

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

----- X

In re: : Chapter 11

STARRY GROUP HOLDINGS, INC., *et al.*,¹ : Case No. 23-10219 (KBO)

Debtors. : (Jointly Administered)

: Re: Docket Nos. 8 & 58

: **Hearing Date: March 22, 2023 at 2:00 p.m. (ET)**

----- X

NOTICE OF AMENDMENT TO MOTION

TO: (I) THE OFFICE OF THE UNITED STATES TRUSTEE FOR THE DISTRICT OF DELAWARE; (II) PROPOSED COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS; (III) COUNSEL TO ARROWMARK AGENCY SERVICES LLC AS DIP AGENT AND PREPETITION AGENT, (A) SHEPPARD, MULLIN, RICHTER & HAMPTON LLP, AND (B) POTTER ANDERSON & CORROON LLP; AND (IV) ALL OTHER PARTIES THAT HAVE FILED A NOTICE OF APPEARANCE AND DEMAND FOR SERVICE OF PAPERS IN THE CHAPTER 11 CASES AS OF THE DATE HEREOF

PLEASE TAKE NOTICE that on February 20, 2023, the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”), filed 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* [Docket No. 8] (the “**Motion**”).²

PLEASE TAKE FURTHER NOTICE that on February 22, 2023, the Court entered the *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*

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 shall have the meanings ascribed to them in the Motion.



[Docket No. 58] the (“**Interim Order**”). A copy of the Motion and Interim Order were previously served upon you.

PLEASE TAKE NOTICE that the Debtors hereby file the attached *Amendment to 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* (the “**Amendment**”).

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO THE INTERIM ORDER, A HEARING TO CONSIDER APPROVAL OF THE MOTION IS SCHEDULED FOR **MARCH 22, 2023 AT 2:00 P.M. (ET)** BEFORE THE HONORABLE KAREN B. OWENS, IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 N. MARKET STREET, 6TH FLOOR, COURTROOM NO. 3, WILMINGTON, DELAWARE 19801.

[Remainder of page left intentionally blank]

Dated: March 20, 2023
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Joseph M. Mulvihill

Michael R. Nestor (No. 3526)
Kara Hammond Coyle (No. 4410)
Joseph M. Mulvihill (No. 6061)
Timothy R. Powell (No. 6894)
Rodney Square, 1000 North King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253
Email: mnestor@ycst.com
kcoyle@ycst.com
jmulvihill@ycst.com
tpowell@ycst.com

-and-

LATHAM & WATKINS LLP

Jeffrey E. Bjork (admitted *pro hac vice*)
Ted A. Dillman (admitted *pro hac vice*)
Jeffrey T. Mispagel (admitted *pro hac vice*)
Nicholas J. Messana (admitted *pro hac vice*)
355 South Grand Avenue, Suite 100
Los Angeles, California 90071
Telephone: (213) 485-1234
Facsimile: (213) 891-8763
Email: jeff.bjork@lw.com
ted.dillman@lw.com
jeffrey.mispagel@lw.com
nicholas.messana@lw.com

Jason B. Gott (admitted *pro hac vice*)
330 North Wabash Avenue, Suite 2800
Chicago, Illinois 60611
Telephone: (312) 876-7700
Facsimile: (312) 993-9767
Email: jason.gott@lw.com

Counsel for Debtors and Debtors in Possession

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

----- X
:
In re: : Chapter 11
:
STARRY GROUP HOLDINGS, INC., *et al.*,³ : Case No. 23-10219 (KBO)
:
Debtors. : (Jointly Administered)
:
----- X **Re: Docket Nos. 8 & 58**

**AMENDMENT TO 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**

The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) hereby submit this amendment to 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* [Docket No. 8] (the “**Lien Claimant and Foreign Vendor Motion**”),⁴ amending the Proposed Final Order to increase the amount of prepetition Vendor Claims that the Debtors may pay by \$243,001.00, to an aggregate amount not to exceed \$1,473,001.00, absent further order of the Court; *provided, however*, that the Debtors may pay prepetition Vendor Claims in excess of such amount so long

³ 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.

⁴ Capitalized terms used but not defined herein shall have the meanings given in the Lien Claimant and Foreign Vendor Motion.

as the total amount of prepetition Critical Vendor Claims⁵ and prepetition Vendor Claims paid by the Debtors do not exceed \$2,690,439, in the aggregate, absent further order of this Court.

RELIEF REQUESTED

1. Since the Petition Date, the Debtors have continued to evaluate the Vendors and their associated outstanding prepetition obligations and have determined that modifying the relief sought in the Lien Claimant and Foreign Vendor Motion as set forth above is necessary to ensure that the Debtors are able to effectively maximize value in the Chapter 11 Cases. As set forth more fully in the Lien Claimant and Foreign Vendor Motion, the services provided by the Vendors are essential to the Debtors' chapter 11 efforts, and many of the Vendors are either irreplaceable or may be entitled to assert liens against the Debtors' assets

2. If the Debtors are unable to make payments to the Vendors, the Debtors' operations will be materially disrupted, potentially resulting in irreparable harm to their business, goodwill, and customer base. Such a result would hinder the Debtors' ability to maximize value for all stakeholders. Under these circumstances, the Debtors believe that it is essential that they have authority to pay the prepetition Vendor Claims as set forth in this Amendment to ensure that they continue to receive critical goods and services and to avoid liens being asserted against their assets. Importantly, the Official Committee of Unsecured Creditors and the Prepetition Agent do not object to the relief requested herein.

3. The Debtors reserve the right to seek additional relief from the Court to further modify or increase their authority to pay prepetition Vendor Claims

⁵ "**Critical Vendor Claims**" has the meaning ascribed to such term 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* [Docket No. 7] (the "**Critical Vendors Motion**").

NOTICE

4. Notice of this Motion has been provided to (a) the Office of the United States Trustee for the District of Delaware (Attn: Benjamin Hackman); (b) proposed counsel to the official committee of unsecured creditors, McDermott Will & Emery LLP (Attn: Darren Azman, Kristin Going, Stacy A. Lutkus, Natalie Rowles, and David R. Hurst); (c) counsel to ArrowMark Agency Services LLC as DIP Agent and Prepetition Agent, (i) Sheppard, Mullin, Richter & Hampton LLP (Attn: Justin Bernbrock, Kyle J. Matthews, Bryan V. Uelk, and Catherine Jun), and (ii) Potter Anderson & Corroon LLP (Attn: L. Katherine Good); and (d) any party that has requested notice pursuant to Bankruptcy Rule 2002.

[Remainder of page left intentionally blank]

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

Dated: March 20, 2023
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Joseph M. Mulvihill

Michael R. Nestor (No. 3526)
Kara Hammond Coyle (No. 4410)
Joseph M. Mulvihill (No. 6061)
Timothy R. Powell (No. 6894)
Rodney Square, 1000 North King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253
Email: mnestor@ycst.com
kcoyle@ycst.com
jmulvihill@ycst.com
tpowell@ycst.com

-and-

LATHAM & WATKINS LLP

Jeffrey E. Bjork (admitted *pro hac vice*)
Ted A. Dillman (admitted *pro hac vice*)
Jeffrey T. Mispagel (admitted *pro hac vice*)
Nicholas J. Messana (admitted *pro hac vice*)
355 South Grand Avenue, Suite 100
Los Angeles, California 90071
Telephone: (213) 485-1234
Facsimile: (213) 891-8763
Email: jeff.bjork@lw.com
ted.dillman@lw.com
jeffrey.mispagel@lw.com
nicholas.messana@lw.com

Jason B. Gott (admitted *pro hac vice*)
330 North Wabash Avenue, Suite 2800
Chicago, Illinois 60611
Telephone: (312) 876-7700
Facsimile: (312) 993-9767
Email: jason.gott@lw.com

Proposed Counsel for Debtors and Debtors in Possession

EXHIBIT A

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 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
	x	Re: Docket Nos. 8 & 58

**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**”)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 (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

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.

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 prepetition Lien Claims, 503(b)(9) Claims, and Foreign Vendor Claims (collectively, the “**Vendor Claims**”) in amounts not to exceed those specified in the chart below, absent further order of this Court; *provided, however*, that the Debtors are authorized, after prior notice to the official committee of unsecured creditors appointed in the Chapter 11 Cases (the “**Creditors’ Committee**”), to pay prepetition Vendor Claims in an amount exceeding the applicable caps so long as the total amount of prepetition Vendor Claims and prepetition Critical Vendor Claims³ that are paid pursuant to the Interim Order, this Final Order, and any orders with respect to the Critical Vendor Motion do not exceed \$2,690,439 in the aggregate, absent further order of this Court.

³ “**Critical Vendor Claims**” has the meaning ascribed to such term 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* [Docket No. 7] (the “**Critical Vendor Motion**”).

Prepetition Obligations	Final Amount
Lien Claimants	\$417,812
503(b)(9) Claimants	\$50,000
Foreign Vendors	\$1,005,189
Total	\$1,473,001

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. The Debtors shall provide copies of all executed Vendor Agreements to the Creditors' Committee promptly upon execution and shall consult with the Creditors' Committee to the extent practicable with respect to negotiations, modifications, and amendments to the form of Vendor Agreement.

5. The Debtors are authorized, but not directed, in the exercise of their reasonable business judgment, to condition payment of prepetition 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 prepetition 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 prepetition 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' or any other party in interest's respective 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; (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; or (g) a waiver of the Debtors' or any other party in interest's respective rights under the Bankruptcy Code, any other applicable non-bankruptcy law, or any order of this Court. 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) or any other procedural rule, 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 B

Blackline of 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 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
	x	Re: Docket Nos. 8 & 58

**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**”)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 (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

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.

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; 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 prepetition 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: provided, however, that the Debtors are authorized, after prior notice to the official committee of unsecured creditors appointed in the Chapter 11 Cases (the “Creditors’ Committee”), to pay prepetition Vendor Claims in an amount exceeding the applicable caps so long as the total amount of prepetition Vendor Claims and prepetition Critical Vendor Claims³ that are paid pursuant to the Interim Order, this Final Order, and any

³ “Critical Vendor Claims” has the meaning ascribed to such term 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 [Docket No. 7] (the “Critical Vendor Motion”).

orders with respect to the Critical Vendor Motion do not exceed \$2,690,439 in the aggregate, absent further order of this Court.

Prepetition Obligations	Final Amount
Lien Claimants	\$ 290,000 <u>417,812</u>
503(b)(9) Claimants	\$50,000
Foreign Vendors	\$ 890,000 <u>1,005,189</u>
Total	\$1,230,000<u>1,473,001</u>

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. The Debtors shall provide copies of all executed Vendor Agreements to the Creditors' Committee promptly upon execution and shall consult with the Creditors' Committee to the extent practicable with respect to negotiations, modifications, and amendments to the form of Vendor Agreement.

5. The Debtors are authorized, but not directed, in the exercise of their reasonable business judgment, to condition payment of prepetition 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 prepetition 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 prepetition 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' or any other party in interest's respective 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; or (g) a waiver of the Debtors' or any other party in interest's respective rights under the Bankruptcy Code, any other applicable non-bankruptcy law, or any order of this Court.

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) or any other procedural rule, 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.