

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re: : Chapter 11
: :
STARRY GROUP HOLDINGS, INC., *et al.*,¹ : Case No. 23-10219 (____)
: :
Debtors. : (Joint Administration Requested)
: :
----- X

**MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL
ORDERS (I) AUTHORIZING DEBTORS TO PAY PREPETITION CLAIMS
OF CRITICAL VENDORS, AND (II) GRANTING RELATED RELIEF**

Starry Group Holdings, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), respectfully represent as follows in support of this motion (this “**Motion**”):

RELIEF REQUESTED

1. By this Motion, the Debtors seek entry of interim and final orders, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Interim Order**”) and **Exhibit B** (the “**Proposed Final Order**”) and, together with the Proposed Interim Order, the “**Proposed Orders**”): (a) authorizing, but not directing, the Debtors to pay the prepetition claims of vendors that are critical to the Debtors’ business operations (the “**Critical Vendors**”); and (b) granting related relief.

2. The Debtors request, pursuant to this Motion, authority to pay prepetition obligations related to the above (a) upon entry of the Proposed Interim Order, in an amount not to

¹ The debtors in these cases, along with the last four digits of each debtor’s federal tax identification number, are: Starry Group Holdings, Inc. (9355); Starry, Inc. (9616); Connect Everyone LLC (5896); Starry Installation Corp. (7000); Starry (MA), Inc. (2010); Starry Spectrum LLC (N/A); Testco LLC (5226); Starry Spectrum Holdings LLC (9444); Widmo Holdings LLC (9208); Vibrant Composites Inc. (8431); Starry Foreign Holdings Inc. (3025); and Starry PR Inc. (1214). The debtors’ address is 38 Chauncy Street, Suite 200, Boston, Massachusetts 02111.



exceed \$250,000, and (b) upon entry of the Proposed Final Order, in an amount not to exceed \$1,000,000, in each case, as they become due in the ordinary course of business.

JURISDICTION AND VENUE

3. The Court has jurisdiction to consider this Motion pursuant to 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. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory and legal predicates for the relief requested herein are sections 105(a), and 363(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

5. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the Debtors consent to the entry of a final order or judgment by the Court in connection with this Motion if it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

BACKGROUND

6. On the date hereof (the “**Petition Date**”), the Debtors commenced with the Court voluntary cases (the “**Chapter 11 Cases**”) under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue operating their business and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee has been appointed in the Chapter 11 Cases.

7. Contemporaneously with the filing of this Motion, the Debtors have filed with the Court a motion requesting joint administration of the Chapter 11 Cases for procedural purposes only pursuant to Bankruptcy Rule 1015(b).

8. The factual background regarding the Debtors, including their business operations, their capital and debt structures, and the circumstances leading to the commencement of the Chapter 11 Cases, is set forth in detail in the *Declaration of Chaitanya Kanojia In Support of Chapter 11 Petitions and First Day Pleadings* (the “**First Day Declaration**”),² filed contemporaneously herewith, and is incorporated herein by reference.³

CRITICAL VENDORS

9. In connection with their operations, the Debtors rely upon a number of Critical Vendors whose services are essential to maintaining their operations. Without the services of the Critical Vendors, the Debtors would be unable to operate their business, comply with federal or local regulations, meet customer demand, or safely maintain their assets.

10. The Debtors’ operations require seamless collaboration with various third-party vendors and suppliers that provide the goods and services necessary to maintain the Debtors’ continued operations. Recognizing the importance of maintaining operational continuity during the Chapter 11 Cases, before the Petition Date, the Debtors worked with their advisors to develop a narrowly-tailored Critical Vendor program to ensure that the Debtors would have access to the goods and services essential to ongoing operations during the Chapter 11 Cases. In developing the Critical Vendor program, the Debtors, in consultation with their professional advisors, engaged in a comprehensive process to (a) identify those vendors, suppliers, and service providers that are critical to the Debtors’ business and (b) quantify the relief necessary to avoid immediate and irreparable harm to the Debtors at the outset of the Chapter 11 Cases.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the First Day Declaration.

³ The First Day Declaration and other relevant case information is available on the following website maintained by the Debtors’ proposed claims and noticing agent, Kurtzman Carson Consultants LLC: <http://www.kccllc.net/Starry>.

11. The Debtors and their advisors spent significant time and effort reviewing and analyzing the Debtors' books and records, consulting operations management and purchasing personnel, reviewing contracts and supply agreements, and analyzing applicable laws, regulations, and historical practices to identify business relationships which, if lost, could materially harm the Debtors' business or impair their restructuring process. In this process, the Debtors, with the assistance of their professional advisors, assessed a variety of factors, including:

- a. the goods or services provided by a vendor or supplier;
- b. whether goods or services are provided pursuant to an executory contract⁴ or on a purchase-order basis;
- c. whether failure to pay all or part of a particular vendor's claim could cause the vendor to refuse to ship inventory or provide critical services on a postpetition basis;
- d. whether the Debtors could maintain postpetition relationships with a vendor through non-bankruptcy alternatives, including prepayment or cash-on-delivery terms;
- e. whether failure to pay a particular vendor would be likely to result in contraction of trade terms as a matter of applicable bankruptcy or non-bankruptcy law;
- f. whether the vendor is a sole- or limited-source or high-volume supplier for branded and "in-demand" inventory due to particular local, regional, or national customer preferences;
- g. whether alternative vendors are available that could provide requisite volumes of similar goods or services on equal or better terms and, if so, whether the Debtors would be able to continue operating while transitioning business thereto;
- h. whether the Debtors' inability to pay all or part of the vendor's prepetition claim would be likely to trigger financial distress for such vendor; and
- i. whether failure to pay the particular vendor would be likely to jeopardize the Debtors' valuable proprietary interest in goods.

⁴ Notably, the Debtors benefit from relationships with various vendors that are governed by contract. While many of those vendors are critical to the Debtors' operations, the large majority of them are not included as part of the requested relief.

12. Applying the above factors, the Debtors identified the universe and type of vendors that are essential to the Debtors' ability to preserve and enhance value during the Chapter 11 Cases. To the extent that certain Critical Vendors have long-term contracts with the Debtors, or there are provisions in the applicable agreements between the Critical Vendors and the Debtors restricting the Critical Vendors' transactions with other companies, the Debtors nonetheless submit that the relief requested herein is appropriate. Given the size and complexity of the Debtors' business, the Debtors have not yet made determinations regarding the assumption of all executory contracts. If the Debtors do not make payments to the Critical Vendors as they become due in the ordinary course of business, then the Critical Vendors may, notwithstanding the automatic stay, see any delay in payment as a breach permitting them to stop performing under the applicable agreements. The Debtors have determined that, in many cases, the disruption attendant to resolving a dispute with such repudiating Critical Vendor would likely exceed the payment to such Critical Vendor on account of its prepetition claim. Further, the Debtors believe that any such disruption in a relationship with such a Critical Vendor could be significantly detrimental to the Debtors' operations.

13. Ultimately, the Debtors believe that the relief sought herein is narrowly tailored and reasonable, as the amount of claims of Critical Vendors (the "Critical Vendor Claims")⁵ the Debtors are seeking the authority to pay pursuant to this Motion comprises only approximately 5.2% of the Debtors' total outstanding prepetition trade debt as of the Petition Date.

⁵ For the avoidance of doubt, Critical Vendor Claims do not include any "Vendor Claims" as defined in the *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to Pay Prepetition Claims of (A) Lien Claimants, (B) 503(B)(9) Claimants, and (C) Foreign Vendors, (II) Confirming Administrative Expense Priority Status for Outstanding Prepetition Purchase Orders, and (III) Granting Related Relief*, filed contemporaneously herewith.

14. The Critical Vendors include, among other things, (a) suppliers of certain of the Debtors' components (b) cloud storage suppliers, (c) vendors of critical services that are necessary to support the Debtors' corporate and technical support operations, such as information technology service providers, and (d) providers of customer support services.

A. Component Suppliers

15. The Debtors employ equipment that enables their customers to utilize the Debtors' broadband services. Substantially all of this equipment is manufactured and sold to the Debtors by third-party vendors and includes radomes, antenna, modems, and wireless access points. This equipment is then installed on or near the Debtors' customers' property, and the Debtors' vendors also provide repairs and replacement parts related to this equipment. Certain of this equipment is proprietary and developed with unique specifications and manufactured exclusively for the Debtors. Further, any equipment installed on a customer's premises must obtain regulatory approval from certain agencies, which is often a time-consuming process.

16. Given the proprietary nature of the Debtors' equipment and the requirement that any equipment appropriately comply with substantial regulatory requirements, it would be extremely challenging to replace these Critical Vendors without risking a significant delay in providing this equipment to customers. Without properly installed and well-maintained equipment on or near their customer's property, the Debtors would be unable to provide their connectivity services. Accordingly, it is essential that the Debtors have access to the services of these Critical Vendors during the Chapter 11 Cases in order to limit any potential disruption to their business.

B. Cloud Storage Providers

17. The Debtors' unique and innovative solution to provide last mile fixed broadband uses a proprietary fixed wireless technology stack operating in licensed spectrums. In order to deliver the Debtors' service to the end user, the Debtors design and prototype their own fixed

wireless equipment, cloud-based network control plane, and billing and operations support system to run their network and provide their services. Their ability to successfully integrate these components is critical for the Debtors to be able to efficiently deploy new broadband networks across a variety of markets and provide a robust and competitively-priced broadband service to its customers. The Debtors built their entire network control system—network core, operations support system, and business support system—on a custom cloud platform. The platform, which is maintained by certain Critical Vendors, enables the Debtors to scale up to accommodate growth in their business. The Debtors pay the cloud service providers on a monthly basis in arrears based on usage, and if the Debtors are unable to remain current on their obligations related to cloud storage, their vendors may restrict their access to the cloud platform. Without access to the cloud platform, the Debtors entire business model would be placed into jeopardy and the Debtors' operations would come to an immediate standstill. Accordingly, it is essential that the Debtors have access to the services of these Critical Vendors during the Chapter 11 Cases in order to limit any potential disruption to their business.

C. Corporate and Technical Support

18. The Debtors utilize the services of certain third-party vendors to assist with their internal systems, including information technology systems. These vendors provide critical services to the Debtors and for the benefit of the Debtors' customers, including, among other things, testing and assessing the security of the Debtors' customers' personal information and the Debtors' proprietary information. Without these services, the Debtors' would be at heightened risk of cyber-attacks and might also risk noncompliance with certain regulatory requirements. Accordingly, it is essential that the Debtors have access to the services of these Critical Vendors during the Chapter 11 Cases in order to limit any potential disruption to their business.

D. Customer Service Providers

19. The Debtors utilize the services of certain third-party vendors to assist with their provision of customer care. These vendors provide services including, among others things, agents to assist customers with technical or billing questions, as well as translation services for customers who require them (together with other relevant services, “**Customer Care**”). The Debtors have determined that using these vendors to provide Customer Care is the most cost effective way to provide the Customer Care to customers, and uninterrupted continuation of the services provided by these vendors is therefore in the best interest of the Debtors and their estates. Without these services, the Debtors would stand to alienate certain of their customers and would be placed at a competitive disadvantage as compared to the rest of the industry. Accordingly, it is essential that the Debtors have access to the services of these Critical Vendors during the Chapter 11 Cases in order to limit any potential disruption to their business.

20. For each of the categories of Critical Vendors described above, securing replacement vendors would be extremely difficult. Even if it were possible to find replacement vendors for these highly specialized products, it would result in substantially higher costs for the Debtors and would require a significant amount of time to accomplish. If the Debtors experience disruptions in the delivery of products and services from any of these key suppliers, it may be difficult to continue providing products and services to their customers, which would potentially jeopardize the Debtors’ operations both over the short-term and the long-term at a critical juncture in the Chapter 11 Cases. As a result, the Debtors seek authority to satisfy the Critical Vendor Claims to maximize recoveries for all stakeholders and minimize unnecessary disruptions during the Chapter 11 Cases.

POSTPETITION CONTINUATION OF CUSTOMARY TRADE TERMS

21. The Debtors propose conditioning, where possible, the payment of Critical Vendor Claims on obtaining from each Critical Vendor their agreement to continue supplying goods and services to the Debtors on as favorable trade terms, practices, and programs as those trade terms, practices, and programs in place in the 24 months before the Petition Date (the “**Customary Trade Terms**”) or pursuant to such other trade practices and programs that are favorable to the Debtors. Where appropriate, the Debtors seek authority, but not direction, to require as a condition to payment of a Critical Vendor Claim that the applicable Critical Vendor enter into a trade agreement, substantially in the form annexed hereto as **Exhibit C** (each, a “**Vendor Agreement**”). A Vendor Agreement, once agreed to and accepted by a Critical Vendor, constitutes a legally binding contractual relationship between the parties governing the commercial trade relationship as provided therein.

22. The Debtors also seek limited authority, but not direction, to pay Critical Vendor Claims if no Vendor Agreement has been executed or if the Debtors determine, in their business judgment, that a formal Vendor Agreement is prohibitive or unnecessary to provide for the continued provision of goods or services on a postpetition basis; *provided that*, unless otherwise agreed by the Debtors, if any Critical Vendor accepts payment pursuant to the relief requested by this Motion and thereafter does not continue to provide goods or services on Customary Trade Terms (regardless of whether a Vendor Agreement has been executed), and subject to any Vendor Agreement that may be executed: (a) such payment may be deemed to be an improper postpetition transfer on account of a prepetition claim, and therefore such payment will be immediately recoverable by the Debtors in cash upon written request; (b) upon recovery by the Debtors, any prepetition claim of such Critical Vendor will be reinstated as if the payment had not been made and the deadline for a Critical Vendor to file a reinstated claim will be the later of (i) the general

bar date established by order of the Court or (ii) 30 days after the Debtors provide written notice to the Critical Vendor of the reinstatement of its claim; and (c) if the Debtors owe the Critical Vendor any postpetition amounts, the Debtors may recharacterize and apply any payment made pursuant to an order entered in connection with this Motion to reduce such outstanding postpetition amounts, and such Critical Vendor must return any amounts overpaid by the Debtors, without the right of any setoffs, recoupments, claims, provisions for payment of any claims, or otherwise.

BASIS FOR RELIEF REQUESTED

I. PAYING THE CRITICAL VENDOR CLAIMS IS IN THE BEST INTERESTS OF THE DEBTORS' ESTATES AND THEIR CREDITORS

23. In order to ensure the success of the Debtors' businesses, the Debtors necessarily rely on certain Critical Vendors that provide the Debtors with goods and services related to the Debtors' operations. Without the goods and services provided by the Critical Vendors, the Debtors would be unable to efficiently provide services to their customers. Unless the Debtors are authorized to pay the Critical Vendor Claims, the Debtors believe that the Critical Vendors may refuse to provide critical goods and services, resulting in a material disruption of the Debtors' operations. Such a disruption in operations could lead to a significant loss of business, erosion of goodwill, and deterioration in the value of the Debtors' operations to the detriment of the Debtors' stakeholders.

II. PAYING CRITICAL VENDOR CLAIMS IS APPROPRIATE UNDER SECTION 363(B) AND 105(A) OF THE BANKRUPTCY CODE AND THE DOCTRINE OF NECESSITY

24. A bankruptcy court may authorize a debtor to pay certain prepetition obligations pursuant to section 363(b) of the Bankruptcy Code. Section 363(b)(1) of the Bankruptcy Code provides, in pertinent part, that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." To approve the use of assets

outside the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code, courts require only that the debtor “show that a sound business purpose justifies such actions.” *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) (internal citations omitted); accord *In re Phoenix Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987). Moreover, if “the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted); see also *Stanziale v. Nachtomi (In re Tower Air, Inc.)*, 416 F.3d 229, 238 (3d Cir. 2005) (stating that “[o]vercoming the presumptions of the business judgment rule on the merits is a near-Herculean task”).

25. In addition, the Court has the authority, pursuant to its equitable powers under section 105(a) of the Bankruptcy Code, to authorize the relief requested herein, because such relief is necessary for the Debtors to carry out their fiduciary duties under section 1107(a) of the Bankruptcy Code. 11 U.S.C. § 1107(a). Section 105(a) of the Bankruptcy Code empowers bankruptcy courts to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Section 1107(a) of the Bankruptcy Code “contains an implied duty of the debtor-in-possession” to “protect and preserve the estate, including an operating business’ going-concern value,” on behalf of a debtor’s creditors and other parties in interest. *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); see also *Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 232-33 (Bankr. S.D.N.Y. 1998) (“[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee.”).

26. The Court may also rely on the doctrine of necessity and its equitable powers under section 105(a) of the Bankruptcy Code to authorize the payment of prepetition claims when such payment is essential to the continued operation of a debtor's business. *See, e.g., In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that section 105(a) of the Bankruptcy Code provides a statutory basis for payment of prepetition claims under the doctrine of necessity, particularly when such payment is necessary for the debtor's survival during chapter 11); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity is the standard for enabling a court to authorize payment of prepetition claims before confirmation of a reorganization plan).

27. The relief requested by this Motion represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates, and is justified under sections 363(b) and 105(a) of the Bankruptcy Code. Authorizing the Debtors to pay the Critical Vendor Claims in the amounts set forth herein is in the best interests of the Debtors, their estates, and their economic stakeholders. As set forth above and in the First Day Declaration, if the Critical Vendors are unwilling to provide essential goods and services to the Debtors postpetition because of their outstanding prepetition claims, the Debtors' operations would suffer dramatically. Any attempt by the Debtors to address the resulting impact on operations by either re-sourcing or shifting business to alternative vendors would, even if possible, result in significant expense to the Debtors' estates and delay, resulting in disruptions to the services the Debtors provide to their customers and significant damages and losses to the Debtors' estates.

**DEBTORS' BANKS SHOULD BE AUTHORIZED TO
HONOR CHECKS AND ELECTRONIC FUNDS TRANSFERS**

28. The Debtors further request that the Court (a) authorize all applicable financial institutions (collectively, the “**Banks**”) to receive, process, honor, and pay all checks presented for payment and electronic payment requests relating to the relief sought herein to the extent that the Debtors have sufficient funds on deposit in their accounts with the Banks, whether such checks were presented or electronic requests were submitted before or after the Petition Date, and (b) authorize the Banks to rely on the Debtors’ designation of any particular check or electronic payment request as appropriate pursuant to this Motion without any duty of further inquiry and without liability for following the Debtors’ instructions. The Debtors anticipate having sufficient funds to pay the amounts described herein. In addition, under the Debtors’ existing cash management system, the Debtors can readily identify whether checks or wire transfer requests are payments authorized by the relief requested herein. Accordingly, the Debtors believe that checks, direct debits, or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently.

**BANKRUPTCY RULE 6003 HAS BEEN SATISFIED
AND BANKRUPTCY RULE 6004 SHOULD BE WAIVED**

29. Certain aspects of the relief requested herein may, if granted, be subject to Bankruptcy Rule 6003, which governs the availability of certain types of relief within 21 days after the Petition Date. Pursuant to Bankruptcy Rule 6003, a court may grant such relief if it is necessary to avoid immediate and irreparable harm. The Debtors submit that the facts set forth herein and in the First Day Declaration demonstrate that the relief requested is necessary to avoid immediate and irreparable harm to the Debtors and, thus, Bankruptcy Rule 6003 has been satisfied.

30. Additionally, to the extent that any aspect of the relief sought herein constitutes a use of property under section 363(b) of the Bankruptcy Code, the Debtors seek a waiver of the

notice requirements under Bankruptcy Rule 6004(a), to the extent not satisfied, and of the 14-day stay under Bankruptcy Rule 6004(h). As described above, the relief that the Debtors seek in this Motion is immediately necessary in order for the Debtors to be able to continue to operate their business and preserve the value of their estates. Accordingly, the Debtors submit that the requested waiver of the notice requirements of Bankruptcy Rule 6004(a) and of the 14-day stay imposed by Bankruptcy Rule 6004(h) is appropriate.

RESERVATION OF RIGHTS

31. Nothing contained herein is or should be construed as: (a) an admission as to the validity of any claim against the Debtors or the existence of any lien against the Debtors' property; (b) a waiver of the Debtors' rights to dispute any claim or lien on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim would constitute an allowed claim; (e) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; or (f) a limitation on the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to the Proposed Orders once entered. Nothing contained in the Proposed Orders will be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

NOTICE

32. Notice of this Motion will be provided to (a) the Office of the United States Trustee for the District of Delaware (Attn: Benjamin Hackman); (b) the holders of the 30 largest unsecured claims against the Debtors; (c) counsel to ArrowMark Agency Services LLC as DIP Agent and Prepetition Agent, (i) Sheppard, Mullin, Richter & Hampton LLP (Attn: Justin Bernbrock, Kyle J. Mathews, Bryan V. Uelk, and Catherine Jun), and (ii) Potter Anderson & Corroon LLP (Attn: L. Katherine Good); (d) the Critical Vendors; (e) the Banks; (f) the United States Attorney's Office

for the District of Delaware; (g) the Internal Revenue Service; (h) the United States Securities and Exchange Commission; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this Motion is seeking “first day” relief, the Debtors will serve copies of this Motion and any order entered in respect of this Motion as required by Local Rule 9013-1(m). The Debtors believe that no further notice is required.

[Remainder of page left intentionally blank]

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: February 20, 2023
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Joseph M. Mulvihill

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Proposed Counsel for Debtors and Debtors in Possession

EXHIBIT A

Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	X	
	:	
In re:	:	Chapter 11
	:	
STARRY GROUP HOLDINGS, INC., <i>et al.</i> , ¹	:	Case No. 23-10219 (___)
	:	
Debtors.	:	(Jointly Administered)
	:	
	X	Re: Docket No.

**INTERIM ORDER (I) AUTHORIZING DEBTORS TO PAY PREPETITION
CLAIMS OF CRITICAL VENDORS, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)² of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for entry of orders (a) authorizing, but not directing, the Debtors to pay the prepetition claims of Critical Vendors, and (b) granting related relief, all as more fully set forth in the Motion; and this Court having reviewed the Motion and the First Day Declaration; and this Court having jurisdiction to consider the Motion and the relief requested 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; and this Court having found that this is a core proceeding 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 this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary, except as set forth in the Motion with respect to

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² Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion.

entry of this Interim Order and notice of the Final Hearing (as defined below); and upon the record herein; and after due deliberation thereon; and this Court having determined that there is good and sufficient cause for the relief granted in this Interim Order, therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is granted on an interim basis, as set forth herein.
2. All objections to the entry of this Interim Order, to the extent not withdrawn or settled, are overruled.
3. The Debtors are authorized, but not directed, to pay Critical Vendor Claims in an aggregate amount not to exceed \$250,000 on an interim basis.
4. The Debtors are authorized to undertake all appropriate efforts to cause a Critical Vendor to enter into the form of Vendor Agreement, substantially in the form attached to the Motion as **Exhibit C**, which form of Vendor Agreement is hereby approved, and the Debtors are authorized to negotiate, modify, or amend the form of Vendor Agreement in the exercise of their reasonable business judgment to the extent such negotiations, modifications, or amendments are not materially adverse to the Debtors.
5. The Debtors are authorized, but not directed, in the exercise of their reasonable business judgment, to condition payment of Critical Vendor Claims on the agreement of Critical Vendors to enter into Vendor Agreements.
6. If any party accepts payment pursuant to the relief requested by this Interim Order and thereafter does not continue to provide goods or services on Customary Trade Terms (regardless of whether a Vendor Agreement has been executed), and subject to any Vendor Agreement that may be executed or otherwise agreed by the Debtors: (a) the Debtors may demand repayment in cash and otherwise take all action to have such payment be deemed to be an improper

postpetition transfer on account of a prepetition claim and (b) upon recovery by the Debtors, any prepetition claim of such party shall be reinstated as if the payment had not been made and the deadline for such party to file a reinstated claim will be the later of (i) the general bar date established by order of this Court or (ii) 30 days after the Debtors provide written notice to the party of the reinstatement of its claim.

7. Notwithstanding anything to the contrary in this Interim Order, the Motion, or any exhibits thereto, the priority of a Critical Vendor's claim shall not be affected by whether such Critical Vendor executes a Vendor Agreement, provides goods or services to the Debtors under Customary Trade Terms, or otherwise.

8. The Banks shall be, and are, hereby authorized, when requested by the Debtors, to process, honor, pay, and, if necessary, reissue any and all checks or electronic funds transfers, including prepetition checks and electronic payment and transfer requests that the Debtors reissue or re-request postpetition, drawn on the Debtors' accounts, whether those checks were presented before or after the Petition Date, provided that sufficient funds are available in such accounts to make the payments.

9. The Banks may rely on the representations of the Debtors with respect to whether any check or other transfer drawn or issued by the Debtors before the Petition Date should be honored pursuant to this Interim Order, and the Banks shall not have any liability to any party for relying on such representations by the Debtors as provided for in this Interim Order.

10. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of Critical Vendor Claims as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored as a result of the commencement of the Chapter 11 Cases.

11. Nothing in the Motion or this Interim Order, nor any actions or payments made by the Debtors pursuant to this Interim Order, shall be construed as: (a) an admission as to the validity of any claim against the Debtors or the existence of any lien against the Debtors' properties; (b) a waiver of the Debtors' rights to dispute any claim or lien on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim would constitute an allowed claim; (e) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; or (f) a limitation on the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to this Interim Order. Nothing contained in this Interim Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

12. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Interim Order shall be effective and enforceable immediately upon entry hereof.

13. The requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.

14. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied because the relief set forth in this Interim Order is necessary to avoid immediate and irreparable harm.

15. The Debtors are hereby authorized to take such actions and to execute such documents as may be necessary to implement the relief granted by this Interim Order.

16. The final hearing (the "**Final Hearing**") on the Motion shall be held on _____, 2023, at _____, prevailing Eastern Time. On or before _____, prevailing Eastern Time, on _____, 2023, any objections or responses to entry of a final order on the Motion (a "**Final Order**") shall be filed with this Court, and served on: (a) proposed counsel to the Debtors, (i) Latham & Watkins LLP, (1) 355 South Grand Avenue, Suite 100, Los Angeles, California 90071 (Attn: Ted A. Dillman (ted.dillman@lw.com), Jeffrey T. Mispagel

(jeffrey.mispagel@lw.com), and Nicholas J. Messana (nicholas.messana@lw.com)) and (2) 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611 (Attn: Jason B. Gott (jason.gott@lw.com)) and (ii) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Kara Hammond Coyle (kcoyle@ycst.com), Joseph M. Mulvihill (jmulvihill@ycst.com), and Timothy R. Powell (tpowell@ycst.com)); (b) counsel to ArrowMark Agency Services LLC as DIP Agent and Prepetition Agent, (i) Sheppard, Mullin, Richter & Hampton LLP, (1) 333 South Hope Street, 43rd Floor, Los Angeles, California 90071 (Attn: Kyle J. Matthews (KMatthews@sheppardmullin.com)) and (2) 321 North Clark Street, 32nd Floor, Chicago, Illinois 60654 (Attn: Justin Bernbrock (JBernbrock@sheppardmullin.com), Bryan V. Uelk (BUelk@sheppardmullin.com), and Catherine Jun (CJun@sheppardmullin.com)), and (ii) Potter Anderson & Corroon LLP, Hercules Plaza, 1313 North Market Street, 6th Floor, P.O. Box 951, Wilmington, Delaware, 19801 (Attn: L. Katherine Good (kgood@potteranderson.com)); (c) counsel to any statutory committee appointed in the Chapter 11 Cases; and (d) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Benjamin Hackman (Benjamin.A.Hackman@usdoj.gov)).

In the event that no objections to entry of the Final Order on the Motion are timely received, this Court may enter such Final Order without need for the Final Hearing.

17. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

EXHIBIT B

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	X	
	:	
In re:	:	Chapter 11
	:	
STARRY GROUP HOLDINGS, INC., <i>et al.</i> , ¹	:	Case No. 23-10219 (____)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	
	X	Re: Docket Nos.

**FINAL ORDER (I) AUTHORIZING DEBTORS TO PAY PREPETITION
CLAIMS OF CRITICAL VENDORS, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)² of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for entry of orders (a) authorizing, but not directing, the Debtors to pay the prepetition claims of Critical Vendors, and (b) granting related relief, all as more fully set forth in the Motion; and this Court having reviewed the Motion, the First Day Declaration, and the Interim Order, as approved by this Court; and this Court having jurisdiction to consider the Motion and the relief requested 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; and this Court having found that this is a core proceeding 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 this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is

¹ The debtors in these cases, along with the last four digits of each debtor’s federal tax identification number, are: Starry Group Holdings, Inc. (9355); Starry, Inc. (9616); Connect Everyone LLC (5896); Starry Installation Corp. (7000); Starry (MA), Inc. (2010); Starry Spectrum LLC (N/A); Testco LLC (5226); Starry Spectrum Holdings LLC (9444); Widmo Holdings LLC (9208); Vibrant Composites Inc. (8431); Starry Foreign Holdings Inc. (3025); and Starry PR Inc. (1214). The debtors’ address is 38 Chauncy Street, Suite 200, Boston, Massachusetts 02111.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion.

necessary; and upon the record herein; and after due deliberation thereon; and this Court having determined that there is good and sufficient cause for the relief granted in this Final Order, therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is granted on a final basis, as set forth herein.
2. All objections to the entry of this Final Order, to the extent not withdrawn or settled, are overruled.
3. The Debtors are authorized, but not directed, to pay Critical Vendor Claims in an amount not to exceed \$1,000,000 in the aggregate, absent further order of this Court.
4. The Debtors are authorized to undertake all appropriate efforts to cause a Critical Vendor to enter into the form of Vendor Agreement, substantially in the form attached to the Motion as **Exhibit C**, which form of Vendor Agreement is hereby approved, and the Debtors are authorized to negotiate, modify, or amend the form of Vendor Agreement in the exercise of their reasonable business judgment to the extent such negotiations, modifications, or amendments are not materially adverse to the Debtors.
5. The Debtors are authorized, but not directed, in the exercise of their reasonable business judgment, to condition payment of Critical Vendor Claims on the agreement of Critical Vendors to enter into Vendor Agreements.
6. If any party accepts payment pursuant to the relief requested by this Final Order and thereafter does not continue to provide goods or services on Customary Trade Terms (regardless of whether a Vendor Agreement has been executed), and subject to any Vendor Agreement that may be executed or otherwise agreed by the Debtors: (a) the Debtors may demand repayment in cash and otherwise take all action to have such payment be deemed to be an improper

postpetition transfer on account of a prepetition claim and (b) upon recovery by the Debtors, any prepetition claim of such party shall be reinstated as if the payment had not been made and the deadline for such party to file a reinstated claim will be the later of (i) the general bar date established by order of this Court or (ii) 30 days after the Debtors provide written notice to the party of the reinstatement of its claim.

7. Notwithstanding anything to the contrary in this Final Order, the Motion, or any exhibits thereto, the priority of a Critical Vendor's claim shall not be affected by whether such Critical Vendor executes a Vendor Agreement, provides goods or services to the Debtors under Customary Trade Terms, or otherwise.

8. The Banks shall be, and are, hereby authorized, when requested by the Debtors, to process, honor, pay, and, if necessary, reissue any and all checks or electronic funds transfers, including prepetition checks and electronic payment and transfer requests that the Debtors reissue or re-request postpetition, drawn on the Debtors' accounts, whether those checks were presented before or after the Petition Date, provided that sufficient funds are available in such accounts to make the payments.

9. The Banks may rely on the representations of the Debtors with respect to whether any check or other transfer drawn or issued by the Debtors before the Petition Date should be honored pursuant to this Final Order, and the Banks shall not have any liability to any party for relying on such representations by the Debtors as provided for in this Final Order.

10. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of Critical Vendor Claims as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored as a result of the commencement of the Chapter 11 Cases.

11. Nothing in the Motion or this Final Order, nor any actions or payments made by the Debtors pursuant to this Final Order, shall be construed as: (a) an admission as to the validity of any claim against the Debtors or the existence of any lien against the Debtors' properties; (b) a waiver of the Debtors' rights to dispute any claim or lien on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim would constitute an allowed claim; (e) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; or (f) a limitation on the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to this Final Order. Nothing contained in this Final Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

12. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Final Order shall be effective and enforceable immediately upon entry hereof.

13. The Debtors are hereby authorized to take such actions and to execute such documents as may be necessary to implement the relief granted by this Final Order.

14. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

EXHIBIT C

Vendor Agreement

[Name of Applicable Debtor]

_____, 2023

TO: [Vendor]
[Name]
[Address]

Dear Valued Supplier:

As you are aware, Starry Group Holdings, Inc. and certain of its affiliates and subsidiaries (collectively, the “**Company**”) each filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Cases**” and the “**Bankruptcy Court**,” respectively) on February 20, 2023 (the “**Petition Date**”). On the Petition Date, the Company requested the Bankruptcy Court’s authority to pay certain suppliers and service providers (collectively, “**Vendors**”) in recognition of the importance of the Company’s relationship with those Vendors and the Company’s desire that the Bankruptcy Cases have as little effect on certain Vendors as possible. On [●], 2023 the Bankruptcy Court entered an [interim/final] order (the “**Order**”) authorizing the Company, under certain conditions, to pay prepetition claims of certain Vendors that agree to the terms below as well as agree to be bound by the terms of the Order. A copy of the Order is attached hereto (collectively with this letter, the “**Letter Agreement**”).

To receive payment on prepetition claims pursuant to the Order, each selected Vendor must agree to continue to supply goods or services to the Company based on “Customary Trade Terms.” As used herein and in the Order, “Customary Trade Terms” are the normal and customary trade terms, practices, and programs (including credit limits, pricing rebates, cash discounts, timing of payments, coupon reconciliation, and other applicable terms and programs), that were most favorable to the Company and in effect between the Vendor and the Company at any time within the 2 year period before the Petition Date, or, if applicable, the trade terms of the agreement between the parties in effect on the Petition Date, or such other trade terms as agreed by the Company and the Vendor.

For purposes of administration of this program, the Company and you agree as follows:

1. The estimated balance of your aggregate prepetition claim(s) against the Debtors is \$[_____] (the “**Agreed Vendor Claim**”).
2. \$[_____] of the Agreed Vendor claim is entitled to administrative expense priority pursuant to section 503(b)(9) of the Bankruptcy Code (the “**Agreed 503(b)(9) Claim**”).
3. The Company will provisionally pay you \$[_____] (the “**Payment**”) on account of the Agreed Vendor Claim (net of any setoffs, credits, or discounts) of which \$[_____] will be applied toward the Agreed 503(b)(9) Claim. Such payment will satisfy the Agreed 503(b)(9) Claim in full and [_____] % of the total amount of the Agreed Vendor Claim.

4. For the avoidance of doubt, payment of the Agreed 503(b)(9) Claim will extinguish any claims you may have arising under section 503(b)(9) of the Bankruptcy Code.
5. Nothing herein waives the Company's or your rights under section 365 of the Bankruptcy Code.
6. If there is an agreement in effect as of the Petition Date between you and the Company, you will continue to provide goods or services in accordance with the agreement's terms. Otherwise, you will provide Customary Trade Terms as follows (if more space is required, continuation pages are attached):

7. You agree that you will not require a lump-sum payment upon the confirmation or consummation of a chapter 11 plan in the Bankruptcy Cases on account of any administrative expense claim that you may assert, but instead agree that such claims will be paid in the ordinary course of business after confirmation of a plan under applicable Customary Trade Terms, if the plan provides for the ongoing operations of the Company.
8. You will hereafter extend to the Company all Customary Trade Terms and agree to abide by any purchase order terms and conditions between you and the Company as in effect before the Petition Date (the "**Current PO(s)**").

Payment of your Vendor Claim in the manner set forth in the Order may only occur upon execution of this Letter Agreement by a duly authorized representative of your company and the return of this letter to the Company. Your execution and return of this Letter Agreement constitutes an agreement between you and the Company:

- a. to the Customary Trade Terms and, subject to the reservations contained in the Order, to the amount of the Payment set forth above;
- b. that, for a period lasting until the later of 2 years from the Petition Date, or the date upon which the term of your Current PO(s) expire, you will continue to supply the Company with goods or services pursuant to Customary Trade Terms and that the Company will pay for those goods or services in accordance with Customary Trade Terms;
- c. that you have reviewed the terms and provisions of the Order and consent to be bound by the same;
- d. that you will not separately seek payment for reclamation, claims pursuant to section 503(b)(9) of the Bankruptcy Code, or other similar claims outside of the terms of the Order unless your participation in the vendor payment program authorized by the Order (the "**Vendor Payment Program**") is terminated;

- e. that, in consideration for the Payment, you agree not to file or otherwise assert against the Company, its estates, or any other person or entity, or any of their respective assets or property (real or personal) any lien (regardless of the statute or other legal authority upon which the lien is asserted) on account of any remaining prepetition amounts allegedly owed to you by the Company arising from agreements entered into before the Petition Date. Furthermore, if you have taken steps to file or assert a lien before entering into this Letter Agreement, you agree to take all necessary steps to remove the lien as soon as possible at your sole cost and expense;
- f. that if you fail to comply with the terms and provisions of this Letter Agreement, (a) the Company may demand repayment in cash and otherwise take all action to have such payment be deemed to be an improper postpetition transfer on account of a prepetition claim and (b) upon recovery by the Company, your prepetition claim will be reinstated as if the payment had not been made, and you must file a reinstated claim by the later of (i) the general bar date established by order of the Bankruptcy Court or (ii) 30 days after the Debtors provide written notice to the party of the reinstatement of its claim; and
- g. that you will keep the existence and the terms of this Letter Agreement confidential and will not disclose it to any person or entity without the prior written consent of Company, other than as required by law to any court or governmental authority.

The Company and you also hereby agree that any dispute concerning this Letter Agreement, the Order, or your participation in the Vendor Payment Program will be determined by the Bankruptcy Court and that all litigation arising out of or relating to this Letter Agreement, the Order, or your participation in the Vendor Payment Program, or its subject matter, must be commenced in the Bankruptcy Court.

If you have any questions about this Letter Agreement or our financial restructuring, do not hesitate to call.

Sincerely,

[Name of Applicable Debtor]

By: _____

Title: _____

Agreed and Accepted by: [Vendor]

By: _____

Title: _____

Dated: _____