

Hearing Date and Time: January 25, 2022 at 10:00 a.m. (Eastern Time)

Objection Deadline: January 18, 2022 at 4:00 p.m. (Eastern Time)

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

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re: )  
 ) Chapter 11  
 )  
MatlinPatterson Global Opportunities Partners II L.P., *et al.*, ) Case No. 21-11255 (DSJ)  
 )  
Debtors.<sup>1</sup> ) (Jointly Administered)  
 )

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**NOTICE OF DEBTORS’ MOTION FOR ENTRY OF AN ORDER (I) EXTENDING THE  
EXCLUSIVE PERIOD WITHIN WHICH TO SOLICIT ACCEPTANCES OF THEIR  
JOINT CHAPTER 11 PLAN OF LIQUIDATION; AND  
(II) GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE** that a hearing on the *Debtors’ Motion for Entry of an Order (I) Extending the Exclusive Period Within Which to Solicit Acceptances of Their Joint Chapter 11 Plan of Liquidation; and (II) Granting Related Relief* (the “**Motion**”) will be held over Zoom before the Honorable David S. Jones, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York (the “**Court**”), One Bowling Green, Courtroom No.

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, if any, are: MatlinPatterson Global Opportunities Partners II L.P. (8284); MatlinPatterson Global Opportunities Partners (Cayman) II L.P. (8246); MatlinPatterson Global Partners II LLC (6962); MatlinPatterson Global Advisers LLC (2931); MatlinPatterson PE Holdings LLC (6900); Volo Logistics LLC (8287); MatlinPatterson Global Opportunities Partners (SUB) II L.P. (9209). The location of the Debtors’ address is: 600 Fifth Avenue, 22<sup>nd</sup> Floor, New York, New York 10022.



501, New York, New York 10004, on **January 25, 2022 at 10:00 a.m. (prevailing Eastern Time)**).

**PLEASE TAKE FURTHER NOTICE** that due to the COVID-19 pandemic and in accordance with the Court's General Order M-543, dated March 20, 2020, the hearing will only be conducted via Zoom.<sup>2</sup> Parties should not appear in person and those wishing to participate in the Hearing are required to register their appearance by **4:00 p.m. (prevailing Eastern Time) on January 24, 2022** at <https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl>.<sup>3</sup>

**PLEASE TAKE FURTHER NOTICE** that any responses or objections to the relief requested in the Motion shall: (a) be in writing; (b) conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, all General Orders applicable to chapter 11 cases in the United States Bankruptcy Court for the Southern District of New York; (c) be filed electronically with the Court on the docket of In re MatlinPatterson Global Opportunities Partners II L.P., Case 21-11255 (DSJ) by registered users of the Court's electronic filing system and in accordance with the General Order M-399 (which is available on the Court's website at <http://www.nysb.uscourts.gov>); and (d) be served so as to be actually received by **January 18, 2022 at 4:00 p.m. (prevailing Eastern Time)**, by (i) the U.S. Trustee for the Southern District of New York, (ii) Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017 (Attn: Elisha D. Graff and David R. Zylberberg (emails: [egraff@stblaw.com](mailto:egraff@stblaw.com) and [david.zylberberg@stblaw.com](mailto:david.zylberberg@stblaw.com))), counsel for the Debtors, (iii) counsel to VRG and (iv) counsel to VarigLog.

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<sup>2</sup> A copy of the General Order M-543 can be obtained by visiting <http://www.nysb.uscourts.gov/news/general-order-m-543-court-operations-under-exigent-circumstances-created-covid-19>.

<sup>3</sup> Instructions on how to register can be obtained by visiting <https://www.nysb.uscourts.gov/zoom-video-hearing-guide>.

**PLEASE TAKE FURTHER NOTICE** that only those responses that are timely filed, served, and received will be considered at the hearing. Failure to file a timely objection may result in entry of a final order granting the Motion as requested by the Debtors. In the event that no objection to the Motion is timely filed and served, the relief requested in the Motion may be granted without a hearing before the Court.

Dated: December 30, 2021  
New York, NY

**SIMPSON THACHER & BARTLETT LLP**

/s/ Elisha D. Graff

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

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
MatlinPatterson Global Opportunities Partners II L.P., <i>et al.</i> ,	)	Case No. 21-11255 (DSJ)
Debtors. <sup>1</sup>	)	(Jointly Administered)
	)	

**DEBTORS’ MOTION FOR ENTRY OF AN ORDER (I) EXTENDING THE DEBTORS’ EXCLUSIVE PERIOD TO SOLICIT ACCEPTANCES OF THEIR JOINT CHAPTER 11 PLAN OF LIQUIDATION; AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “*Debtors*”), submit this motion (this “*Motion*”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “*Order*”), (i) extending the Debtors’ exclusive period to solicit acceptances of their Joint Chapter 11 Plan of Liquidation (the “*Exclusive Solicitation Period*”) by 180 days to July 5, 2022, without prejudice to the Debtors’ right to seek further extensions of the Exclusive

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, if any, are: MatlinPatterson Global Opportunities Partners II L.P. (8284); MatlinPatterson Global Opportunities Partners (Cayman) II L.P. (8246); MatlinPatterson Global Partners II LLC (6962); MatlinPatterson Global Advisers LLC (2931); MatlinPatterson PE Holdings LLC (6900); Volo Logistics LLC (8287); MatlinPatterson Global Opportunities Partners (SUB) II L.P. (9209). The location of the Debtors’ address is: 600 Fifth Avenue, 22<sup>nd</sup> Floor, New York, New York 10022.

Solicitation Period; and (ii) granting related relief. In support of this Motion, the Debtors respectfully state as follows:

### **Background**

1. On July 6, 2021 (the “*Petition Date*”), each of the Debtors commenced a voluntary case (collectively, the “*Chapter 11 Cases*”) under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”) before the United States Bankruptcy Court for the Southern District of New York (this “*Court*”). The Debtors are authorized to manage their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors’ cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”) and the *Order (I) Directing Joint Administration of the Debtors’ Chapter 11 Cases and (II) Granting Related Relief*, entered on July 8, 2021 [Docket No. 25]. No trustee, examiner, or statutory committee of creditors has been appointed in the Chapter 11 Cases.

2. A detailed description of the background of the Debtors and the reasons for filing the Chapter 11 Cases are set forth in the *Declaration of Matthew Doheny, Chief Restructuring Officer of the Debtors, in Support of Chapter 11 Petitions and First Day Motions in Compliance with Local Rule 1007-2* [Docket No. 2] (the “*First Day Declaration*”).

3. On the *Petition Date*, the Debtors filed the *Debtors’ Joint Chapter 11 Plan of Liquidation* [Docket No. 11] (as may be amended, modified or supplemented from time to time, the “*Plan*”), and the attendant *Disclosure Statement for Debtors’ Joint Chapter 11 Plan of Liquidation* [Docket No. 12] (as may be amended, modified or supplemented from time to time, the “*Disclosure Statement*”).<sup>2</sup>

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<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan, or if not defined in the Plan, in the Disclosure Statement or the First Day Declaration, as applicable.

4. A hearing on approval of the Disclosure Statement has not yet been scheduled because this Court ruled, in the exercise of its case management discretion, that approval of the Disclosure Statement and proposed solicitation procedures should not be considered until after the Case Motions<sup>3</sup> are fully briefed, heard, and decided.<sup>4</sup> Accordingly, the Debtors have not yet been authorized to commence solicitation on the Plan, and the Debtors are requesting a 180-day extension of the exclusive period to seek confirmation of the Plan to ensure there is sufficient time for the Debtors to complete the solicitation of votes on the Plan and seek confirmation of the Plan, assuming disposition of the Case Motions in a manner favorable to the Debtors.<sup>5</sup>

### **Jurisdiction and Venue**

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

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<sup>3</sup> “*Case Motions*” means the motions by VRG and VarigLog (joined by HJDK) to convert, abstain, or lift the automatic stay in respect of the Chapter 11 Cases [Docket Nos. 178, 181, and 225].

<sup>4</sup> See Transcript of Nov. 15, 2021 Hearing at page 9, lines 1-5 (“Therefore, in the exercise of my case management discretion, I conclude that briefing on the disclosure statement approval motion should be held in abeyance, pending resolution of the motions to convert and for additional relief stated in those motions.”).

<sup>5</sup> Debtors note that at the hearing on September 17, 2021, the Court indicated that a deferral by the Court of hearing on the Disclosure Statement and confirmation process would “very likely” go in tandem with a willingness from the Court to “extend exclusivity, in view of the fact that [Debtors] tried to go forward within [Debtors’] exclusive period, and the reason that didn’t happen is these intervening motions that got filed with strong arguments that they should come first.” See Transcript of Sep. 17, 2021 Hearing at page 48, lines 14-18. In response to this indication from the Court, counsel to VRG offered that “[VRG] would agree to extend the exclusive period right now to allow this to be done in a sequential way,” and that “[VRG] would not oppose an extension [of exclusivity], so that [the Court] can hear what [VRG’s] been calling the threshold issues...” See *Id.* at page 49, lines 1-4 and 10-12.

7. The statutory and legal bases for the relief requested herein are section 1121(d) of the Bankruptcy Code, Bankruptcy Rule 9006, and Rule 9006-1 of the Local Bankruptcy Rules for the Southern District of New York (the “*Local Rules*”).

### **Relief Requested**

8. The Debtors request the entry of the Order (i) extending the Debtors’ Exclusive Solicitation Period by 180 days, without prejudice to the Debtors’ right to seek further extensions of the Exclusive Solicitation Period; and (ii) granting related relief. The current Exclusive Solicitation Period is set to expire on January 3, 2022.<sup>6</sup> The Debtors request a 180-day extension of the Debtors’ Exclusive Solicitation Period to July 5, 2022.<sup>7</sup> Pursuant to Rule 9006-2 of the Local Bankruptcy Rules, the filing of this Motion prior to the current deadline serves to automatically extend such deadline until the Court rules on this Motion.<sup>8</sup> *See* Local Bankruptcy Rule 9006-2.

### **Basis for Relief**

9. Section 1121(b) of the Bankruptcy Code provides debtors with the exclusive right to file a chapter 11 plan during the first 120 days after the commencement of a chapter 11 case. 11 U.S.C. § 1121(b). If a debtor files a plan during this period, section 1121(c) of the Bankruptcy Code provides the debtor with an initial period of 180 days from the commencement of the chapter 11 case to solicit acceptances of such plan. 11 U.S.C. § 1121(c)(3). Section 1121(d) of the

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<sup>6</sup> The date that is 180 days after the Petition Date is January 2, 2022, which is a Sunday. Therefore, pursuant to Bankruptcy Rule 9006, the Exclusive Solicitation Period ends on Monday, January 3, 2022.

<sup>7</sup> 180 days after the current Exclusive Solicitation Period deadline is July 2, 2022, a Saturday. Therefore, pursuant to Bankruptcy Rule 9006, the Debtors’ requested 180-day extension of the Exclusive Solicitation Period would run through July 5, 2022.

<sup>8</sup> If requested by the Court, the Debtors will submit a bridge order extending the Exclusive Solicitation Period through and including the date on which the Court enters an order on this Motion.

Bankruptcy Code permits a bankruptcy court to extend a debtor's exclusive period to file a plan and solicit acceptances thereof upon demonstration of "cause." *See* 11 U.S.C. § 1121(d) ("[O]n request of a party in interest made within the respective periods specified in subsections (b) and (c) of this section and after notice and a hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.").

10. The Debtors filed their Plan on the first day of these Chapter 11 Cases. Therefore, no other party is currently permitted to file a competing plan. *See* 11 U.S.C. § 1121(c). However, as directed by the Court, the Debtors have not yet proceeded to seek approval of the Disclosure Statement and authorization to commence the solicitation of votes on the Plan pending the hearing on and decision of the Case Motions. The Debtors respectfully submit that "cause" therefore exists to extend the Exclusive Solicitation Period for 180 days to July 5, 2022.

11. The decision to extend the exclusive periods is left to the sound discretion of the Bankruptcy Court and should be based upon the facts and circumstances of the particular case. *In re Borders Gr'p, Inc.*, 460 B.R. 818, 821–22 (Bankr. S.D.N.Y. 2011). Although the Bankruptcy Code does not define "cause" for the purpose of extension of the exclusive periods, courts have looked to the legislative history of Section 1121(d) for guidance. *See, e.g., In re Burns & Roe Enters., Inc.*, No. 00-41610 RG, 2005 WL 6289213, at \*4 (D.N.J. Nov. 2, 2005) (interpreting "cause" using legislative history); *In re Amko Plastics, Inc.*, 197 B.R. 74, 77 (Bankr. S.D. Ohio 1996) (same); *In re Gibson & Cushman Dredging Corp.*, 101 B.R. 405, 409 (E.D.N.Y. 1989) (same). Congress did not intend that the exclusive periods be a hard and fast rule; instead, Congress intended the exclusive periods be of an adequate length, given the circumstances, for a debtor to submit and solicit votes on a plan. *See Amko Plastics*, 197 B.R. at



77 (noting that Congress intended courts to have flexibility in dealing with extensions of exclusivity).

12. Here, the Debtors timely filed a Plan and Disclosure Statement on the Petition Date. While the Court directed that approval of the Disclosure Statement be held in abeyance until the Case Motions are determined, the Court also noted that it would be inclined to extend exclusivity because of the sequencing of the Case Motions to be heard first.<sup>9</sup> Counsel for VRG stipulated that they would not object to an extension of exclusivity in order to permit adjudication of the Case Motions and the Disclosure Statement approval process to be held sequentially.<sup>10</sup> In addition, pending disposition of the Case Motions, no party in interest is prejudiced by the exclusivity extension.<sup>11</sup> Therefore, “cause” exists for a 180-day extension of the Exclusive Solicitation Period due to the schedule established by the Court.

#### **Notice**

13. Notice of this Application has been provided to (a) the Office of the United States Trustee for the Southern District of New York; (b) the Securities and Exchange Commission; (c) the Internal Revenue Service; (d) the United States Attorney’s Office for the Southern District of New York; (e) the New York State Attorney General; (f) the United States Attorney’s Office for the District of Delaware; (g) the Delaware Attorney General; (h) the Cayman Islands General

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<sup>9</sup> See footnote 5 herein.

<sup>10</sup> *Id.*

<sup>11</sup> Debtors further note that extension of the Exclusive Solicitation Period at this juncture should not harm any party in interest as the Plan Debtors have proposed seeks to unimpaired all allowed creditor claims and distribute the remainder to limited partners. Indeed, counsel for VRG has conceded that they “can’t fathom a plan that [VRG] would put forward anyway, other than a liquidating plan paying in accordance with the priority of the Bankruptcy Code, which is all that they’re positing here.” See Transcript of Sep. 17, 2021 Hearing at page 49, lines 4-7.

Registry Department; (i) VRG, VarigLog, and HJDK, and their respective counsel; (j) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002; and (k) all entities believed to have or be claiming an interest in the subject matter of the Order or who, it is believed, otherwise would be affected by the Order.

**No Prior Request**

14. No prior request for the relief sought in this application has been made to this or any other court.

*[Remainder of page intentionally left blank]*

WHEREFORE, the Debtors respectfully request entry of the Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and granting such other relief as is just and proper.

Dated: December 30, 2021  
New York, NY

**SIMPSON THACHER & BARTLETT LLP**

/s/ Elisha D. Graff

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

**Exhibit A**

**Proposed Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	)	Chapter 11
	)	
MatlinPatterson Global Opportunities Partners II L.P., <i>et al.</i> ,	)	Case No. 21-11255 (DSJ)
	)	
Debtors. <sup>1</sup>	)	(Jointly Administered)

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**ORDER (I) EXTENDING THE DEBTORS' EXCLUSIVE PERIOD TO SOLICIT  
ACCEPTANCES OF THEIR JOINT CHAPTER 11 PLAN OF LIQUIDATION; AND  
(II) GRANTING RELATED RELIEF**

Upon the motion (the “*Motion*”)<sup>2</sup> of the Debtors for entry of an order (this “*Order*”) (i) extending the Debtors’ Exclusive Solicitation Period by 180 days, without prejudice to the Debtors’ right to seek further extensions of the Exclusive Solicitation Period; and (ii) granting related relief; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 1334 and 157, and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and it appearing that this is a core matter pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and it appearing that venue of the Chapter 11 Cases and of the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of the Motion having been provided under the particular circumstances, and it appearing that no other or further notice need be provided; and this Court having determined that the relief requested that the Motion is in the best interest of the Debtors’ estates, their creditors,

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, if any, are: MatlinPatterson Global Opportunities Partners II L.P. (8284); MatlinPatterson Global Opportunities Partners (Cayman) II L.P. (8246); MatlinPatterson Global Partners II LLC (6962); MatlinPatterson Global Advisers LLC (2931); MatlinPatterson PE Holdings LLC (6900); Volo Logistics LLC (8287); MatlinPatterson Global Opportunities Partners (SUB) II L.P. (9209). The location of the Debtors’ address is: 600 Fifth Avenue, 22<sup>nd</sup> Floor, New York, New York 10022.

<sup>2</sup> Capitalized terms used but not otherwise herein defined shall have the meanings ascribed to them in the Motion.

and other parties in interest; and the legal and factual bases set forth in the Motion having established just cause for the relief granted herein; and after due deliberation thereon and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is hereby GRANTED as set forth herein.
2. The period during which the Debtors have the exclusive right to solicit acceptances of the Plan is hereby extended through and including July 5, 2022.
3. The entry of this Order is without prejudice to the Debtors' right to request further extensions of the Exclusive Solicitation Period.
4. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

New York, New York  
Dated: \_\_\_\_\_, 2022

\_\_\_\_\_  
HONORABLE DAVID S. JONES  
UNITED STATES BANKRUPTCY JUDGE