in chapter 11, which has had a negative impact on its ability to attract and retain customers, and (ii) the

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[25] Hr'g Tr. at 135:15-21.

[26] *Id.* at 35:8-14.

continuing impact that COVID was having on some of Donlen's customers. 2d Supp. Buenzow Decl. ¶¶ 15.b., 16.b. Following the Hearing, and in response to the Court's concerns regarding the Donlen Goals and invitation to revise them, the Debtors have eliminated the Threshold Donlen Goal such that Participants subject to the Donlen Metrics will not receive any Incentive Award unless the Target Goal is achieved.

29. The Debtors note that they have not modified the Target Goals for Donlen EBITDA and Donlen Revenue, which remain at or about the level of the Debtors' 5+7 forecast for those Metrics. Although the Debtors considered revising these Goals in light of the Court's comments about not approving a bonus for what the Debtors are already doing, the Debtors determined that increasing these goals would imperil the incentivizing nature of the Goals because it would render the Goals unachievable. Buenzow Decl., ¶¶ 15.b., 16.b.

30. Although the Debtors believe that the ABS Debt Paydown Metric originally proposed was challenging at Threshold because it called upon Participants to achieve the ABS settlement order [D.I. 805] sales goals two months early, the Debtors heard the Court's concerns and have dropped the ABS Debt Paydown Metric from the Incentive Plans entirely. As a result, the Debtors have reweighted the remaining Hertz Metrics as follows:

Hertz Metric	Original Weight	Re-Weighted
Operating Cash Flow	30%	35%
Airport Revenue	10%	15%
Off-Airport Revenue	10%	15%
Fleet Utilization	30%	35%
ABS Debt Paydown	20%	0%

b. Achievement of Each of the Goals, as Modified Above, Will Require Participants to Drive and Sustain Performance at Levels Above the Debtors' Performance at the Time the Goals Were Set

31. As Mr. Buenzow testified in his original declaration, the Goals were set to be "challenging to attain, even at the 'Threshold' level, while not being so challenging, even at the 'Reach' level, to be unrealistic or unobtainable." Buenzow Decl. ¶ 23. In Mr. Buenzow's view, the Goals "demand an appropriate 'stretch' from Participants to drive performance, while being realistic enough to serve the motivational purpose of the Incentive Plans." *Id.* In response to the Court's request at the Hearing for further detail, the Debtors submit the Second Supplemental Buenzow Declaration to elaborate on the bases for Mr. Buenzow's opinion expressed in his original declaration.

32. As an initial matter, the Goals were recommended at or about August 6, 2020 based on reasonable expectations for the balance of 2020 according to the information available to the Debtors at the time. 2d Supp. Buenzow Decl. ¶ 6. Each of the Goals was set to challenge Participants relative to performance measurable at the end of July and going into early August. *Id.* at ¶¶ 6-7, 10.a, 11.a, 12.a, 13.a. With respect to the Donlen Goals, the Debtors set their Target Goal at or about the levels forecasted in their 5+7 because they believed that achieving those Goals would be inherently challenging given the headwinds facing the Donlen business which were not fully factored into the 5+7. *Id.* at ¶¶ 15.a.-b., 16.a.-b.

33. Importantly, it was reasonable at the time to assume that the Debtors' business environment as of the end of July and going into early August would remain relatively static in the near term. *Id.* at ¶ 7. As of that time, the Debtors' business environment had achieved some measure of recovery from the initial shock of COVID-19 in March and April, which represented a "trough" for the Debtors, but the recovery was leveling off in late July and early August. *Id.* at

¶ 7-9. Moreover, potential drivers of further recovery, such as a vaccine, did not appear imminent. *Id.* at 7.

34. By way of illustration, rates of air travel are an important indicator of the condition of the Debtors' business environment. As Mr. Buenzow testified at the Hearing, and as he further elaborates in his Second Supplemental Declaration, the "trough"—or the worst of COVID's effects on air travel—occurred in late March and April, when daily travel rates were down as much as 95% from 2019. *Id.* at ¶ 8; Hr'g Tr. 70:18-22. As of July 31, rates were holding relatively steady at down approximately 70% from 2019. Travel rates since July 31 validate the assumption that there would not be a significant uptick in travel through the second half of 2020. Aside from a spike surrounding the Labor Day holiday, air travel remained around 70% through August and September and is not showing a meaningful upward trend. *Id.* at ¶ 8.

35. The Debtors' Off-Airport business levels followed a similar pattern but to a lesser degree of impact. The Debtors' approximate year-over-year Off-Airport revenue (i) was down 56% in April, (ii) improved to down 43% in May, (iii) further improved to down 31% in June, and (iv) then receded to down 33% in July. 2d Supp. Buenzow Decl. ¶ 9.

36. Therefore, it was reasonable to use a "status quo" baseline that did not account for a substantial improvement in the Debtors' business environment in setting the Goals.[27] Based on

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[27] However, as the Debtors have previously explained, because air travel and Airport Revenue are so highly correlated, this Metric has an adjustment feature which reduces the Goals by $50 million if H2-2020 air travel is less than 45% of H2-2019 and increases the Goals by $50 million if H2-2020 air travel is more than 55% of H2-2019. The purpose of this adjustment is to incentivize strong management performance regardless of whether air travel is weaker (absent an adjustment the original Goal could become unattainable and lose its incentivizing character) or stronger (absent an adjustment the original Goal could become easily achieved and lose its incentivizing character) than projected. 2d Supp. Buenzow Decl. ¶ 11.a.

advice from FTI, this is what the Debtors did in setting their Goals.[28] *See id.* at ¶¶ 10.a. (Operating Cash Flow), 11.a. (Airport Revenue), 12.a. (Off-Airport Revenue), 13.a. (Fleet Utilization).

37. For each of the Hertz Metrics, the Debtors set the Goals materially above the "status quo" baseline. *Id.* at ¶¶ 10.b. (Operating Cash Flow), 11.b. (Airport Revenue), 12.b. (Off-Airport Revenue), 13.b (Fleet Utilization). In each case, Participants would therefore have to cause the Debtors to achieve at a materially higher level in order to drive improvements. For example, to drive improvements in Operating Cash Flow from a "status quo" of negative $100.9 million to the Threshold Goal of negative $50 million would require substantial efforts to implement and coordinate initiatives to increase profitability, such as footprint rationalization and workforce efficiency improvements. *Id.* at ¶ 10.b. To drive improvement in Airport Revenue from a "status quo" of $698 million to the Threshold Goal of $775 million, and in Off-Airport Revenue from a "status quo" of $660 million to the Threshold Goal of $675 million, Participants would be challenged to improve performance in various areas, including pricing, vehicle availability (i.e., allocation of fleet between different locations according to local demand), marketing, and customer service. *Id.* at ¶¶ 11.b., 12.b. Similar efforts would be required, together with an optimized de-fleeting effort, to improve the "status quo" utilization of approximately 52% to the Threshold level of 60%. *Id.* at ¶ 13.b & Ex. 1.

38. As noted above, achieving the Donlen EBITDA and Revenue Target Goals would require applicable Participants to maintain performance at the levels provided in the 5+7, which did not fully account for the challenges that the Donlen business faced while operating in chapter

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[28] With the benefit of hindsight, this approach has been validated by the Debtors' actual business environment between early August and the present. During this period, air travel rates have improved only slightly, with a notable spike around the Labor Day holiday. 2d Supp. Buenzow Decl. ¶ 8.

11 and as its customers continued to struggle with the ongoing effects of the pandemic. *Id.* at ¶¶ 15.b., 16.b.

c. Achievement of Any of the Goals Will Yield Benefits to the Debtors' Estates in Excess of the Proposed Applicable Aggregate Incentive Award Amounts

39. The Goals are set at levels that, if achieved, would result in substantial benefit to the Debtors' estates. Attached to the Second Supplemental Buenzow Declaration as Exhibit 1 is a chart reflecting Mr. Buenzow's estimate of the benefit the estates would derive from achieving any particular Hertz Goal. *Id.* at ¶ 5. In each case, the achievement of a Goal would result in benefits above—in most cases several multiples above—the proposed Incentive Award corresponding to the Goal. *See id.* at Ex. 1. For example, the benefits of achieving just Threshold level as to any Hertz Goal range from $8,132,743 to $49,859,819 with corresponding aggregate Incentive Awards ranging from just $445,792 to $1,040,181. *Id.*

40. Aggregate Donlen Target Incentive Awards would range from $249,442 to $374,164. Although these are payable upon achievement of the 5+7 projections, simply achieving these projections would have significant value to the Debtors' estates. As reflected in their original Threshold Goals, the Debtors were in substantial jeopardy of not achieving the 5+7 when the Goals was set (and remain in such jeopardy now). 2d Supp. Buenzow Decl., ¶¶ 15.b., 16.b. Maintaining Donlen EBITDA (including through sustained revenue levels) is important to the Debtors because the Donlen business is an extremely important asset to the Debtors and EBITDA is a commonly used financial measurement that is often used to determine the value of an operating business. Many businesses are valued based on a multiple of EBITDA; hence, every dollar of EBITDA will yield value to the Debtors' estates. 2d Supp. Buenzow Decl., ¶¶ 15.c., 16.c.

4. The EIP Could Be Approved Even If the Court Were to Conclude That It Is Not Incentivizing

41. The Debtors modified the Metrics and submitted additional evidence with respect to the Goals in order to be responsive to the Court's concerns about whether the KEIP and EIP, as originally proposed, were truly incentivizing. While the Debtors maintain that the EIP is truly incentivizing and adequately designed to drive Participants to outperform projections, the Debtors submit that the EIP is justified even if not viewed as an incentive plan.

42. As the Debtors explain in the Motion, the EIP Participants are not insiders as that term is defined in section 101(31) of the Bankruptcy Code, such that the restrictions of section 503(c)(1) do not apply. Mot., ¶¶ 55-57. Though approximately 65 of the proposed EIP Participants have a title of Vice President or Senior Vice President,[29] none is a member of the Debtors' executive management ranks, who hold Executive Vice President or higher titles. *See* 2d Supp. England Decl. ¶ 13.[30]

43. Like incentive plans, non-insider retention plans are also typically evaluated by reference to the *Dana Corp.* factors. *See In re FirstEnergy Sols. Corp.*, 591 B.R. 688, 697

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[29] In the case of the Donlen Participants, the highest title within the EIP is Vice President.

[30] Three of the proposed EIP participants are Senior Vice Presidents that were originally included in the KEIP. These three individuals are the only three active Senior Vice Presidents that were included in the KEIP. The ten other active KEIP members hold a title of Executive Vice President or higher, whereas the original EIP population included fifteen still-active employees at the Senior Vice President level. As noted in the Motion, "certain of the [then-proposed] KEIP Participants would likely be considered 'insiders' under section 101(31) of the Bankruptcy Code," Mot. at ¶ 31, but the Debtors do not believe this to be the case for the Senior Vice Presidents moved from the KEIP to join the fifteen original EIP Senior Vice Presidents. Though their roles are undoubtedly important to the Debtors' restructuring, they do not have the final say on matters of overall corporate policy or governance and their authority is subordinate to Executive Vice Presidents and higher-titled officers. Nevertheless, as the Debtors explained in the Reply, to the extent that any EIP Participant—including any of these three Senior Vice Presidents that were former KEIP Participants—wields sufficient authority to qualify as an insider, the necessarily corollary is that such Participant is in a position to drive the Debtors' achievement of the Goals, rendering the EIP an incentive plan as to such Participant. *See* Reply at ¶ 27.

(Bankr. N.D. Ohio 2018) ("Since *Dana* [*Corp.*] was decided, its factors have been widely invoked by courts analyzing key employee retention plans pursuant to sections 363(b)(1) and 503(c)(3)."). To the extent the Court evaluates the EIP as a retention plan rather than as an incentive plan, the analysis in paragraphs 69 through 75 of the Motion changes only slightly. In particular, the Court must conclude that the EIP reasonably serves the purpose of retaining EIP Participants. It does.

44. Although approximately 85% of the EIP Participants received Retention Bonuses, this has proven inadequate to retain many of them. Just since the Debtors filed the Motion, nine proposed EIP Participants have voluntarily resigned. Of these, seven were KERP Bonus recipients that are now obligated to repay their KERP Bonuses in the aggregate amount of $303,323.10. 2d Supp. England Decl. ¶ 19. Under the EIP, Participants would be required to remain in the Debtors' employ through the payment date, the outside date for which is March 15, 2021. *See* Mot., Ex. F at ¶¶ 5, 8.

45. Now further reduced in size, and with awards for more senior Participants reduced by 20%, the EIP is all the more reasonable given the Debtors' resources; all the more reasonable relative to programs approved for their peers; and all the more egalitarian within its Participant group. Most notably, as compared to non-insider bonus plans approved in chapter 11 cases of peer debtors, the EIP at Reach ($8,209,373 for 291 Participants, or $28,210 per Participant) is now in the (i) 48th percentile in the aggregate, (ii) the 56th percentile relative to time-adjusted peers when annualized, and (iii) the 62nd percentile on an annualized *per capita* basis. 2d Supp. Pulliam Decl. ¶ 12. Again, the Debtors undertook a robust, independent process to develop the EIP and were advised by independent counsel to develop the EIP. *See* Mot. ¶¶ 69-75. The *Dana Corp.* factors are satisfied with respect to the EIP.

46. Based upon the foregoing, the Debtors submit that they and their independent professionals, and the Creditors' Committee and their independent professionals (subject to ongoing review of minor adjustments), have all correctly concluded that the EIP will yield substantial benefits to these estates and are justified under the facts and circumstances of the Chapter 11 Cases.

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Court (i) enter an order substantially in the form attached hereto as **Exhibit D**, and (ii) grant such other and further relief as the Court deems just and proper.

Dated: October 7, 2020

RICHARDS, LAYTON & FINGER, P.A.

/s/ Brett M. Haywood
Mark D. Collins (No. 2981)
John H. Knight (No. 3848)
Brett M. Haywood (No. 6166)
Christopher M. De Lillo (No. 6355)
J. Zachary Noble (No. 6689)
One Rodney Square
920 N. King Street
Wilmington, DE 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701
Collins@rlf.com
Knight@rlf.com
Haywood@rlf.com
DeLillo@rlf.com
Noble@rlf.com

—and—

WHITE & CASE LLP
Thomas E Lauria (admitted *pro hac vice*)
Matthew C. Brown (admitted *pro hac vice*)
200 South Biscayne Boulevard, Suite 4900
Miami, FL 33131
Telephone: (305) 371-2700
tlauria@whitecase.com
mbrown@whitecase.com

J. Christopher Shore (admitted *pro hac vice*)
David M. Turetsky (admitted *pro hac vice*)
Samuel Hershey (admitted *pro hac vice*)
1221 Avenue of the Americas
New York, NY 10020
Telephone: (212) 819-8200
cshore@whitecase.com
david.turetsky@whitecase.com
sam.hershey@whitecase.com

Jason N. Zakia (admitted *pro hac vice*)
111 South Wacker Drive
Chicago, IL 60606
Telephone: (312) 881-5400
jzakia@whitecase.com

Ronald K. Gorsich (admitted *pro hac vice*)
Aaron Colodny (admitted *pro hac vice*)
Andrew Mackintosh (admitted *pro hac vice*)
Doah Kim (admitted *pro hac vice*)
555 South Flower Street, Suite 2700
Los Angeles, CA 90071
Telephone: (213) 620-7700
rgorsich@whitecase.com
aaron.colodny@whitecase.com
amackintosh@whitecase.com
doah.kim@whitecase.com

Co-Counsel to the Debtors and Debtors-in-Possession

EXHIBIT A

Second Supplemental Buenzow Declaration

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
Debtors.	Jointly Administered

SECOND SUPPLEMENTAL DECLARATION OF MICHAEL BUENZOW IN SUPPORT OF MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER AUTHORIZING AND APPROVING THE DEBTORS' (I) KEY EMPLOYEE INCENTIVE PLAN, AND (II) EMPLOYEE INCENTIVE PLAN

I, Michael Buenzow, under the penalty of perjury, declare as follows:

1. I make this declaration (the "**Second Supplemental Declaration**") in support of (a) the *Motion of the Debtors for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan, and (ii) Employee Incentive Plan* [D.I. 1153, 1154] (the "**Motion**")[2]; (b) *Debtors' Omnibus Reply in Support of Their Motion for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan, and (ii) Employee Incentive Plan* [D.I. 1295] (the "**Reply**"); and (c) *Debtors' Supplemental Brief in Support of Their Motion for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan and (ii) Employee Incentive Plan* (the "**Supplemental Brief**"), to respond to concerns raised

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[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of debtors in these chapter 11 cases, for which joint administration for procedural purposes has been requested, a complete list of the debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the debtors' proposed claims and noticing agent at https://restructuring.primeclerk.com/hertz.

[2] Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

by the Court and certain parties in interest at a hearing on the Motion held September 17, 2020 (the "**Initial Hearing**"), and to supplement my declarations dated August 27, 2020 (the "**Original Declaration**") and September 14, 2020 (the "**First Supplemental Declaration**").

2. Except as otherwise indicated, the matters set forth in this Supplemental Declaration are based upon the following: (i) my personal knowledge with respect to the Debtors, including the Debtors' finances and operations, (ii) my discussions with the Debtors' management and the Compensation Committee, and (iii) my review of the Debtors' relevant documents.

3. I am a Senior Managing Director and Vice Chairman of Restructuring of FTI Consulting, Inc. ("**FTI**"), which the Debtors have retained to serve as their restructuring advisor. FTI is a financial advisory services firm with offices throughout the United States, and it has extensive experience in providing restructuring services in and out of Chapter 11 proceedings. I have more than twenty-five (25) years of experience in the fields of financial restructuring, interim management, turnaround and management consulting.

4. At the Initial Hearing, the Court posed the question of whether achievement of the Goals would result in benefits to the Debtors' estates. The answer is unequivocally "yes." In order to provide the Court and parties in interest further comfort in this regard, the Debtors have modified the Goals to (a) eliminate the ABS Paydown Metric entirely, and (b) eliminate the Threshold Donlen Metric Goals. As further detailed below, as so modified, (a) each Goal will require the Debtors to outperform expectations that existed as of the date the Goals were set and, (b) as to each Goal, performance at such level would yield substantial benefits to the Debtors' estates that exceed the proposed aggregate Incentive Award amount corresponding to such performance.

5. Attached hereto as Exhibit 1 is a chart (the "**Benefit to the Estates Chart**") illustrating my calculation of the benefit to the Debtors' estates resulting from performance at the

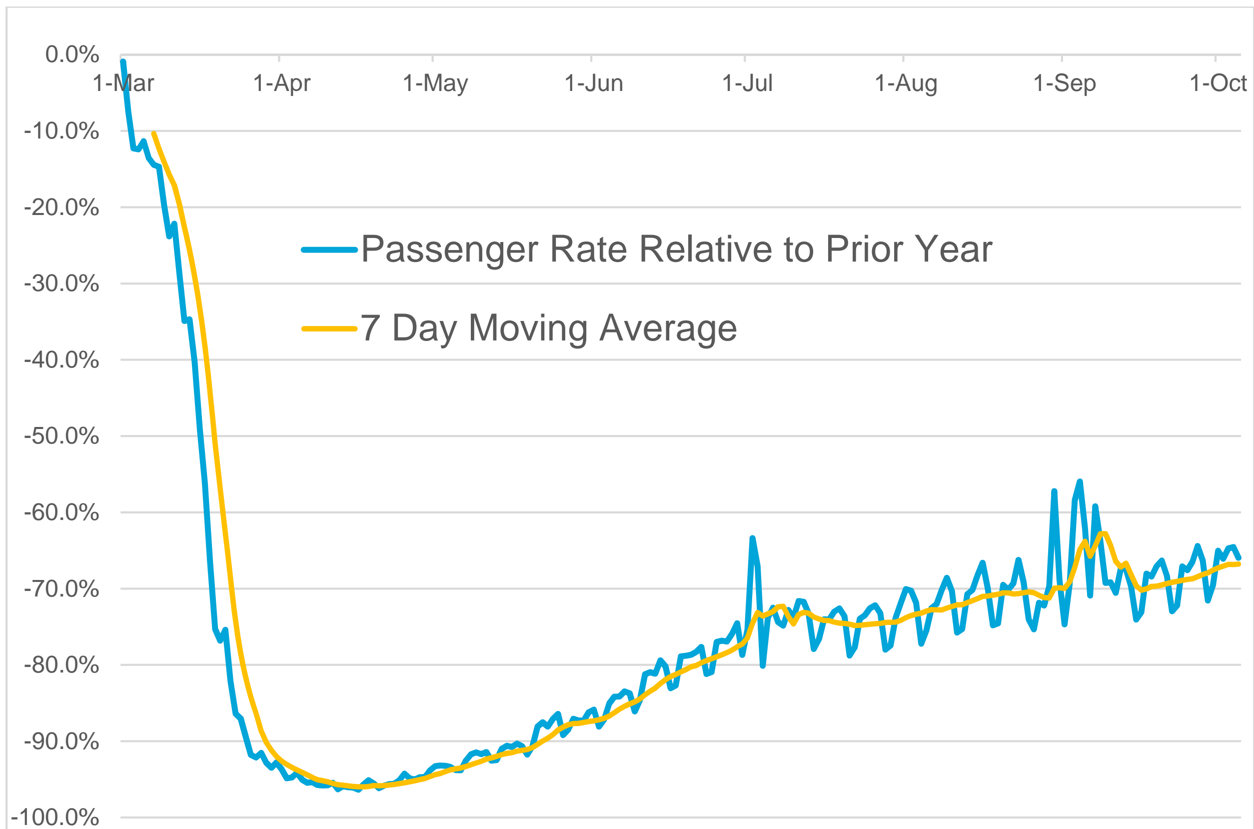
Goal amounts set for Threshold, Target, and Reach as to each individual Hertz Metric. My general methodology for calculating these benefits was to (a) compare performance at each Goal level to the applicable "status quo" performance as projected at the time the Goals were developed; and (b) estimate the effect on the Debtors' operating cash flow that would result from achieving each Goal level. The discussion below details, as to each Metric, (i) how the "status quo" was set; (ii) how achievement of the Threshold Goal represents a "reach" or "stretch" relative to the "status quo"; and (iii) how I estimated the impact of performance at each Goal as opposed to the "status quo" on the Debtors' operating cash flow.

6. Preliminarily, the Goals were all developed and substantially finalized shortly prior to a meeting of the Compensation Committee to consider the Incentive Plans on August 6, 2020 and based on the Debtors' projections that reflected and considered the most currently available financial results, travel statistics and operational data.

7. Importantly, the Debtors' business environment at that time was showing signs of stabilizing at its then-current level for the near term. The Debtors' business environment had achieved some measure of recovery from the initial shock of COVID-19 in March and April, which represented a "trough" for the Debtors, but the recovery was leveling off in late July and early August and critical drivers of further recovery, such as a COVID-19 vaccine, did not appear imminent.

8. Rates of air travel are an extremely important indicator of the condition of the Debtors' business environment. The graph below reflects rates of TSA check-ins from March through October 5, 2020 relative to the year prior. As reflected on the graph, the "trough"—or the worst of COVID's effects on air travel—occurred in late March and April, when daily travel rates were down as much as 95% from 2019. As of July 31, rates were holding relatively steady at down

approximately 70% from 2019. Since then, rates have improved only slightly, with a notable spike around the Labor Day holiday.



9. The Debtors' Off-Airport business levels followed a similar pattern but to a lesser degree of impact. The Debtors' year-over-year Off-Airport revenue (i) was down 56% in April, (ii) improved to down 43% in May, (iii) further improved to down 31% in June, and (iv) then receded to down 33% in July. The Debtors' airport revenue results also reflect an increased level of activity from "non-flyers"—local renters who are renting from an airport rental car center. The Debtors' revenue management team estimates that approximately 5% of airport revenue is a result of this dynamic.

10. ***Operating Cash Flow***.

a. The status quo level for Operating Cash Flow represents a projection set based on the Debtors' 13-week cash flow forecast published July 31, 2020 and extended

through the end of the performance measuring period (December 25, 2020). The 13-week cash flow forecast is widely distributed to various creditor groups and their respective financial advisors who conduct substantial due diligence and vetting of the forecast on a weekly basis. The fundamental assumptions underlying this projection were that the Debtors' business environment would not materially improve over the remainder of the year and the Debtors' performance within that environment would likewise not materially improve. The assumption that the Debtors' business environment would not materially improve was reasonable because the Debtors' business environment had achieved some measure of recovery from the initial shock of COVID-19 in March and April but the recovery was showing signs of leveling off in late July and early August and potential drivers of further recovery did not appear imminent. The assumption that the Debtors' performance within the business environment would not materially improve without substantial additional effort from management was reasonable in light of headwinds resulting from, among other things, (i) the Debtors' status as debtors in chapter 11, which could affect customer decisions of whether to rent from the Debtors or from a competitor not in bankruptcy, or, in the case of Donlen, affect customer decisions of whether to choose Donlen or a competitor for new or renewal business, (ii) the continuing impact that COVID was having on some of Donlen's customers; and (iii) the additional burdens on the Debtors management imposed by the Debtors' restructuring efforts and the Debtors' reduced workforce.

b. The Threshold Operating Cash Flow Goal represents a "reach" or "stretch" because, with their business environment remaining substantially the same, the

Debtors will have to perform substantially better than they were performing when the Goals were set to achieve them. Achieving the threshold goal in this operating environment would require substantial efforts to implement and coordinate various initiatives to increase profitability, such as footprint rationalization and workforce efficiency improvements.

c. As reflected in the Benefit to the Estates Chart, the net benefit of performing at Threshold after paying the proposed aggregate Incentive Award at that level would contribute approximately $49.9 million to the Debtors' operating cash flow,[3] with performance at higher levels (each of which is a greater "stretch" or "reach" than Threshold) yielding increasing net benefits to the Debtors. Improved cash flow is a critical component to the Debtors' long-term business prospects. As the cash flow improves, the Debtors' borrowing needs and corresponding interest costs decrease. The phase "cash is king" applies in most chapter 11 cases and applies here as well. The operating cash flow Goals at Threshold, Target, and Reach require results to improve by approximately $50 million, $70 million and $130 million, respectively.

11. ***Airport Revenue***.

a. The status quo level for Airport Revenue was set based on a forecast, current as of early August, of operating performance utilizing six months of actual 2020 results, projected through the end of the year. This projection assumed that the Debtors'

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[3] My assessment of the contribution to overall cash flow of achievement of Goals within each Metric is attributed entirely to performance with respect to that Metric. Because the Metrics are related, and performance in one affects performance in others, my calculations of net benefit by Metric cannot be summed to yield a total net benefit. Assuming uniform performance across all Metrics by program (e.g., Target performance for each Hertz Metric), the total benefit would exceed the largest benefit calculated for any achieved Goal.

performance relative to air travel rates would remain at approximately the same level as it was at the time the Goals were set. These assumptions were challenging given the current levels of air travel yet reasonable because, as noted in paragraphs 6 through 9, above, the Debtors' business environment had achieved some measure of recovery from the initial shock of COVID-19 in March and April but the recovery was showing signs of leveling off in late July and early August and potential drivers of further recovery did not appear imminent. Thus, incremental increases in air travel and substantial additional effort from management would be required to drive improved performance. Nevertheless, because air travel and Airport Revenue are so highly correlated, this Metric has an adjustment feature which reduces the Goals by $50 million if H2-2020 air travel is less than 45% of H2-2019 and increases the Goals by $50 million if H2-2020 air travel is more than 55% of H2-2019. The purpose of this adjustment is to incentivize strong management performance regardless of whether air travel is weaker (absent an adjustment the original Goal could become unattainable and lose its incentivizing character) or stronger (absent an adjustment the original Goal could become easily achieved and lose its incentivizing character) than projected.

b. The Threshold Airport Revenue Goal represents a "reach" or "stretch" because it will require the Debtors to outperform the status quo projection by approximately 11%. Participants will be challenged to improve performance in various areas, including pricing, vehicle availability (i.e., allocation of fleet between different locations according to local demand), marketing, and customer service, to drive improvements in Airport Revenue.

c. To estimate the impact on the Debtors' operating cash flow of performance at each Goal set for Airport Revenue, I applied the Debtors' YTD-2020 contribution margin[4] for Airport Revenue of approximately 38%, which is a conservative measure as it is below the Debtors' current and historical contribution margins for Airport Revenue. As reflected in the Benefit to the Estates Chart, the net benefit of performing at Threshold after paying the proposed aggregate Incentive Award at that level would contribute approximately $28.8 million to the Debtors' operating cash flow, with performance at higher levels (each of which is a greater "stretch" or "reach" than Threshold) yielding increasing net benefits to the Debtors.

12. ***Off-Airport Revenue***.

a. The status quo level for Off-Airport Revenue was set based on a forecast, current as of early August, of operating performance utilizing six months of actual 2020 results, projected through the end of the year. This projection assumed that the Debtors' performance would remain at approximately the same level as it was at the time the Goals were set. These assumptions were reasonable because, as noted in paragraphs 6 through 9, above, the Debtors' business environment had achieved some measure of recovery from the initial shock of COVID-19 in March and April but the recovery was showing signs of leveling off in late July and early August and potential drivers of further recovery did not appear imminent. Thus, substantial additional effort from management would be required to drive improved performance.

[4] Contribution margin is the rate at which revenue associated with sales activity contributes to a business' operating profit. This is generally expressed as revenue less variable costs.

b. The Threshold Off-Airport Revenue Goal represents a "reach" or "stretch" because it will require the Debtors to outperform the status quo projection by approximately $15 million. This improvement margin was set at a lower number than that set for Airport Revenue because, in FTI's judgment, based on discussions with the Debtors' management, there was less room for improvement in Off-Airport Revenue. Participants will be challenged to improve performance in various areas, including pricing, vehicle availability (i.e., allocation of fleet between different locations according to local demand), marketing, and customer service, to drive improvements in Off-Airport Revenue.

c. To estimate the impact on the Debtors' operating cash flow of performance at each Goal set for Off-Airport Revenue, I applied the Debtors' YTD-2020 contribution margin for Off-Airport Revenue of 57%, which is a conservative measure as it is below the Debtors' current and historical contribution margins for Off-Airport Revenue. As reflected in the Benefit to the Estates Chart, the net benefit of performing at Threshold after paying the proposed aggregate Incentive Award at that level would contribute approximately $8.1 million to the Debtors' operating cash flow, with performance at higher levels (each of which is a greater "stretch" or "reach" than Threshold) yielding increasing net benefits to the Debtors.

13. ***Fleet Utilization***.

a. The status quo level for Fleet Utilization of 52% was set based on projections for fleet size and vehicle on-rent rates during the period August 1, 2020 through December 31, 2020. As to fleet size, the projection assumed a fleet sell-down at the rate contemplated under the ABS settlement order entered by the Court on July

24, 2020 [D.I. 805] (the "**ABS Settlement Order**"). As to vehicle on-rent rates, the projections were based on the same revenue projection used in the Airport Revenue and Off-Airport Revenue Metrics (i.e., projections as of early August) and the fleet size under the ABS Settlement Order, projected through the end of the year. These assumptions were reasonable because, as noted in paragraphs 6 through 9, above, the Debtors' business environment had achieved some measure of recovery from the initial shock of COVID-19 in March and April but the recovery was showing signs of leveling off in late July and early August and potential drivers of further recovery did not appear imminent. Thus, substantial additional effort from management would be required to drive improved performance.

b. The Threshold Fleet Utilization Goal represents a "reach" or "stretch" because it will require the Debtors to materially outperform the status quo projection. In order to achieve this Threshold Goal, Participants will be challenged to improve performance in various areas, including by reducing the size of their fleet, bringing idle vehicles back into their fleet, improving vehicle availability (i.e., allocation of fleet between different rental locations according to local demand), and driving rentals through appropriate pricing, marketing, and customer service.

c. To estimate the impact on the Debtors' operating cash flow of performance at each Goal set for Fleet Utilization, I first calculated the excess revenue that would be generated by incremental increase in Fleet Utilization and then applied a contribution margin to estimate the impact on operating cash flow. To calculate excess revenue, I multiplied the incremental utilization percentage at the applicable

Goal by each of: (i) projected revenue per unit based on the same forecast referenced above, (ii) the projected average number of vehicles during the measuring period, and (iii) the number of months (5) in the measuring period. The result is the incremental revenue generated by outpacing baseline utilization at the applicable Goal. I then multiplied this number by a blended contribution margin based on the YTD-2020 contribution margins for Airport Revenue and Off-Airport revenue (as noted above, a conservative margin) to estimate the impact of the incremental resulting revenue to the impact on operating cash flow. As reflected in the Benefit to the Estates Chart, the net benefit of performing at Threshold after paying the proposed aggregate Incentive Award at that level would contribute approximately $47.3 million to the Debtors' operating cash flow, with performance at higher levels (each of which is a greater "stretch" or "reach" than Threshold) yielding increasing net benefits to the Debtors.

14. ***ABS Debt Paydown***. In response to the Court's concerns expressed at the Hearing regarding the ABS Debt Paydown Metric, the Debtors have eliminated the ABS Debt Paydown Metric from the EIP.

15. ***Donlen EBITDA***.

a. The status quo level for Donlen EBITDA was set based on the Debtors' 5+7 projections prepared in mid-July, adjusted upwards based on discussions with management to make the EBITDA Goals more challenging. The adjusted 5+7 did not fully account for certain headwinds that the Debtors' Donlen business was facing, which the Debtors were better understanding as of late July and early August 2020 when the Goals were set, as a result of (i) Donlen's status as a debtor

in chapter 11, which has had a negative impact on its ability to attract and retain customers, and (ii) the continuing impact that COVID was having on some of Donlen's customers.

b. The Threshold Donlen EBITDA Goal was set at a 10% discount to the adjusted 5+7. When the Donlen Goals were set in early August, I believed this discount to the adjusted 5+7 represented a "reach" or "stretch" because, despite the Debtors' projections in their 5+7, the Debtors recognized that it would take substantial additional effort to overcome the headwinds facing the Donlen business identified in paragraph 15.a., above, and which headwinds were not adequately factored into their 5+7. Following the Hearing, and in response to the Court's concerns regarding the Donlen Goals and invitation to revise them, the Debtors have eliminated the Donlen EBITDA Metric Threshold and Participants to whom the Donlen Metrics apply will receive Incentive Awards only for performance at or above the Target Goal amount. The Target Goal amount is set at 100% of (i.e., 0% variance from) the adjusted 5+7 projections. At the time this Target Goal was set, and as reflected in the Debtors' original Threshold Goal level, there was no certainty that the Debtors would achieve this Target Goal. This remains true today. Indeed, I believe that increasing the Target Goal for the Donlen EBITDA Metric would create a risk of rendering the Goal unattainable and eliminating the incentivizing quality of the Metric.

c. The Donlen business is an extremely important asset to the Debtors. EBITDA is a commonly used financial measurement that is often used to determine the value of an operating business. In my experience, businesses are often valued based on a

multiple of EBITDA; hence, every dollar of incremental EBITDA will yield significant incremental value to the Debtors' estates.

16. ***Donlen Revenue***.

a. The status quo level for Donlen Revenue was set based on the Debtors' 5+7 projections finalized in mid July. The adjusted 5+7 did not fully account for certain headwinds that the Debtors' Donlen business was facing, which the Debtors were better understanding as of late July and early August 2020 when the Goals were set, as a result of (i) Donlen's status as a debtor in chapter 11, which has had a negative impact on its ability to attract and retain customers, and (ii) the continuing adverse business impact that COVID was having on some of Donlen's customers.

b. The Threshold Donlen Revenue Goal was originally set at a 10% discount to the status quo which I believed represented a "reach" or "stretch" for the same reasons I believed the original Threshold Donlen EBITDA Goal was. As with the Donlen EBITDA Goal, and based on the Court's concerns expressed at the Hearing, the Debtors have eliminated the Donlen Revenue Metric Threshold Goal and Participants to whom the Donlen Metrics apply will receive Incentive Awards only for performance at or above the Target Goal amount. The Target Goal amount is set at 100% of (i.e., 0% variance from) the 5+7 projections. At the time this Target Goal was set, and as reflected in the Debtors' original Threshold Goal level, there was no certainty that the Debtors would achieve this Target Goal. This remains true today. Indeed, I believe that further increasing the Target Goal for the Donlen Revenue Metric would create a risk of rendering the Goal unattainable and eliminating the incentivizing quality of the Metric.

c. Revenue is a substantial contributor to EBITDA performance. For the same reason that preserving and driving EBITDA in the face of the operational headwinds affecting the Debtors' Donlen business, so too is preserving and driving revenue.

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

Dated: October 6, 2020
Chicago, IL

/s/ Michael Buenzow
Michael Buenzow
Senior Managing Director
FTI Consulting, Inc.

2d Supp. Buenzow Decl. Ex. 1

Estimated Net Benefit to the Debtors' Estates for Performance at Each Hertz Goal Level of Proposed EIP

HERTZ					*Total Program Cost at Target: $5,943,893*
Metric	**Status Quo** (0%)	**Threshold** (50%)	**Target** (100%)	**Reach** (125%)	**Weight**
Operating Cash Flow	(100,900,000)	(50,000,000)	(30,000,000)	30,000,000	35%
Benefit of Achievement		50,900,000	70,900,000	130,900,000	
Aggregate Payout		1,040,181	2,080,363	2,600,453	
Net Benefit of Achievement		49,859,819	68,819,637	128,299,547	
Airport Revenue	698,000,000	775,000,000	850,000,000	950,000,000	15%
Benefit of Achievement		29,290,611	57,820,426	95,860,180	
Aggregate Payout		445,792	891,584	1,114,480	
Net Benefit of Achievement		28,844,819	56,928,842	94,745,701	
Off-Airport Revenue	660,000,000	675,000,000	750,000,000	850,000,000	15%
Benefit of Achievement		8,578,535	51,471,207	108,661,438	
Aggregate Payout		445,792	891,584	1,114,480	
Net Benefit of Achievement		8,132,743	50,579,623	107,546,958	
Fleet Utilization	52%	60%	65%	70%	35%
Benefit of Achievement		48,358,464	79,005,503	109,652,542	
Aggregate Payout		1,040,181	2,080,363	2,600,453	
Net Benefit of Achievement		47,318,283	76,925,140	107,052,089	

EXHIBIT B

Second Supplemental England Declaration

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re The Hertz Corporation, *et al.*,[1] Debtors.	Chapter 11 Case No. 20-11218 (MFW) Jointly Administered

SECOND SUPPLEMENTAL DECLARATION OF JOHN ENGLAND IN SUPPORT OF MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER AUTHORIZING AND APPROVING THE DEBTORS' (I) KEY EMPLOYEE INCENTIVE PLAN, AND (II) EMPLOYEE INCENTIVE PLAN

I, John England, under the penalty of perjury, declare as follows:

1. I make this declaration (the "**Second Supplemental Declaration**") in support of (a) the *Motion of the Debtors for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan, and (ii) Employee Incentive Plan* [D.I. 1153, 1154] (the "**Motion**")[2]; (b) *Debtors' Omnibus Reply in Support of Their Motion for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan, and (ii) Employee Incentive Plan* [D.I. 1295] (the "**Reply**"); and (c) *Debtors' Supplemental Brief in Support of Their Motion for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan and (ii) Employee Incentive Plan* (the "**Supplemental Brief**"), to respond to concerns raised by the Court and certain parties in interest at a hearing on the Motion held on September 17, 2020

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[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of debtors in these chapter 11 cases, for which joint administration for procedural purposes has been requested, a complete list of the debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the debtors' proposed claims and noticing agent at https://restructuring.primeclerk.com/hertz.

[2] Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

(the "**Initial Hearing**"), and to supplement my declarations dated August 27, 2020 (the "**Original Declaration**") [D.I. 1154, Ex. B] and September 15, 2020 (the "**Supplemental Declaration**") [D.I. 1295-2].

2. Except as otherwise indicated, the matters set forth in this Second Supplemental Declaration are based upon (i) my personal knowledge with respect to the Debtors, (ii) my discussions with the Debtors' management, (iii) my review of the Debtors' relevant documents; and (iv) my independent research and extensive experience in employee and executive compensation, including key employee compensation plans.

3. I am the Managing Partner of Pay Governance LLC ("**Pay Governance**"), which the Debtors have retained to serve as their employee and executive compensation consultant. I have more than 39 years of experience in the fields of employee and executive compensation. On June 23, 2020, Pay Governance was retained by White & Case LLP ("**W&C**") to assist W&C in providing legal advice to the Company relating to certain employee compensation matters in the Chapter 11 Cases, including the design of the Incentive Plans.

4. Based on my work as the Debtors' consultant, and my review of their compensation plans, I recommended to the Compensation Committee that the Debtors' pre-bankruptcy incentive structure incorporate retentive elements (such as awards tied to remaining within the Company's employ through a certain period) and incentivizing elements (such as an Executive Incentive Compensation Plan).

5. Over the course of my career, I have worked to assist companies, including the Debtors, in their efforts to develop retention plans, similar to the Debtors' Key Employee Retention Plan ("**KERPs**") and incentive plans, similar to the Debtors' Employee Incentive Plan

("**EIPs**").[3] By design, KERPs and EIPs serve very different purposes.

6. KERPs are compensation plans that seek primarily to induce key employees to remain with the company. As is common, such retention plans or KERPs I have helped develop generally condition any retention payments on vesting conditions or on the participants' agreement to repay the retention amounts if they leave the company before a certain date, subject to certain exceptions. Retention plans or KERPs are never based on the company's achievement of any specific goals, and they do not require the participants or the company to satisfy any performance requirements. I recommend to companies that they consider implementing retention plans or KERPs when their primary goal is to retain key employees.

7. Incentive plans such as EIPs, on the other hand, are used to incentivize participants to help the company achieve specific, measurable results. As is the normal practice, the incentive plans such as EIPs I have helped formulate (including for the Debtors) rely on the use of performance metrics – typically financial or operational – that coincide with the company's objectives, and provide variable incentive payments, ranging from zero for failure to 150% - 200% of a specified target award to key employees who play a role in the company's achievement of those goals. Unlike with KERPs, the primary goal of an incentive plan like an EIP is not to retain key employees, but to incentivize them to focus their energy and efforts on helping the company reach certain goals. I recommend that companies consider implementing incentive plans such as EIPs when their primary concern is achieving specific performance goals on behalf of the Company's stakeholders.

[3] I have also worked to assist companies, including the Debtors, in their efforts to develop Key Employee Incentive Plans ("KEIPs"), but this Second Supplemental Declaration is focused only on the EIP because the Debtors are no longer pursing a KEIP during the remainder of 2020.

8. Based on my experience as an employee and executive compensation consultant, retention plans, such as KERPs, and incentive plans, such as EIPs, are independent components of compensation. They serve very different purposes, and they are not mutually exclusive. In fact, it is common for companies to use retention plans/KERPs and incentive plans/EIPs at the same time.

9. Pay Governance recently worked with a Chapter 11 debtor that obtained bankruptcy court approval of an incentive plan, even though the debtor had also paid pre-petition retention awards. Specifically, the court in *In re: Ditech Holding Corporation*, No. 19-10412 (Bankr. S.D.N.Y 2019), approved a post-petition KEIP filed within approximately six months of the debtor's approval of $11.1 million in retention payments, where each of the KEIP participants was included in the retention plan, and the retention period had not lapsed. The potential payouts under the KEIP ranged from $2.5 million to approximately $32.6 million, based largely on incremental awards tied to an asset sales transaction. My understanding is that FTI has identified a number of other cases where this has occurred and those cases are discussed in the Second Supplemental Declaration of Matthew Pulliam.

10. Here, the U.S. Trustee raised an objection to the proposed Incentive Plans, arguing that many of the Participants received pre-petition bonuses in exchange for which they agreed to waive their 2020 bonuses. The recipients of the pre-petition KERP agreed to waive participation only in the Company's "annual bonus plan for 2020." The referenced "annual bonus plan" was the Company's 2020 Executive Incentive Compensation Plan ("**EICP**"), an incentive plan that allowed for discretionary awards based on certain financial and non-financial ("**MBO**") goals. The KERP required the recipients to waive participation in the EICP, but the EICP is very different from the proposed EIP. The KERP was never intended to preclude the Debtors from paying

incentive awards for the remainder of 2020. Incentive awards are an essential element of compensation, intended to inspire enhanced performance. It was always my intention to recommend to the Compensation Committee that it approve a post-petition, July-December 2020 KEIP and EIP, so that participants would be incentivized to achieve new, hardwired goals and objectives that were critical to the Debtors' stakeholders and reflective of the new economic environment in which the Debtors find themselves.

11. At the Initial Hearing, the U.S. Trustee raised an objection to the relevance of Pay Governance's conclusion that the Company's 2020 compensation is below market, arguing that the Company's compensation package was always below market. While true, based on my analysis, the EIP Participants' 2020 compensation – including the KERP and EIP – is further below the market than the Company's historic positioning.

12. The Debtors' below-market pay levels show that the Debtors, and their independent Compensation Committee, have been conservative (not excessive) in setting executive and employee compensation. Given that the Debtors' pay levels are generally below market, there is little room for a further decline.

13. Here, the Debtors have identified 291 EIP Participants. These individuals perform business functions that are important to the Debtors' day-to-day operations. Among the EIP Participants are Senior Vice Presidents (18), Vice Presidents (47), Senior Directors (105) and Directors (121). I have reviewed a complete list of the EIP Participants, including their names, position titles and direct reports. Because the EIP Participants oversee other employees, the Company gives them vice president or director titles. However, none is a member of the Debtors' executive management ranks, who hold Executive Vice President or higher titles.

14. In response to objections raised by the U.S. Trustee and Retired Executives Group,

Pay Governance performed a supplemental benchmarking analysis. First, we sought to determine whether the Company had originally set its 2020 compensation below the market, even before the COVID-19 pandemic and Chapter 11 filings and, if so, by how much. We calculated the Company's 2020 total target pay for each group of EIP Participants, including their base salary, short-term incentives and long-term incentives, based on the Company's pre-COVID compensation package ("**2020 Target Compensation**"). We then determined where that 2020 Target Compensation ranked compared to the total compensation packages offered by the Company's Industry Peers for comparable positions.[4] Although the Industry Peers are non-debtors, compensation opportunities offered by them were relevant to my benchmarking analysis because the Company's key employees are more likely to choose to work for a non-debtor simply due to more employment opportunities being available among non-debtors than debtors. Accordingly, my goal was to determine what compensation opportunities were available to the Participants in the marketplace.

15. After assessing how the Debtors' 2020 Target Compensation compared to the Debtors' Industry Peers, Pay Governance analyzed how the Debtors' post-COVID compensation compared to compensation paid by the Industry Peers. As part of our analysis, for each group of EIP Participants, we determined the median amount paid by the Industry Peers for that position.

[4] As set forth in my Supplemental Declaration, the term "Industry Peers" refers to entities Pay Governance used to derive the "market" benchmarks used in its analysis, based upon (i) compensation surveys administered by Willis Towers Watson to companies with revenue in the range of $3 billion to $7 billion, and, (ii) for proposed KEIP participants in key leadership roles (e.g., Chief Executive Officer, Chief Financial Officer), proxy statements of the Company's FY2020 peer group, which Pay Governance helped identify, and the Company's Compensation Committee subsequently approved, and includes the following companies: Alaska Air Group, Inc.; AutoNation, Inc.; Avis Budget Group, Inc.; CarMax, Inc.; Element Fleet Management Corp.; Group 1 Automotive, Inc.; Hilton Worldwide Holdings Inc.; JetBlue Airways Corporation; Lithia Motors, Inc.; Norwegian Cruise Line Holdings Ltd.; Penske Automotive Group, Inc.; Royal Caribbean Cruises Ltd.; Ryder System, Inc.; Sonic Automotive, Inc.; Southwest Airlines, Inc.; United Rentals, Inc. and Wyndham Destinations, Inc. (collectively, the "**Industry Peers**").

We then determined how the Company's aggregate proposed 2020 compensation for EIP Participants compared to what a collective group of individuals holding comparable positions or roles would be paid at market median (the "**market median**"). To do so, for each of the Projected Compensation Levels (defined below), we added each group of EIP Participants' proposed 2020 compensation based on the applicable Projected Compensation Levels, then divided the sum by the market median.

16. As set forth above, we compared the Company's post-COVID proposed compensation for 2020 to the total compensation offered by its Industry Peers in 2020, based on three projected compensation levels (the "**Projected Compensation Levels**"): (i) the Company paid the Participants' salary only, (ii) the Company paid the Participants' salary plus the KERP and (iii) the Company paid the Participants' salary, plus the KERP and EIP. The Company's compensation lags behind its 2020 Target Compensation.

17. In the aggregate, the EIP Participants' 2020 Target Compensation – based on compensation set at the outset of 2020 – was 2% below the market median. The Company's numbers were less competitive under the post-COVID Projected Compensation Levels. Prior to the KERP (salary only), the aggregate 2020 compensation for EIP Participants was 32% below the market median. Assuming that the KERP was paid, but the EIP is not, the aggregate 2020 compensation will be 19% below the market median. Lastly, assuming that the Company pays EIP Participants their base salary, the KERP and EIP (at the "Target" level), the aggregate 2020 compensation of the EIP Participants would be 11% below the market median.

18. Although the 2020 Target Compensation was originally set below market, on average, the total proposed 2020 compensation for EIP Participants, inclusive of the Debtors' proposed EIP awards, will be even further below market-level compensation, and no individual

group of EIP Participants is materially better off than originally intended. Below is a chart I created to illustrate how each group of EIP Participants' compensation compares to the market median based upon (i) the Projected Compensation Levels and (ii) their compensation levels set at the beginning of 2020.

Comparison of EIP Compensation to Market Median

	Salary Only	**Salary + KERP**	**Salary + KERP + EIP**	**2020 Target Comp. (Established at the beginning of 2020)**
Non-KEIP SVPs	49% below	32% below	18% below	8% above
Vice Presidents	43% below	29% below	19% below	2% below
Sr. Directors	19% below	3% below	4% above	3% above
Directors	26% below	18% below	13% below	13 % below

19. In my Supplemental Declaration, I testified that, as of that date, six of the original Participants had voluntarily resigned since the Debtors filed the Motion, as a result of which the Debtors' attrition among employees holding titles of Director and above in 2020 had surpassed the 2019 total, despite 2020 presenting a more challenging job market for employees. By way of update to that testimony, a total of ten of the Participants originally proposed in the Motion have now resigned since the Debtors filed the Motion, including the Debtors' CFO (originally a KEIP Participant) and nine EIP Participants with titles ranging from Director to Senior Vice President. Resignations by the EIP Participants since the Motion was filed have triggered KERP Bonus Repayment obligations in the total amount of $303,323.10.

[signature appears on the following page]

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

Dated: October 6, 2020
New York, N.Y.

/s/ John England
John England
Managing Partner
Pay Governance LLC

EXHIBIT C

Second Supplemental Pulliam Declaration

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re The Hertz Corporation, *et al.*,[1] Debtors.	Chapter 11 Case No. 20-11218 (MFW) Jointly Administered

SECOND SUPPLEMENTAL DECLARATION OF MATTHEW PULLIAM IN SUPPORT OF MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER AUTHORIZING AND APPROVING THE DEBTORS' (I) KEY EMPLOYEE INCENTIVE PLAN, AND (II) EMPLOYEE INCENTIVE PLAN

I, Matthew Pulliam, under the penalty of perjury, declare as follows:

1. I make this declaration (the "**Second Supplemental Declaration**") in support of (a) the *Motion of the Debtors for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan, and (ii) Employee Incentive Plan* [D.I. 1153, 1154] (the "**Motion**")[2]; (b) *Debtors' Omnibus Reply in Support of Their Motion for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan, and (ii) Employee Incentive Plan* [D.I. 1295] (the "**Reply**"); and (c) *Debtors' Supplemental Brief in Support of Their Motion for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan and (ii) Employee Incentive Plan* (the "**Supplemental Brief**"), to respond to concerns raised by the Court and certain parties in interest at a hearing on the Motion held on September 17, 2020

[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of debtors in these chapter 11 cases, which are jointly administered for procedural purposes, a complete list of the debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the debtors' proposed claims and noticing agent at https://restructuring.primeclerk.com/hertz.

[2] Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

(the "**Initial Hearing**"), and to supplement my declarations dated August 27, 2020 [D.I. 1154, Ex. D] (the "**Original Declaration**") and September 15, 2020 [D.I. 1293-3] (the "**Supplemental Declaration**").

2. I am a Compensation Consultant of FTI Consulting, Inc. ("**FTI**"), which the Debtors have retained to serve as their restructuring advisor. FTI is a financial advisory services firm with offices throughout the United States, and it has extensive experience in providing restructuring services in and out of Chapter 11 proceedings. I have more than 19 years of experience in the fields of executive and employee compensation consulting and management, with previous employment under the compensation consulting groups of Mercer and Watson Wyatt Worldwide (now WillisTowersWatson).

Post-COVID Peer Group

3. During the Initial Hearing, I testified regarding how the Incentive Plans compared to plans approved for similar companies in bankruptcy, which I collectively refer to as the Bankruptcy Peer Group in my Original Declaration and herein.

4. In response to concerns raised at the Initial Hearing, I was asked to perform supplemental research regarding two issues: (i) including the six post-COVID companies that were included in the Bankruptcy Peer Group,[3] how many companies comparable in size to the Debtors, that filed bankruptcy between March 1, 2020 and September 23, 2020, also obtained bankruptcy court approval of an incentive plan for insiders ("KEIP"), including cases where the debtors also obtained approval of an incentive plan for non-insiders ("EIP") (collectively, the "**Post-COVID Peer Group**"), and (ii) whether any companies in the Bankruptcy Peer Group and Post-COVID

[3] Diamond Offshore Drilling, Exide Holdings, Inc., Frontier Communication Corp., Intelsat S.A., Neiman Marcus Group Ltd., LLC and OneWeb Global, Ltd.

Peer Group (together, the "**Expanded Bankruptcy Peer Group**") also made pre-petition retention payments.

5. To perform my analyses, I used both the DebtWire bankruptcy database and NRG bankruptcy database. First, I identified chapter 11 cases filed by public companies from March 1, 2020 through September 23, 2020, a total of 177 cases. I then filtered the results to include only companies with between $1B and $50B in pre-petition assets (as self-reported on bankruptcy petitions for statistical purposes), which narrowed the results to 46 entities (excluding Hertz). Next, I reviewed the relevant pleadings for each of the 46 cases and determined that eleven of them (24%) obtained bankruptcy court approval of a KEIP, and five of those also obtained approval for an EIP.[4]

6. The eleven companies that comprise the Post-COVID Peer Group are as follows: (i) Diamond Offshore Drilling (KEIP); (ii) Exide Holdings, Inc. (KEIP); (iii) Frontier Communication Corp. (KEIP and EIP); (iv) Intelsat S.A. (KEIP); (v) Neiman Marcus Group Ltd., LLC (KEIP); (vi) OneWeb Global, Ltd. (KEIP and EIP); (vii) California Resources Corp. (KEIP and EIP); (viii) NPC International, Inc. (KEIP and EIP); (ix) 24 Hour Fitness Worldwide, Inc. (KEIP); (x) Stage Stores, Inc. (KEIP and EIP) and (xi) LSC Communications, Inc. (KEIP). The first six companies were a part of the original Bankruptcy Peer Group; the last five companies' plans were approved after I compiled the original group and therefore were not included.

7. As part of my comparative analysis, I was also asked to examine whether entities within the Post-COVID Peer Group paid pre-petition retention payments. In order to obtain that information, I reviewed each company's bankruptcy filings, available public disclosures, including

[4] Twenty of the thirty-five remaining cases without a KEIP were filed on or after June 14, 2020. I have not seen any indication that those debtors will, or will not, seek approval of a KEIP in the future.

SEC Form 8-Ks at or around the time of the company's bankruptcy petition and business articles. Though many of the companies made pre-petition retention payments, the manner in which those payments were disclosed varied.

8. Based on my analysis, in addition to their court-approved incentive plans, over half of the members of the Post-COVID Peer Group made some form of pre-petition retention payments, with many coming mere days before the company's bankruptcy filing. I excluded from my results any pre-petition retention payments that were restricted to non-insiders. Based on my research, the following members of the Post-COVID Peer Group had relevant prepetition retention plans, the participants of which also overlapped with the subsequently approved post-petition incentive plans:

a. *In re California Resources Corp.*, et al., Bankr. S.D. Tex. No. 20-33568 (DRJ): According to the company's Form 8-K dated May 19, 2020, prior to filing bankruptcy on July 15, 2020, the company accelerated payment of a portion of the annual target bonus for certain named executives (including the President/CEO, Senior Executive VP/CFO, Executive VP/Public Affairs, Executive VP/Operations and Senior Executive VP, General Counsel), subject to a repayment requirement if the executives left the company within one year. The Bankruptcy Court approved a KEIP and EIP for these debtors on August 20, 2020 [D.I. 380], including awards to executives who received prepetition retention payments [D.I. 209 at ¶ 19].

b. *In re Diamond Offshore Drilling, Inc.*, et al., Bankr. S.D. Tex. No. 20-32307 (DRJ): According to the company's Form 8-K dated April 21, 2020, less than one week before filing bankruptcy on April 26, 2020, the company accelerated certain long-term incentive awards and converted them into retention payments for its President/CEO, Executive Vice President, Senior VP/CFO and Senior VP/General Counsel, in the aggregate amount of approximately $2.3 million. The Bankruptcy Court approved a KEIP for these debtors on June 23, 2020 [D.I. 448], including awards to executives who received prepetition retention payments [D.I. 114 at 10].

c. *In re Exide Holdings, Inc.* et al., Bankr. D. Del. No. 20-11157 (CSS): According to the company's motion to pay wage employees [D.I. 4], four days before filing bankruptcy on May 19, 2020, the company accelerated incentive bonuses to four key employees, and retention bonuses to seventeen key employees, in the aggregate amount of approximately $1.5 million, all conditioned upon the employees' continued employment. The Bankruptcy Court approved a KEIP for these debtors

on June 20, 2020 [D.I. 419], including awards to executives who received prepetition retention payments [D.I. 237 at ¶ 29].

d. *In re Frontier Communications Corp.*, et al., Bankr. S.D.N.Y. No. 20-22476 (RDD): According to the company's motion to pay pre-petition employee wages, salaries and other compensation [D.I. 26], "in advance of the petition date," which was April 12, 2020, the company accelerated retention-based compensation to its senior management team, totaling approximately $16.9 million. The Bankruptcy Court approved a KEIP and EIP for these debtors on July 17, 2020 [D.I. 741], including awards to executives who received prepetition retention payments [D.I. 498 at ¶ 4, n. 3].

e. *In re Intelsat S.A.*, et al., Bankr. E.D. Va. No. 20-32299 (KLP): According to its Form 8-K dated April 30, 2020, two weeks prior to its May 14, 2020 bankruptcy filing, the company entered into retention agreements with five executive officers, whereby those officers received retention bonuses in an amount equal to the sum of the following: (i) 100% of his or her base salary (ranging from $425,250 to $1,050,000), (ii) 18% of the sum of his or her target annual incentive amount and long-term incentive amount for calendar year 2020 (which was between 200% and 400% of the executives' base salary) and (iii) in the case of two of the named executives, an additional $500,000. The retention payments were subject to vesting requirements and repayment if the executive left the company before a certain date. The Bankruptcy Court approved a KEIP for these debtors on June 30, 2020 [D.I. 423], including awards to executives who received prepetition retention payments [D.I. 307 at ¶ 11].

In re Neiman Marcus Group Ltd., LLC, et al., Bankr. S.D. Tex. No. 20-32519 (DRJ): According to the company's motion to pay pre-petition employee wages [D.I. 29], less than one month before filing bankruptcy on May 7, 2020, the company (i) entered into retention agreements with certain management employees, paying them an aggregate amount of $4.475 million in retention payments, and (ii) paid senior management all outstanding retention, incentive or sign-on based compensation owned for the 2020 calendar year, totaling approximately $1.2 million. Both payments were conditioned upon continued employment through December 31, 2020. The Bankruptcy Court approved a KEIP for these debtors on July 30, 2020 [D.I. 1402], including awards to executives who received prepetition retention payments [D.I. 971, Ex. A at ¶ 16].

f. *In re 24 Hour Fitness Worldwide, Inc.*, et al., Bankr. D. Del. No. 20-11558 (KBO): According to the company's motion to pay pre-petition employee wages [D.I. 19], two months before filing bankruptcy on June 15, 2020, the company adopted a retention program for twenty-one key employees, including insiders, in the aggregate amount of $5.7 million. The KERP also included a pool of discretionary bonuses for junior employees. The Bankruptcy Court approved a KEIP for these debtors on September 22, 2020 [D.I. 935], where all but two of the KEIP recipients

received prepetition retention payments [D.I. 666 at ¶ 16].

9. The post-COVID use of pre-petition retention bonuses is consistent with debtors' use of such bonuses prior to March 2020. Of the ten other companies in the Bankruptcy Peer Group – all of which filed for bankruptcy between February 2016 and January 2020 – more than half of them made some form of pre-petition retention payments, the recipients of which overlapped with the recipients of the company's post-petition incentive plans:

a. *In re iHeartMedia, Inc.*, et al., Bankr. S.D. Tex. No. 18-31274: According to its Form 8-K dated February 23, 2018, less than one month before filing bankruptcy on March 14, 2018, the company approved quarterly bonuses for 2018 for its CEO, President and Executive Vice President, and accelerated payment of those bonuses, in the aggregate amount of $3,875,000. The company also accelerated previously earned bonuses, in the aggregate amount of $2,000,000, subject to repayment if their employment was terminated. The Bankruptcy Court approved a KEIP and EIP for these debtors on June 7, 2018 [D.I. 917, 971], including awards to executives who received prepetition retention payments [D.I. 606 at ¶ 19].

b. *In re Linn Energy, LLC*, et al., Bankr. S.D. Tex. No. 16-60040 (DRJ): According to its motion for approval of an executive incentive plan [D.I. 207], the company made retention payments to six insiders covered by the KEIP, in the amount of $3.883 million prior to filing for chapter 11 protection on May 11, 2016. The Bankruptcy Court approved a KEIP and EIP for these debtors on August 1, 2016 [D.I. 753].

c. *In re McDermott International, Inc.,* et al., Bankr. S.D. Tex. No. 20-30336: According to its Form 8-K dated January 17, 2020, less than one week before filing bankruptcy on January 21, 2020, the company determined that it was likely to commence a voluntary Chapter 11 proceeding and paid all unpaid portions of a retention bonus owed to its President/CEO and Group Senior VP. The Bankruptcy Court approved a KEIP for these debtors on February 24, 2020 [D.I. 473], including awards to executives who received prepetition retention payments [D.I. 367 at ¶ 10].

d. *In re Peabody Energy Corp.,* et al., Bankr. E.D. Mo. No. 16-42529: According to its Form 8-K dated January 8, 2016, three months before filing bankruptcy on April 13, 2016, the company revised its long-term incentive program to grant time-based vesting of cash awards to four executives in the aggregate amount of $3.59 million. The Bankruptcy Court approved a KEIP for these debtors on August 18, 2016 [D.I. 1114], including awards to executives who received prepetition retention payments [D.I. 997 at ¶ 13].

e. *In re Waypoint Leasing Holdings Ltd.*, et al., Bankr. S.D.N.Y. No. 18-13648 (SMB): According to its motion to authorize the debtors to pay employee obligations [D.I. 7], in order to retain and incentivize certain employees during the company's pursuit of restructuring, the company paid $2.3 million in retention payments to ten employees, including to the company's President and General Counsel, prior to the debtors' November 25, 2018 chapter 11 filing. The Bankruptcy Court approved a KEIP for these debtors on March 1, 2019 [D.I. 481], including awards to executives who received prepetition retention payments [D.I. 171 at ¶ 16].

f. *In re Windstream Holdings, Inc.*, et al., Bankr. S.D.N.Y. No. 19-22312 (RDD): According to its Form 8-K dated February 22, 2019, less than one week before filing chapter 11 on February 25, 2019, the company renegotiated the CEO's contract to include $2 million in time-vested consideration. The Bankruptcy Court approved KEIPs for these debtors on May 15, 2019 [D.I. 531] on January 21, 2020 [D.I. 1437], including awards to executives who received prepetition retention payments [D.I. 405 at ¶ 15].

10. Based on my analysis, it is common for debtors that seek approval of post-petition KEIPs or EIPs to also have made pre-petition retention payments, and debtors have continued that practice in chapter 11 bankruptcies filed since the onset of the COVID-19 pandemic. Moreover, in each case, recipients of prepetition retention awards were also included as participants in the company's post-petition incentive plans. In their 8-K filings, some of the companies that have commenced chapter 11 cases since the onset of the COVID-19 pandemic have specifically recognized the need to modify their pre-crisis compensation programs in order to maintain compensation levels for employees that bear no fault in the original goals becoming obsolete.

Updated Benchmarking Analysis

11. In order to update my analysis of whether the Debtors' proposed EIP is reasonable compared to similar plans approved by bankruptcy courts, I compared the total cost of the Debtors' proposed EIP to the EIPs for the seven companies in the Expanded Bankruptcy Peer Group that

had similar plans (the "**EIP Peer Group**"). It is my understanding that the Debtors have decided not to pursue a KEIP during the remainder of 2020.

12. Based on my analysis, the Debtors' proposed EIP is reasonable on a total cost basis when compared to the seven companies in the EIP Peer Group. After adjusting for differences in measurement periods,[5] the EIP's maximum total aggregate cost is in the 56th percentile. In terms of size and maximum individual opportunity, the EIP is in the 39th and 62nd percentiles, respectively. Attached as **Exhibit A** is a chart I prepared to illustrate the results of my analysis regarding the comparative cost of the EIP.

13. Even if the Debtors' pre-petition retention payments made to EIP Participants are included as part of the EIP, the total annualized maximum cost of the EIP is in the 68th percentile. In other words, even if the Debtors' pre-petition KERP is added to the cost of the EIP, and the retention payments paid by members of the EIP Peer Group are ignored, the cost of the Debtors' proposed EIP remains reasonable compared to EIPs approved by other bankruptcy courts.

14. The EIP also is reasonable compared to the five companies in the Post-COVID Peer Group that obtained approval of similar EIPs. While the total maximum annualized cost of the Debtors' EIP relative to the Post-COVID Peer Group is at the 84th percentile, the maximum annualized cost of the EIP is at the 69th percentile on an average per-participant basis, and it drops to the 58th percentile if an outlier is removed from the analysis.[6] Attached as **Exhibit B** is a chart I prepared to illustrate how the EIP compares to the Post-COVID Peer Group.

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[5] For purposes of comparing the EIP to similar plans approved in the EIP Peer Group, I annualized all of the plans to eliminate differences attributable only to the length of each plan.

[6] Stage Stores, Inc. implemented a $5.6 million (annualized) bonus program for 2,900 customer-facing employees. This plan has an extensive group of participants and a far lower average reward per person than the remainder of the Expanded Bankruptcy Peer Group ($1,931 vs. $83,497). Excluding Stage Stores' EIP from the analysis would result in the Debtors' EIP's cost-per-participant dropping to the 58th percentile of the Expanded Bankruptcy Peer Group.

15. Finally, to ensure that my initial process of selecting comparable companies was sound, I analyzed the peer groups used in the benchmarking analysis conducted by the members of the Expanded Bankruptcy Peer Group. That analysis showed that, despite their differences in industry, multiple members of the Expanded Bankruptcy Peer Group used as comparables nine of the original sixteen comparable companies that I identified. Based on the finite pool of debtors, it is virtually impossible to create a statistically viable list of comparable companies from a single industry, other than for Oil & Gas cases, but there is significant overlap in the companies used among the Expanded Bankruptcy Peer Group.

16. Based on my analysis, the cost of the EIP is reasonable compared to similar incentive plans approved in bankruptcy courts across the country, including with respect to size, total aggregate cost and cost per Participant.

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

Dated: October 6, 2020
West Bloomfield, Michigan

/s/ Matthew Pulliam
Matthew Pulliam
Compensation Consultant
FTI Consulting, Inc.

EXHIBIT A

EIP Peer Group Summary	Plan Length (Q)	EIP Participants	Max Cost (EIP)	Avg. Cost/Part.	Ann. Max Cost (EIP)	Avg. Cost/Part.
Frontier Communications Corporation	4	44	$ 9,087,500	$ 206,534	$ 9,087,500	$ 206,534
iHeartMedia, Inc.	3	714	$ 55,500,000	$ 77,731	$ 74,000,000	$ 103,641
LINN Energy, LLC	3	1621	$ 31,538,176	$ 19,456	$ 42,050,901	$ 25,941
OneWeb Global Limited	4	65	$ 2,624,825	$ 40,382	$ 2,624,825	$ 40,382
California Resources Corporation	4	1123	$ 28,400,000	$ 25,289	$ 28,400,000	$ 25,289
NPC International, Inc.	2	66	$ 2,038,837	$ 30,891	$ 4,077,674	$ 61,783
Stage Stores, Inc. (2020)	2	2900	$ 2,800,000	$ 966	$ 5,600,000	$ 1,931
MAX	***4.0***	***2900.0***	***$ 55,500,000***	***$ 206,534***	***$ 74,000,000***	***$ 206,534***
MEDIAN	***3.0***	***714.0***	***$ 9,087,500***	***$ 30,891***	***$ 9,087,500***	***$ 40,382***
MEAN	***3.1***	***933.3***	***$ 18,855,620***	***$ 57,321***	***$ 23,691,557***	***$ 66,500***
MIN	***2.0***	***44.0***	***$ 2,038,837***	***$ 966***	***$ 2,624,825***	***$ 1,931***
Hertz	2	291	$ 8,209,373	$ 28,211	$ 16,418,746	$ 56,422
%ile	-	***39%***	***48%***	***42%***	***56%***	***62%***

EXHIBIT B

EIP Peer Group Summary (COVID-Affected Only)	Plan Length (Q)	EIP Participants	Max Cost (EIP)	Avg. Cost/Part.	Ann. Max Cost (EIP)	Avg. Cost/Part.
Frontier Communications Corporation	4	44	$ 9,087,500	$ 206,534	$ 9,087,500	$ 206,534
OneWeb Global Limited	4	65	$ 2,624,825	$ 40,382	$ 2,624,825	$ 40,382
California Resources Corporation	4	1123	$ 28,400,000	$ 25,289	$ 28,400,000	$ 25,289
NPC International, Inc.	2	66	$ 2,038,837	$ 30,891	$ 4,077,674	$ 61,783
Stage Stores, Inc. (2020)	2	2900	$ 2,800,000	$ 966	$ 5,600,000	$ 1,931
MAX	***4.0***	***2900.0***	***$ 28,400,000***	***$ 206,534***	***$ 28,400,000***	***$ 206,534***
MEDIAN	***4.0***	***66.0***	***$ 2,800,000***	***$ 30,891***	***$ 5,600,000***	***$ 40,382***
MEAN	***3.2***	***839.6***	***$ 8,990,232***	***$ 60,812***	***$ 9,958,000***	***$ 67,184***
MIN	***2.0***	***44.0***	***$ 2,038,837***	***$ 966***	***$ 2,624,825***	***$ 1,931***
Hertz	2	291	$ 8,209,373	$ 28,211	$ 16,418,746	$ 56,422
%ile	-	-	***72%***	-	***84%***	***69%***

EXHIBIT D

Revised Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
The Hertz Corporation, *et al.*,[1]	Case No. 20-11218 (MFW)
	(Jointly Administered)
Debtors.	**Re: Docket No. ___**

ORDER AUTHORIZING AND APPROVING THE DEBTORS' EMPLOYEE INCENTIVE PLAN

Upon the motion (the "**Motion**")[2] of the Debtors for entry of an order (this "**Order**") pursuant to sections 363 and 506 of the Bankruptcy Code, authorizing and approving the Debtors' employee incentive program (the "**EIP**") for non-insider participants as more fully set forth in the Motion and the *Debtors' Supplemental Brief in Support of Their Motion for Entry of an Order Authorizing and Approving the Debtors' (i) Key Employee Incentive Plan and (ii) Employee Incentive Plan* (the "**Supplemental Brief**"); and the Court having jurisdiction to consider the Motion and the relief request therein in accordance with 28. U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012 (Sleet, C.J.); 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, sufficient, and

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[1] The last four digits of The Hertz Corporation's tax identification number are 8568. The location of the debtors' service address is 8501 Williams Road, Estero, FL 33928. Due to the large number of debtors in these chapter 11 cases, for which joint administration for procedural purposes has been requested, a complete list of the debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the debtors' claims and noticing agent at https://restructuring.primeclerk.com/hertz.

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

proper notice of the Motion having been provided under the circumstances and in accordance with the Bankruptcy Rules and Local Rules, and it appearing that no other or further notice need be provided; and hearing on the Motion having been held, if necessary, to consider the relief requested in the Motion (the "**Hearing**"), if any; and upon the declarations of John England, Michael Buenzow, and Matthew Pulliam filed in support of the Motion, as well as the First Day Declaration; and upon the record of the Hearing and after due deliberation; and this Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish good and sufficient cause for the relief granted herein; now, therefore, it is HEREBY ORDERED THAT:

1. The Motion is granted only to the extent provided in this Order.

2. Pursuant to sections 363 and 503(c) of the Bankruptcy Code, the EIP, as modified as set forth in the Supplemental Brief, is approved in its entirety.

3. The KEIP is not approved pursuant to this Order.

4. The Debtors are authorized, but not directed, to take any and all actions necessary and appropriate to implement the EIP and to perform any and all obligations contemplated thereby, including making the payments contemplated thereunder.

5. The Debtors are authorized, but not directed, to reallocate or reassign, in whole or in part, Target Award Amounts surrendered by Participants terminated prior to the conclusion of the Performance Period to persons hired or promoted during the Performance Period. Upon such reallocation or reassignment, a Target Award Amount shall entitle the recipient to Incentive Awards calculated in accordance with the EIP as a Participant according to the value of the assigned Target Award Amount. For the avoidance of doubt, the aggregate Target Award Amounts as of the conclusion of the Performance Period may not exceed the aggregate Target Award Amounts of $6,567,499 authorized pursuant to this Order.

6. Absent further order of this Court, requested only after consultation with the Creditors' Committee, the Debtors shall not pay any further bonuses to any KEIP Participant in 2020 or for performance during 2020, other than under the Incentive Plans.

7. The Debtors are authorized to take all reasonable actions necessary or appropriate to effectuate the relief granted in this Order.

8. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.