

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.*,<sup>1</sup> : Case No. 23-10219 (\_\_\_\_)  
: :  
Debtors. : (Joint Administration Requested)  
: :  
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**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**

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 (i) third-party service providers that may be entitled to assert liens against the Debtors’ property (the “**Lien Claimants**”), (ii) vendors that delivered goods to the Debtors in the ordinary

<sup>1</sup> 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.



course of business within 20 days of the Petition Date (as defined below) and whose prepetition claims are thus entitled to administrative expense priority status (the “**503(b)(9) Claimants**”) under section 503(b)(9) of the Bankruptcy Code (as defined below), and (iii) certain foreign vendors (the “**Foreign Vendors**” and, together with the Lien Claimants and 503(b)(9) Claimants, the “**Vendors**”); (b) confirming the administrative expense priority status of all undisputed obligations of the Debtors arising out of outstanding prepetition purchase orders (the “**Outstanding Orders**”); and (c) 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 exceed \$355,000, and (b) upon entry of the Proposed Final Order, in an amount not to exceed \$1,230,000, in each case, as they become due in the ordinary course of business. The prepetition amounts sought to be paid by this Motion are discussed in greater detail below and are summarized in the following chart:

| <b>Prepetition Obligations</b> | <b>Interim Amount</b> | <b>Final Amount</b>   |
|--------------------------------|-----------------------|-----------------------|
| Lien Claimants                 | \$135,000             | \$290,000             |
| 503(b)(9) Claimants            | \$0                   | \$50,000 <sup>2</sup> |
| Foreign Vendors                | \$220,000             | \$890,000             |
| <b>Total</b>                   | <b>\$355,000</b>      | <b>\$1,230,000</b>    |

### **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

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<sup>2</sup> As discussed below, the Debtors do not anticipate any 503(b)(9) Claims (as defined below), but seek authority, out of an abundance of caution, to pay up to \$50,000 in the aggregate on account of such claims.

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), 363(b), and 503(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**”),<sup>3</sup> filed contemporaneously herewith, and is incorporated herein by reference.<sup>4</sup>

### **VENDORS**

9. In connection with their operations, the Debtors have received goods and services from certain Vendors who may qualify as either (a) Lien Claimants, meaning such Vendors may be entitled to assert liens against the Debtors’ property in the event of nonpayment, or (b) 503(b)(9) Claimants, meaning they may assert administrative expense priority claims on account of goods they have provided to the Debtors in the 20 days leading up to the Petition Date. The Debtors also regularly do business with certain Foreign Vendors who operate in foreign jurisdictions.

#### **I. LIEN CLAIMANTS**

10. The Debtors routinely engage a number of freight, warehousing, and third-party logistics service providers that, under certain non-bankruptcy laws, may be permitted to assert and perfect liens, including mechanic’s liens, artisan’s liens, materialman’s liens, shipper’s liens, warehouseman’s liens, and other similar liens, against the Debtors’ property if the Debtors fail to pay for goods or services rendered. In general, the Lien Claimants provide shipping, storage, and other logistics services related to the Debtors’ proprietary equipment. Accordingly, at any given time, the Lien Claimants may be in physical possession of parts, materials, and equipment purchased by the Debtors to be sold to customers.

11. The Debtors must ensure that their customers receive the Debtors’ equipment in order to provide their connectivity services. If the Debtors are unable to pay the Lien Claimants

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<sup>3</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the First Day Declaration.

<sup>4</sup> 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>.

on account of their prepetition claims, the Debtors risk such Lien Claimants asserting liens on their property and/or refusing to deliver or release goods in their possession, rendering the Debtors unable to provide their services to their customers and fully operate their business, which could be devastating to such business and negatively impact the Debtors' ability to efficiently administer the Chapter 11 Cases.

12. The Debtors estimate that the claims of Lien Claimants with respect to which such Lien Claimants may be entitled to assert liens against the Debtors' property (the "Lien Claims"), regardless of whether the related Lien Claimants have already perfected their interests, total approximately \$135,000 that will come due within 30 days of the Petition Date (the "Interim Period"), and approximately \$290,000 in the aggregate.

## II. 503(b)(9) CLAIMANTS

13. Within the 20-day period before the Petition Date, the Debtors received goods from certain of their vendors in the ordinary course of business. The vendors' claims for payment on such goods (the "503(b)(9) Claims")<sup>5</sup> are subject to administrative expense priority under section 503(b)(9) of the Bankruptcy Code. Therefore, payment of the 503(b)(9) Claims is an issue of timing only, as administrative expense claims must be paid in full upon the effective date of a chapter 11 plan at the latest. In addition, failure to pay the 503(b)(9) Claimants on account of the 503(b)(9) Claims at the outset of the Chapter 11 Cases could result in the 503(b)(9) Claimants refusing to do business with the Debtors moving forward, resulting in significant delays to the Debtors' operations. Certain 503(b)(9) Claimants may also impose stricter payment terms on the

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<sup>5</sup> By this Motion, the Debtors seek authority to pay all 503(b)(9) Claims, including any 503(b)(9) Claims of Critical Vendors (as defined in the *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*, filed contemporaneously herewith).

Debtors, negatively impacting their liquidity position. The Debtors therefore seek to pay any outstanding 503(b)(9) Claims.

14. The Debtors do not anticipate that there will be any 503(b)(9) Claims, but seek authority, out of an abundance of caution, to pay up to \$50,000 on account of such claims in the aggregate.

### **III. FOREIGN VENDORS**

15. In their business, the Debtors utilize several key Foreign Vendors located in Asia and other regions. The Foreign Vendors supply materials or services that are essential to the Debtors' operations, and primarily include certain manufacturers of equipment components, software providers, and vendors who provide related troubleshooting services. The Debtors believe that there is a substantial risk that the Foreign Vendors—who may be unfamiliar with the chapter 11 process—may react negatively if the Debtors cease payment following the Petition Date. In particular, there is a risk that certain Foreign Vendors may refuse to continue providing equipment components, software, or troubleshooting services to the Debtors on a timely basis or, worse, sever their business ties with the Debtors completely. Any interruption in the supply from the Foreign Vendors would be detrimental to the Debtors' operations. Specifically, if prepetition claims held by the Foreign Vendors (the “**Foreign Vendor Claims**”) are not paid, the Foreign Vendors may take action against the Debtors based on the inaccurate belief that Foreign Vendors are not subject to the automatic stay provisions of section 362(a) of the Bankruptcy Code. Moreover, even with the automatic stay's global reach, enforcing it in foreign jurisdictions may prove difficult.

16. Given the potentially severe consequences, the Debtors have concluded that payment of the Foreign Vendor Claims is essential to avoid disruption of the Debtors' operations during the Chapter 11 Cases. The estimated amount of Foreign Vendor Claims is minimal in

comparison to the potential damage to the Debtors' business if the Debtors' operations were to experience significant delays in their supply chain. As a result, all stakeholders involved would benefit from the Debtors' payment of the Foreign Vendor Claims.

17. The Debtors estimate that Foreign Vendor Claims will total \$220,000 during the Interim Period, and \$890,000 in the aggregate.

### **POSTPETITION CONTINUATION OF CUSTOMARY TRADE TERMS**

18. The Debtors propose conditioning, where possible, the payment of Lien Claims, 503(b)(9) Claims, and Foreign Vendor Claims (collectively, the "**Vendor Claims**") on obtaining from each 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 Vendor Claim that the applicable Vendor (including a Vendor whose Vendor Claim may be entitled to priority under section 503(b)(9) of the Bankruptcy Code) 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 Vendor, constitutes a legally binding contractual relationship between the parties governing the commercial trade relationship as provided therein.

19. The Debtors also seek limited authority, but not direction, to pay 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 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 Vendor will be reinstated as if the payment had not been made and the deadline for a 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 Vendor of the reinstatement of its claim; and (c) if the Debtors owe the 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 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.

### **OUTSTANDING ORDERS**

20. As of the Petition Date, the Debtors have certain prepetition purchase orders outstanding with various third-party vendors and suppliers for goods or services requested by the Debtors that have not yet been delivered or provided to the Debtors. These third-party vendors and suppliers may be concerned that because the Debtors' obligations under the Outstanding Orders arose before the Petition Date, such obligations will be treated as general unsecured claims in the Chapter 11 Cases. Accordingly, certain vendors and suppliers may refuse to provide goods or services to the Debtors purchased pursuant to the Outstanding Orders unless the Debtors issue substitute purchase orders postpetition or obtain an order of the Court (a) confirming that all undisputed obligations of the Debtors arising from the postpetition delivery of goods or services subject to the Outstanding Orders are afforded administrative expense priority status under section



503(b) of the Bankruptcy Code and (b) authorizing the Debtors to satisfy such obligations in the ordinary course of business.

21. As discussed above and in the First Day Declaration, any delay in the shipment or delivery of goods or services could bring the Debtors' operations to a halt, harming the Debtors' business. Although it is difficult to estimate the total amount due and owing under the Outstanding Orders for goods or services that are not scheduled to be delivered or provided until after the Petition Date, the Debtors submit that the total amount to be paid in connection therewith, if the relief requested herein is granted, is *de minimis* compared to the importance and necessity of the goods or services provided.

### **BASIS FOR RELIEF REQUESTED**

#### **I. PAYMENT OF VENDOR CLAIMS IS WARRANTED UNDER SECTION 363(b) OF THE BANKRUPTCY CODE AND THE DOCTRINE OF NECESSITY**

22. A bankruptcy court may authorize a debtor to pay certain prepetition obligations pursuant to section 363(b) of the Bankruptcy Code. Section 363(b) 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”).

23. 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.”).

24. 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).

25. 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 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 Vendors are unwilling to provide essential goods and services to the Debtors postpetition because of their outstanding prepetition claims, the Debtors' operations would suffer. 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.

## **II. PAYING THE LIEN CLAIMS WILL PREVENT THE ASSERTION OF POSSESSORY LIENS BY THE LIEN CLAIMANTS**

26. In addition, as discussed above, the Lien Claimants provide valuable shipping, storage, and other logistics services related to the Debtors' proprietary equipment, that are necessary to the Debtors' continued operations. If the Debtors are unable to access these goods or utilize the services provided by the Lien Claimants, their business operations and ability to meet their customers' needs would be seriously impaired. Moreover, the Debtors believe that their failure to pay the Lien Claims may result in the assertion of possessory liens by many of the Lien Claimants under applicable state law with respect to certain of the Debtors' property (the "**Liens**"). Pursuant to section 362(b)(3) of the Bankruptcy Code, acts to perfect such Liens or interests, to the extent consistent with section 546(b) of the Bankruptcy Code, are expressly excluded from the

automatic stay otherwise established by section 362(a) of the Bankruptcy Code. 11 U.S.C. § 362(b)(3). Moreover, under section 546(b) of the Bankruptcy Code, a debtor's lien avoidance powers "are subject to any generally applicable law that . . . permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection." 11 U.S.C. § 546(b)(A). Therefore, notwithstanding the automatic stay established by section 362 of the Bankruptcy Code, many of the Lien Claimants may assert and attempt to perfect Liens or interests against the Debtors' property. Thus, there is a risk that they would be deemed to hold secured claims under section 506(b) of the Bankruptcy Code that would, in any event, be required to be paid in full under section 1129(b)(2)(A) of the Bankruptcy Code. 11 U.S.C. § 1129(b)(2)(A).

27. To protect any asserted Lien rights, such counterparties may refuse to release goods or property in their possession unless and until their Lien Claims have been satisfied. Therefore, notwithstanding the automatic stay imposed by section 362 of the Bankruptcy Code, many of these parties: (a) may be entitled to assert and perfect Liens against the Debtors' property, which would entitle them to payment ahead of other general unsecured creditors in any event; and (b) may hold the property subject to the asserted Liens pending payment, to the direct detriment of the Debtors and their estates. The time and resources that would be required for the Debtors to contest Liens would detract from the value of the estates and could impair the Debtors' ability to stabilize their operations.

28. Furthermore, since the amount of the Lien Claims is likely materially less than the value of any property securing those claims, any such party holding a Lien arguably is a fully secured creditor. For any Lien Claims that are deemed secured claims, section 1129(b)(2)(A) of the Bankruptcy Code requires that they be satisfied through deferred cash payments totaling at

least the allowed amount of each such claim, of a value as of the effective date of the plan equal to the value of the collateral securing the claim, with a continuation of the Liens against the collateral; or if the collateral is to be sold, that the Lien securing the claim attach to the proceeds of sale; or that the holder realize the indubitable equivalent of the claim. 11 U.S.C. § 1129(b)(2)(A).

29. Additionally, under section 506(b) of the Bankruptcy Code, fully secured creditors are entitled to receive postpetition interest accruing on their claims to the extent that such claims are oversecured. 11 U.S.C. § 506(b). Consequently, payment of those Lien Claims that are subject to valid Liens should give such counterparties no more than that to which they otherwise would be entitled under a plan and save the Debtors the interest costs that otherwise may accrue on the Lien Claims during the Chapter 11 Cases.

### **III. THE COURT SHOULD AUTHORIZE PAYMENT OF CLAIMS ENTITLED TO ADMINISTRATIVE EXPENSE PRIORITY STATUS PURSUANT TO SECTION 503(b)(9) OF THE BANKRUPTCY CODE**

30. Section 503(b)(9) of the Bankruptcy Code provides that, “[a]fter notice and a hearing, there shall be allowed, administrative expenses . . . including . . . the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.” 11 U.S.C. § 503(b)(9). The Debtors will be required to pay in full all claims entitled to administrative expense priority under section 503(b)(9) of the Bankruptcy Code to confirm any chapter 11 plan filed in these cases. *See* 11 U.S.C. § 1129(a)(9)(A) (requiring payment in full of claims entitled to administrative expense priority).

31. Although section 503(b)(9) of the Bankruptcy Code does not specify a time for payment of these expenses, bankruptcy courts have the discretion to allow for distributions to administrative claimants before confirmation if a debtor has the ability to pay and there is a need

to do so. *See In re Global Home Prods., LLC*, No. 06-10340 (KG), 2006 WL 3791955, at \*3 (Bankr. D. Del. Dec. 21, 2006) (“[T]he timing of the payment of that administrative expense claim is left to the discretion of the Court.”). Indeed, nothing in the Bankruptcy Code prohibits the Debtors from paying such claims sooner if they choose to do so, or the Court from exercising its discretion to authorize the postpetition payment of such obligations before confirmation of a chapter 11 plan. *See In re Dura Auto. Sys. Inc.*, No. 06- 11202 (KJC) (Bankr. D. Del. Oct. 31, 2006) Hr’g Tr. 49:21-23 (“I think arguably the debtor could pay its 503(b)(9) claimants without court approval.”).

32. As described above, the Debtors’ continuing ability to obtain important goods and services is essential to their ability to preserve and enhance value for all stakeholders. The Debtors could be denied access to goods and services necessary to maintain their business operations if they were unable to pay 503(b)(9) Claims at the outset of the Chapter 11 Cases. Failure to pay 503(b)(9) Claims promptly could cause such vendors to accelerate or eliminate favorable payment terms. Such a result and the attendant costs and distractions would seriously endanger the Debtors’ ability to continue operating their business to the detriment of all stakeholders.

#### **IV. THE COURT SHOULD AUTHORIZE THE PAYMENT OF FOREIGN VENDOR CLAIMS**

33. The Debtors’ business relies on the supply of materials and services from the Foreign Vendors. Without the Foreign Vendors, the Debtors’ broadband services would suffer potentially irreparable harm. In addition, if the Debtors do not pay certain of the Foreign Vendor Claims, the Foreign Vendors may simply refuse to do business with the Debtors unless and until they receive payment on account of their prepetition claims. The Foreign Vendors may also take other precipitous action against the Debtors based on the incorrect belief they are not bound by the automatic stay.

34. For the Debtors to maximize the value of their business during the Chapter 11 Cases and emerge from chapter 11 successfully, they must preserve their relationships with the Foreign Vendors, as they provide key services that would be costly, if impossible, to replace with other providers.

**V. OBLIGATIONS OWED UNDER OUTSTANDING ORDERS ARE ENTITLED TO ADMINISTRATIVE EXPENSE PRIORITY STATUS UNDER SECTION 503(b) OF THE BANKRUPTCY CODE**

35. Pursuant to section 503(b) of the Bankruptcy Code, obligations that arise in connection with the postpetition delivery of necessary goods and services are afforded administrative expense priority because they benefit the estate postpetition. 11 U.S.C. § 503(b)(1)(A); *see also In re Waste Systems Intern., Inc.*, 280 B.R. 824, 826 (Bankr. D. Del. 2002) (holding that a non-debtor party to a prepetition consulting agreement was entitled to an administrative expense claim equal to the value of any postpetition benefit conferred on the estate); *In re Chateaugay Corp.*, 10 F.3d 944, 956 (2d. Cir. 1993) (holding that an obligation arising from the postpetition performance relating to a prepetition transaction is entitled to administrative expense priority). Accordingly, granting the relief sought herein and explicitly granting the Outstanding Orders administrative expense priority status will not provide affected claimants with any greater priority than they would otherwise be entitled to, and will not prejudice any party in interest. Absent such relief, the Debtors may be required to expend substantial time and effort reissuing the Outstanding Orders to provide affected claimants with assurance of administrative expense priority status. This disruption to the continuous flow of goods and services to the Debtors would seriously impact the Debtors' ability to operate their business for the benefit of all stakeholders.

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

36. 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**

37. 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.

38. 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**

39. 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**

40. 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 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

Michael R. Nestor (No. 3526)  
Kara Hammond Coyle (No. 4410)  
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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> , <sup>1</sup> | : | Case No. 23-10219 (___) |
|   | : |                         |
| Debtors.  | : | (Jointly Administered)  |
|   | : |                         |
|   | X | Re: Docket No.          |

**INTERIM ORDER (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**

Upon the motion (the “**Motion**”)<sup>2</sup> 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 (i) Lien Claimants, (ii) 503(b)(9) Claimants, and (iii) Foreign Vendors, (b) confirming the administrative expense priority status of all undisputed obligations of the Debtors arising out of the Outstanding Orders, and (c) 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

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<sup>1</sup> 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.

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

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 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 Lien Claims, 503(b)(9) Claims, and Foreign Vendor Claims (collectively, the “**Vendor Claims**”), on an interim basis, in amounts not to exceed those specified in the following chart absent further order of this Court.

| <b>Prepetition Obligations</b> | <b>Interim Amount</b> |
|--------------------------------|-----------------------|
| Lien Claimants                 | \$135,000             |
| 503(b)(9) Claimants            | \$0                   |
| Foreign Vendors                | \$220,000             |
| <b>Total</b>                   | <b>\$355,000</b>      |

4. The Debtors are authorized to undertake all appropriate efforts to cause a 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 Vendor Claims on the agreement of 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. All undisputed obligations of the Debtors arising under the Outstanding Orders are granted administrative expense priority status in accordance with section 503(b)(1)(a) of the Bankruptcy Code.

8. Notwithstanding anything to the contrary in this Interim Order, the Motion, or any exhibits thereto, the priority of any Vendor Claim (including that of any 503(b)(9) Claim) shall not be affected by whether such Vendor executes a Vendor Agreement, provides goods or services to the Debtors under Customary Trade Terms, or otherwise.

9. 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.

10. 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.

11. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of 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.

12. 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.

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

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

15. 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.

16. 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.

17. 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, 43<sup>rd</sup> Floor, Los Angeles, California 90071 (Attn: Kyle J. Matthews

(KMatthews@sheppardmullin.com)) and (2) 321 North Clark Street, 32<sup>nd</sup> 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.

18. 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> , <sup>1</sup> | : | Case No. 23-10219 (___) |
|   | : |                         |
| Debtors.  | : | (Jointly Administered)  |
|   | : |                         |
|   | X | Re: Docket Nos.         |

**FINAL ORDER (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**

Upon the motion (the “**Motion**”)<sup>2</sup> 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 (i) Lien Claimants, (ii) 503(b)(9) Claimants, and (iii) Foreign Vendors, (b) confirming the administrative expense priority status of all undisputed obligations of the Debtors arising out of the Outstanding Orders, and (c) 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

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<sup>1</sup> 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.

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

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; 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 Lien Claims, 503(b)(9) Claims, and Foreign Vendor Claims (collectively, the “**Vendor Claims**”) in amounts not to exceed those specified in following the chart below, absent further order of this Court.

| <b>Prepetition Obligations</b> | <b>Final Amount</b> |
|--------------------------------|---------------------|
| Lien Claimants                 | \$290,000           |
| 503(b)(9) Claimants            | \$50,000            |
| Foreign Vendors                | \$890,000           |
| <b>Total</b>                   | <b>\$1,230,000</b>  |

4. The Debtors are authorized to undertake all appropriate efforts to cause a 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 Vendor Claims on the agreement of 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. All undisputed obligations of the Debtors arising under the Outstanding Orders are granted administrative expense priority status in accordance with section 503(b)(1)(a) of the Bankruptcy Code.

8. Notwithstanding anything to the contrary in this Final Order, the Motion, or any exhibits thereto, the priority of any Vendor Claim (including that of any 503(b)(9) Claim) shall not be affected by whether such Vendor executes a Vendor Agreement, provides goods or services to the Debtors under Customary Trade Terms, or otherwise.

9. 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.

10. 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.

11. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of 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.

12. 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.

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

14. 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.

15. 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 such agreement's terms. Otherwise, you will provide Customary Trade Terms as follows (if more space is required, continuation pages are attached):

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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: \_\_\_\_\_