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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

STG LOGISTICS, INC., *et al.*,

Debtors.¹

Chapter 11
Case No.: 26-10258 (MEH)

(Jointly Administered)

OBJECTION OF AXOS FINANCIAL, INC. AND SIEMENS FINANCIAL SERVICES, INC. TO THE DEBTORS’ MOTION FOR ENTRY OF AN ORDER APPROVING BIDDING PROCEDURES AND GRANTING RELATED RELIEF

Axos Financial, Inc. (“Axos”) and Siemens Financial Services, Inc. (“Siemens” and, together with Axos, the “Minority Lenders”), prepetition first lien lenders to certain of the Debtors who were improperly excluded from the unlawful October 2024 LMT (defined herein), by and through their undersigned counsel, hereby submit this objection (the “Objection”) to the *Debtors’ Motion for Entry of an Order (I) Approving the Bidding Procedures and Auction(s), (II) Approving Stalking Horse Bid Protections, (III) Scheduling Bid Deadlines and Auction(s), (IV) Approving the Form and Manner of Notice Thereof, (V) Authorizing the Assumption and Assignment of Assumed*

¹ The last four digits of Debtor STG Logistics, Inc.’s tax identification number are 8624. A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://dm.epiq11.com/STGLogistics>. The location of the Debtors’ service address in these chapter 11 cases is: 5165 Emerald Parkway, Dublin, Ohio 43017.

Contracts and (IV) Granting Related Relief [Docket No. 199] (the “Bidding Procedures Motion”).

In support of this Objection, the Minority Lenders state as follows:

PRELIMINARY STATEMENT

The Bidding Procedures Motion is the latest step in the Debtors’ and Favored Lenders’ efforts to cede control of these chapter 11 cases to the Favored Lenders and implement a predetermined outcome based upon the capital structure created by the October 2024 liability management transaction (the “October 2024 LMT”). The fulsome reservation of rights language that the Debtors² and the Favored Lenders agreed to insert into the Final DIP Order to preserve the status quo pending adjudication of the LMT Adversary Proceeding does not—and cannot—legitimize a sale process that operationalizes the very lien hierarchy that remains under active judicial challenge.

The secured claims asserted by the Favored Lenders against the Debtors derive directly from the October 2024 LMT. The amount and priority of those secured claims, along with related claims asserted by the Minority Lenders, are the subject of active litigation in the LMT Adversary Proceeding. The dispute will be adjudicated in very short order by this Court.

The Ad Hoc Group itself recognized at the outset of these cases that a sale cannot and should not proceed without first resolving the October 2024 LMT dispute. As counsel for the Ad Hoc Group stated at the first day hearing:

I will just say for Mr. Schwartz [Minority Lenders’ counsel] who raised the issue of credit bidding in the context of 363(k), it's just a great supportive argument as to why *we need to resolve the litigation around the 2024 LMT transaction in advance of a sale hearing* because we could be asserting credit bid rights in that context and *we would want to make sure that we could do that*. So I think we are aligned there, as well.

² Defined terms used but not defined herein shall have the meanings ascribed to them in the Minority Lenders’ previously filed objection to the Debtors’ DIP motion (the “DIP Objection”) [Docket No. 214].

First Day Hearing Tr. at 128:22–129:3 (emphasis added). This concept was then carried forward in the *Stipulation and Agreed Order by and Among the Debtors, the Non-Debtor Stipulating Parties, Axos Financial, Inc. and Siemens Financial Services, Inc.* [Docket No. 269] (the “Timeline Stipulation”), which was approved by the Court on February 13, 2026. That Timeline Stipulation entered by the Court expressly states that the final hearing on the October 2024 LMT dispute shall occur on May 18, 2026 (or another date if the Court is unavailable), “**which shall occur simultaneously with a sale hearing if a sale hearing is to occur**”. See Timeline Stipulation, ¶ 9 (emphasis added).

Despite the fact that discovery with respect to the October 2024 LMT dispute is ongoing and an adjudication by the Court in connection with that dispute is less than three months away, the proposed Bidding Procedures now improperly seek to bake in the Favored Lenders’ sale construct that will operationalize this contested lien hierarchy prior to the Court having had the opportunity to adjudicate the LMT dispute. Specifically, the proposed Bidding Procedures embed disputed assumptions about the Favored Lenders’ secured loan claims and lien priority into the *floor* of the sale process by requiring payment in full in cash of DIP obligations and FLFO claims and mandating a specified recovery to FLSO claims tied to RSA requirements. The Bidding Procedures also improperly seek to confer structural advantages to the Favored Lenders through a process that is expressly “consistent with” the RSA, which essentially seeks to improperly predetermine and prejudge the Minority lenders’ claims in the October 2024 LMT dispute.

Section 363 of the Bankruptcy Code does not authorize a sale process that effectively resolves disputed lien priorities through approval of procedures which predetermine substantive outcomes. Nor does section 363(k) require the Court to permit a credit bid premised on lien rights and priorities that are subject to bona fide dispute.

The Debtors have not adequately justified the imposition of bidding requirements which predetermine the Favored Lenders' preferred outcome in advance of the Court's adjudication of the October 2024 LMT dispute. Moreover, the DIP budget does not dictate the necessity of an auction prior to such adjudication.

For these reasons and for those set forth herein, the Minority Lenders respectfully submit that this Court should deny the Bidding Procedures Motion.

BACKGROUND³

A. The Minority Lenders' Pre-Petition Loans to STG

1. Axos and Siemens are prepetition first lien lenders under that certain Credit Agreement dated March 24, 2022 (as amended, the "Credit Agreement"), pursuant to which STG incurred \$725 million in term loans (the "Term Loans") and \$150 million in revolving loans (together, the "Loans"). The Credit Agreement reflected a *pro rata* lending structure protected by sacred rights and related covenants designed to prevent unilateral lien reordering, collateral stripping, or non-*pro rata* value transfers among lenders without required consent.

B. The May 2024 Transaction

2. In early 2024, Antares Capital LP ("Antares") organized a majority-lender steering process to address STG's liquidity concerns. In connection therewith, the Minority Lenders sought participation but were excluded. The resulting fifth amended credit agreement (the "FAA") provided covenant relief while expressly reinforcing lender protections intended to prevent a future liability management transaction implemented through non-*pro rata* treatment or the use of

³ The Minority Lenders previously set forth the factual background of the May 2024 transaction and the October 2024 LMT in detail in the DIP Objection. That factual background is incorporated herein by reference.

unrestricted subsidiaries. Within months, however, those protections were effectively neutralized through the October 2024 LMT.

C. The Scheme to Execute the October 2024 LMT

3. In October 2024, STG, Antares, and a select group of lenders (the “Ad Hoc Group”) orchestrated the October 2024 LMT through a sixth amended credit agreement (the “SAA”), a dropdown credit agreement (the “Dropdown Credit Agreement”), and an intercompany credit agreement (collectively, the “Scheme”). The transaction dismantled core protections in the Credit Agreement and the FAA, engineered the creation of an unrestricted subsidiary (“UnSub”) beyond the original collateral and guarantee package, improperly transferred substantially all of the collateral assets that guaranteed the original loans to UnSub, and installed new tiers of debt—First Lien First Out (“FLFO”), First Lien Second Out (“FLSO”), and First Lien Third Out (“FLTO,” and together with related loans, the “UnSub Loans”)—that elevated participating lenders (the “Participating Lenders”) while subordinating and materially diluting lenders excluded from the transaction (the “Excluded Lenders”), including the Minority Lenders.

4. The October 2024 LMT fundamentally reordered the capital structure and reallocated collateral access and priority economics to the benefit of Participating Lenders and at the expense of the Minority Lenders. The Minority Lenders rejected the inferior alternative offered to Excluded Lenders (the “Consolation Prize”) and instead pursued their contractual and equitable rights.

D. The State Court Action

5. On January 8, 2025, the Minority Lenders filed a complaint (as amended, the “Complaint”) in the Supreme Court of the State of New York, Commercial Division (the “State Court”), commencing *Axos Financial, Inc. and Siemens Financial Services, Inc. v. Reception*

Purchaser, LLC, et al. (the “State Court Action”) against, *inter alia*, STG and the Favored Lenders (collectively, the “Defendants”), seeking, among other relief, a declaration that the October 2024 LMT was invalid and damages arising from the Scheme. After the Defendants filed motions to dismiss (the “Motions to Dismiss”), and following briefing and argument, the State Court issued a decision on January 3, 2026 (the “State Court Decision”) sustaining the Minority Lenders’ sacred-rights theories under the FAA and holding that 12 of 13 claims would proceed (the “Surviving State Court Claims”). Instead of continuing with this litigation in State Court, approximately one week later, the Debtors instead chose to file these cases.

E. The Debtors’ Bankruptcy Cases

i. The Bankruptcy Filing

6. On January 12, 2026 (the “Petition Date”), each of the Debtors filed voluntary petitions for relief with this Court under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

7. On the Petition Date, the Debtors filed, among other first day pleadings, their DIP Motion (as defined above). The Debtors also filed a Restructuring Support Agreement (the “RSA”) [Docket No. 33], pursuant to which the Ad Hoc Group stands to receive a substantial windfall at the expense of the Minority Lenders and other stakeholders. As disclosed in the RSA, in the event of a reorganization through a plan, the Ad Hoc Group would be permitted to convert its FLFO and FLSO loans—obtained through the challenged October 2024 LMT—into equity in the reorganized Debtors. *See Holtgreven Dec.* ¶ 71. The effect of this structure is to reward the Ad Hoc Group for the October 2024 LMT by enabling it to obtain controlling ownership of the Debtors without testing true enterprise value.

ii. *The First Day Hearing*

8. At the January 13, 2026 first day hearing, the Debtors and the Ad Hoc Group repeatedly and explicitly represented to the Court that these chapter 11 cases would provide a full and fair merits adjudication of the October 2024 LMT and that the Minority Lenders would not be prejudiced in the interim. The Debtors' counsel assured the Court that they were "working with [Minority Lenders' counsel] on what we hope will be a consensual calendar to resolve their claims here in the Bankruptcy Court," and that "there will be a time and place in these bankruptcy cases for the issues [Minority Lenders' counsel] is raising." First Day Hearing Tr. at 22:7–9; 63:5–6. Counsel further represented that the Minority Lenders' claims would be "litigated in the context of this proceeding" and that they would have "a full opportunity" to be heard, either pursuant to an agreed schedule or one approved by the Court. *Id.* at 87:18–21; 138:22–24.

9. Counsel for the Ad Hoc Group echoed and amplified those assurances, expressly stating that "there cannot be a sale hearing or a confirmation hearing without a merits litigation on that October 2024 transaction," and that they "want[ed] that to occur as much as [Minority Lenders' counsel] wants that to occur." *Id.* at 114:11–16 (emphasis added). Ad Hoc Group counsel further emphasized that they were "absolutely not looking to jam the [Minority Lenders] in any way in not having the ability to have their claims heard," and instead "want[ed] to have their claims heard" and "adjudicated *prior to consummation of a sale* or consummation of a bankruptcy plan." *Id.* at 123:17–21 (emphasis added). In that same vein, counsel acknowledged that resolution of the October 2024 LMT litigation was *necessary in advance of any sale hearing given the potential assertion of credit bid rights under section 363(k)*, stating that "*we need to resolve the litigation around the 2024 LMT transaction in advance of a sale hearing because we could be asserting credit bid rights in that context.*" *Id.* at 128:22–129:2 (emphasis added).

10. These representations were ultimately included in the Interim DIP Order [Docket No. 84] through an express reservation of rights in favor of the Minority Lenders.

iii. The Timeline Stipulation

11. Thereafter, after literally weeks of negotiation, in early February 2026, the parties were able to negotiate the Timeline Stipulation, captioned *Stipulation and Agreed Order by and Among the Debtors, the Non-Debtor Stipulating Parties, Axos Financial, Inc. and Siemens Financial Services, Inc.* [Docket No. 269], which addressed, among other things, the filing of an adversary proceeding by the Minority Lenders and the timeline for litigation and adjudication with respect to that adversary proceeding. The Timeline Stipulation was approved by the Court on February 13, 2026.

12. The Timeline Stipulation expressly states that the final hearing on the October 2024 LMT dispute shall occur on May 18, 2026 (or another date if the Court is unavailable), **which shall occur simultaneously with a sale hearing if a sale hearing is to occur.** See Timeline Stipulation, ¶ 9 (emphasis added).

iv. The LMT Adversary Proceeding

13. Contemporaneously with the submission of the Timeline Stipulation to the Court, on February 4, 2026, the Minority lenders initiated an adversary proceeding before this Court asserting the Surviving State Court Claims, along with certain related causes of action (the “LMT Adversary Proceeding”).

14. The LMT Adversary Proceeding provides the agreed-upon procedural vehicle for adjudicating the October 2024 LMT dispute in these chapter 11 cases. As the Court is aware, discovery is actively contested in the LMT Adversary Proceeding, and the Minority Lenders assert that the Debtors and the other Defendants are improperly and transparently seeking to withhold

proper discovery while running out the clock, all in an effort to prejudice the Minority Lenders and deprive them of necessary discovery.

15. In connection with certain of the discovery disputes, following the Defendants' improper refusal to comply with written discovery, the Minority Lenders filed a motion to compel [Adv. Pro. Doc. No. 12] (the "Motion to Compel") and a hearing is scheduled to take place this week on an expedited time frame.

16. In short, the factual record concerning the October 2024 LMT—including issues bearing directly on lien extent, validity and priority, and asserted credit bid rights—remains under development. Consequently, as set forth below, approving the Bidding Procedures Motion at this juncture risks prejudging or impairing the very claims that the parties expressly agreed would be litigated on the merits in the LMT Adversary Proceeding.

v. The Final DIP Order

17. On February 10, 2026, the Court entered the Final DIP Order [Docket No. 248]. The Minority Lenders resolved their DIP Objection through negotiated language that expressly preserved the status quo pending adjudication of the LMT dispute.

18. Specifically, the Final DIP Order:

- Preserved all LMT-related claims and defenses of Axos and Siemens (¶ 47);
- Confirmed that the Final DIP Order does not adjudicate or validate the October 2024 LMT (¶ 47(a));
- Provided that the Final DIP Order has no preclusive effect in the LMT Adversary Proceeding and that the Court may determine roll-up treatment and credit-bid rights (¶ 47(b)); and
- Provided that such protections survive any sale, plan confirmation, conversion, or dismissal (¶ 47(c)).

19. In other words, the Final DIP Order was entered on the express understanding that the October 2024 LMT—and the lien priority and credit bid rights asserted to flow from it—remain contested and subject to judicial determination. The Debtors cannot now use the Bidding Procedures Motion to operationalize those same disputed rights in the sale process before the Court has resolved the disputed issues underlying the parties’ respective claims on the merits.

vi. The Proposed Bidding Procedures

20. Against this backdrop, the Debtors have proposed unreasonable and prejudicial procedures (the “Proposed Bidding Procedures”) as part of a proposed order (the “Bidding Procedures Order”). The Proposed Bidding Procedures effectively embed the Favored Lenders’ contested capital structure into the sale construct by, *inter alia*:

- Requiring that any Qualified Bid provide for payment in full, in cash, of the DIP Obligations and certain Favored Lender claims as a condition to constituting a competing bid, thereby hardwiring disputed lien priorities into the bid floor (Bidding Procedures Motion ¶¶ 24–27);
- Conditioning overbids on recoveries or treatment consistent with the RSA, expressly tethering the auction framework to a restructuring outcome negotiated with the Ad Hoc Group (Bidding Procedures Motion ¶¶ 18, 30);
- Authorizing broad credit-bid rights for DIP and related lenders without resolving the validity, priority, or extent of the underlying secured claims that remain subject to the LMT Adversary Proceeding (Bidding Procedures Motion ¶¶ 28–29);
- Providing significant bid protections to a stalking horse aligned with the RSA structure, further entrenching the Favored Lenders’ preferred outcome (Bidding Procedures Motion ¶¶ 35–39).

21. Critically, the Proposed Bidding Procedures improperly impose an extremely accelerated sale timeline, in direct contravention of the Timeline Stipulation, including:

- March 20 – Auction;
- March 23 – Sale objections due; and
- March 27 – Sale hearing.

See Bidding Procedures Motion ¶¶ 31–34.

22. Importantly, while the Bidding Procedures Motion contemplates a sale hearing on March 27, 2026, as noted, the Timeline Stipulation reflects a different timeline, including a sale hearing to be held on or about May 18, 2026. To the extent there is any inconsistency between the Bidding Procedures Motion and the Timeline Stipulation, the Minority Lenders respectfully submit that the Court should treat the so-ordered Timeline Stipulation as controlling.

23. The LMT Adversary Proceeding is set for trial on or about May 18, 2026. An auction held well before that date would materially precede adjudication of the lien validity and priority issues that define the competitive landscape of the sale.

24. The accelerated sale timeline that is now proposed is designed by the Favored Lenders to force the sale process to advance before a determination by the Court is made as to the relative rights of the parties with respect to their claims and liens.

25. In sum, the Proposed Bidding Procedures improperly predetermine disputed lien and credit bid rights and prejudicially embed a contested capital structure into the sale framework.

26. For these reasons and as more fully set forth below, the Minority Lenders respectfully submit that the Proposed Bidding Procedures should not be approved prior to adjudication of the October 2024 LMT dispute.

OBJECTION

I. An Auction Should Not Take Place Unless and Until the Court Has Adjudicated the Minority Lenders' Claims in the LMT Adversary Proceeding

27. The proposed sale construct is premised on, and would operationalize, a capital structure and lien hierarchy that are the subject of the LMT Adversary Proceeding. The October 2024 LMT, which is at the heart of the LMT dispute, created the very debt silos, lien positions, and asserted credit bid rights that would shape the competitive dynamics of any auction.

Proceeding with an auction and sale before full adjudication of the extent, validity, priority and enforceability of that transaction would embed the disputed economic consequences of the October 2024 LMT into the sale process itself.

28. The Minority Lenders submit that section 363(b) of the Bankruptcy Code does not authorize a sale conducted on a contested capital structure where core property rights remain subject to bona fide dispute, the parties have expressly agreed to the preservation of the rights of the parties that are asserting *pro rata* secured creditor rights, and trial is imminent.

A. The Court's Duty is to Ensure Procedural Fairness of Asset Sales, Not Defer to the Favored Lenders' Preferred Process and Timeline

29. Section 363(b) of the Bankruptcy Code permits a debtor to sell estate property only where there exists a sound business justification and where the sale maximizes value for the estate. *See In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143, 147 (3d Cir. 1986); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999). The Court has an independent duty to ensure that bidding procedures promote fair and competitive bidding and do not improperly prejudice parties in interest. *See In re Integrated Res., Inc.*, 147 B.R. 650, 656 (S.D.N.Y. 1992); *In re Food Barn Stores, Inc.*, 107 F.3d 558, 565 (8th Cir. 1997).

30. When debtors propose bidding procedures for an auction, bankruptcy courts must ensure that the procedures governing a sale are fair and reasonable for parties in interest in light of the overarching goal of maximizing value. *See In re American Safety Razor Co., LLC*, Case No. 10-12351 (MFW) (Bankr. D. Del. Sept. 30, 2010) [Docket No. 318] Tr. at 132-33 (denying the proposed bid procedures as written and stating "I don't think, as the debtors suggest, that my consideration of bid procedures is based on the business judgment rule. I need not accept the debtors' business judgment with respect to process. The Bankruptcy Code and Rules and the process under the Bankruptcy Code are all matters . . . for the Court's determination as to what is

fair and reasonable. In fact, I think that's my only role in this case; to determine what is fair for all the parties.”).

31. A debtor “abandons” its responsibility to exercise business judgment when it proposes bidding procedures “that unduly discourage competitive bidding.” *In re Diocese of Buffalo*, 637 B.R. 701, 703 (Bankr. W.D.N.Y. 2022).

32. Deference under section 363(b)(1) is not boundless and does not extend to procedures that embed disputed lien priorities or materially impair pending litigation rights. 11 U.S.C. § 363(b)(1). “The need for expedition ... is not a justification for abandoning proper standards.... In fashioning its findings, a bankruptcy judge must not blindly follow the hue and cry of the most vocal special interest groups; rather, he should consider all salient factors pertaining to the proceeding and, accordingly, act to further the diverse interests of the debtor, creditors and equity holders, alike.” *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (quoting *Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 450 (1968)).

33. In light of the foregoing, the Court is tasked with ensuring that the proposed Bidding Procedures are fair and reasonable for parties in interest in light of the overarching goal of maximizing value and that the Proposed Bidding Procedures do not prejudice any parties’ rights. Here, the Proposed Bidding Procedures fail to meet those requirements in that the proposed procedures improperly seek to predetermine disputed lien and credit bid rights.

B. The Proposed Auction Is Premised on a Capital Structure Subject to Bona Fide Dispute

34. The proposed auction and related Proposed Bidding Procedures cannot be evaluated in isolation from the pending LMT Adversary Proceeding. The extent, validity, priority, and enforceability of the October 2024 LMT—including the scope of any associated lien rights and potential credit bid rights—are presently the subject of active litigation before this Court.

35. The Debtors seek to schedule an auction of substantially all of the Favored Lenders' assets on March 20, 2026, *two months prior to the agreed-upon May 18, 2026 trial in the LMT Adversary Proceeding*, while the extent, validity, priority, and enforceability of the Favored Lenders' secured claims and liens remain firmly disputed.

36. The Debtors readily acknowledge in the Holtgreven Declaration that their current capital structure is entirely dependent on the presumed validity of the October 2024 LMT. *See* Holtgreven Dec. ¶ 35 (“the Debtors’ current capital structure is the product of the October 2024 [LMT], which created two distinct funded debt silos.”). The Holtgreven Declaration further reflects that the vast majority of the \$1.2 billion in outstanding debt is owed by STG Distribution, LLC (“STG Distribution”), an entity created to serve as transferee for assets that were transferred away from entities subject to liens held by all lenders under the original Credit Agreement, including liens held by the Minority Lenders. *Id.* ¶¶ 35, 39. Indeed, the table summarizing the Debtors’ debt structure in the Holtgreven Declaration reflects that \$1.005 billion is owed by STG Distribution, while \$154 million is owed by Reception Purchaser, excluding intercompany obligations created by virtue of the October 2024 LMT. *Id.* ¶ 35.

37. In the LMT Adversary Proceeding, the Minority Lenders contend that the transactions executed in connection with the October 2024 LMT—including the FLFO Term Loans, the FLSO Term Loans, and the FLTO Term Loans (collectively, the “STG Distribution

Term Loans”)—are void *ab initio*, and that the Debtors’ transfer of assets to STG Distribution was an unlawful and improper violation of the Minority Lenders’ contractual rights.

38. If the Minority Lenders prevail, the extent, validity and priority of the Favored Lenders’ secured claims could be fundamentally altered. Therefore, the dispute in the LMT Adversary Proceeding must be fully adjudicated before certain of the Proposed Bidding Procedures can be approved.

C. Holding an Auction Before Adjudication of the LMT Adversary Proceeding Could Chill Bidding and Distort Value

39. Where the fundamental property rights underlying a proposed sale are subject to bona fide dispute, including ownership and lien rights, courts should defer sales or impose safeguards to prevent chilling bidding and prejudice to creditors. *See In re Whitehall Jewelers Holdings, Inc.*, 2008 WL 2951974, at *3 (Bankr. D. Del. July 28, 2008); *In re Fisker Auto. Holdings, Inc.*, 510 B.R. 55, 61 (Bankr. D. Del. 2014).

40. Here, permitting an auction prior to adjudication of the LMT Adversary Proceeding dispute would materially chill bidding because potential purchasers would be required to bid against liens whose validity and extent is disputed and uncertain. For example, potential purchasers would unnecessarily be required to bid against alleged liens that are disputed and subject to invalidation and/or subordination, and to seek to acquire assets from the STG Distribution silo in circumstances where that silo’s entitlement to such assets is itself in dispute.

41. The timeline proposed by the Debtors increases bidder risk, compresses diligence, and amplifies the structural advantages embedded in the minimum bid and credit bid framework. It threatens to outpace the litigation of core lien disputes that go to the heart of how value should be allocated in these cases.

42. Such uncertainty suppresses bidding and undermines value maximization in direct contravention of section 363(b) of the Bankruptcy Code. *See Fisker*, 510 B.R. at 61; *In re Free Lance-Star Publ'g Co.*, 512 B.R. 798, 805-06 (Bankr. E.D. Va. 2014).

43. For these reasons, this Court should not approve Proposed Bidding Procedures that include an auction designed to implement the predetermined contested economic consequences of the October 2024 LMT before adjudicating whether that transaction lawfully created the asserted secured claim hierarchy.

D. There is No Financial Exigency Requiring a Pre-Trial Auction

44. Moreover, there is no financial need to conduct an auction prior to adjudicating the October 2024 LMT dispute. While the Bidding Procedures Motion asserts that the proposed schedule is “essential for the Debtors’ swift emergence from chapter 11 and preserving the value of the Debtors’ estates,” that conclusory statement is not a record-based showing of exigency warranting a sale clouded by the inherent uncertainty of the pending LMT Adversary Proceeding. *See* Bidding Procedures Motion, ¶ 17.

45. On the contrary, the DIP Budget reflects that the Debtors will have sufficient cash to conduct an auction *after* the May 18, 2026 trial.⁴ *See* Final DIP Order [Docket No. 248].

46. Quite simply, conducting the auction prior to the May 18, 2026 trial in the LMT Adversary Proceeding is unnecessary, prejudicial, and not value-maximizing. Moreover, holding the auction after the trial is entirely feasible based on the agreement embodied in the Timeline

⁴ Specifically, the DIP Budget indicates an ending unrestricted cash balance of \$50,692,000 for the week ending April 10, 2026, and an average weekly decline of \$3,651,750 subsequent to the funding of the second DIP Loan tranche. A straightforward projection indicates that for the week ending June 5, 2026, the Debtors will have an ending unrestricted cash balance of \$21,478,000 (\$50,692,000 – (8 weeks × \$3,651,750)). Moreover, the Debtors would still have access to \$25,000,000 in available untapped funding under the DIP Facility.

Stipulation, the reservations of rights expressly agreed to among the parties, the Debtors' cash flow conditions, and the availability of DIP funding.

II. Bidding Procedures Approved by The Court Should Not Allow and Provide Credit Bidding Rights Pending Adjudication of the LMT Adversary Proceeding

47. The Proposed Bidding Procedures provide the Favored Lenders with the right to credit bid for the Debtors' assets on the basis of their DIP Loans (which include \$143.75M of rolled-up FLFO Term Loans) and their STG Distribution Term Loans *before the Court determines the extent, validity, priority and enforceability of such entitlement*. This not only runs afoul of the agreement embodied in the Timeline Stipulation and the reservations of rights expressly agreed to among the parties, but it also violates section 363(k) of the Bankruptcy Code. Quite simply, the Favored Lenders are not entitled to credit bid their STG Distribution Term Loans, or arguably any rolled up portion of the DIP Loans, where the claims and liens are in bona fide dispute and before this Court determines the validity, extent and priority of the liens securing such loans.

48. It is axiomatic that section 363(k) prohibits credit bidding a disputed secured claim. *See* 11 U.S.C. § 363(k) (allowing a creditor to credit bid its secured claim “[a]t a sale under subsection (b) of this section of property that is subject to a lien that secures **an allowed claim...**”) (emphasis added).

49. The right to credit bid is not absolute and the Court has the discretion to deny credit bidding for cause. *In re Aeropostale, Inc.*, 555 B.R. 369, 415 (Bankr. S.D.N.Y 2016); *see also In re Fisker Auto Holdings, Inc.*, 510 B.R. 55, 59-61 (Bankr. D. Del. 2014) (“A court may deny a lender the right to credit bid in the interest of any policy advanced by the Code, such as to ensure the success of the reorganization or to foster a competitive bidding environment.”) (quoting *In re Phila. Newspapers, LLC*, 599 F.3d 298, 315-16, n.14 (3d Cir. 2010)). Determining whether cause exists to deny credit bidding rights requires balancing “the interests of the debtor, and the other

parties of interests to achieve the maximization of the estate and an equitable distribution to all creditors.” *In re Aeropostale*, 555 B.R. at 415 (quoting *In re RML Dev., Inc.*, 528 B.R. 150, 155 (Bankr. W.D. Tenn. 2014)).

50. When a creditor’s lien or claim is in dispute, cause typically exists to limit and/or deny that creditor’s right to credit bid. *See id.* (“Courts have also limited the right to credit bid when the validity of a creditor's lien is in dispute.”) (citing *In re Daufuskie Islands Props., LLC*, 441 B.R. 60, 64 (Bankr. D.S.C. 2010)); *Nat’l Bank of Commerce v. McMullan (In re McMullan)*, 196 B.R. 818, 835 (Bankr. W.D. Ark. 1996), *aff’d*, 162 F.3d 1164 (8th Cir. 1998)); *see also In re Charles St. African Methodist Episcopal Church*, 510 B.R. 453, 458 (Bankr. D. Mass. 2014) (“In many cases, the existence of a bona fide dispute as to the secured claim is cause.”); *In re RML Development, Inc.*, 528 B.R. 150 (Bankr. W.D. Tenn. 2014) (limiting a creditor’s right to credit bid based on a lien priority dispute between the creditor asserting the right to credit bid and other creditors).

51. Here, there is unquestionably a bona fide dispute as to the validity, extent, priority and enforceability of the Favored Lenders’ claims and liens, which effectively bars credit bidding unless and until such dispute is resolved. In fact, during the First Day Hearing, counsel for the Favored Lenders conceded that the pending LMT dispute has not been resolved, and there exists a question as to whether the Ad Hoc Group was even entitled to assert credit bidding rights. *See* First Day Hearing Tr. at 128:22 – 129:2 (“I will just say for [Minority Lenders’ counsel] who raised the issue of credit bidding in the context of 363(k), it’s just a great supportive argument as to why *we need to resolve the litigation around the [October 2024 transaction] in advance of a sale hearing because we could be asserting credit bid rights in that context and we would want*

to make sure that we could do that.”) (emphasis added). This acknowledgement was expressly carried forward into the Timeline Stipulation.

52. Despite the foregoing, the Proposed Bidding Procedures nonetheless improperly seek to predetermine the Favored Lenders’ rights and grant the Favored Lenders authorization to credit bid by requiring any competing potential purchaser to bid an amount sufficient to pay the Favored Lenders’ FLFO Term Loans and FLSO Term Loans. At this time, given the express reservation of rights to which the Debtors and the Favored Lenders specifically agreed, it would be improper and inequitable for the Court to approve such Proposed Bidding Procedures. Moreover, cause exists to deny credit bidding rights to the Favored Lenders pending a determination by the Court in the LMT Adversary Proceeding. Accordingly, the Court should strike any provision in the Bidding Procedures Order that affirmatively grants to, or assumes the existence of, the Favored Lenders’ credit bidding rights.

III. A Finding of Good Faith Pursuant to 363(m) of the Bankruptcy Code is Impossible While the LMT Adversary Proceeding is Pending

53. To ensure finality of asset sales pursuant to Section 363(b) of the Bankruptcy Code, Section 363(m) provides that the reversal or modification of a sale authorization does not affect the validity of a sale to an entity that purchased the debtor’s property in good faith. 11 U.S.C. § 363(m); *see In re Abbotts Dairies*, 788 F.2d 143, 147 (3d Cir. 1986).

54. The Code does not define “good faith,” but “courts applying section 363(m) turn to “traditional equitable principles.” *See In re Abbotts Diaries*, 788 F.2d at 147. “Courts have generally appeared willing to set aside confirmed sales that were ‘tinged with fraud, error, or similar defects which would in equity affect the validity of any private transaction.’” *Id.* (quoting *In re Cada Invs.*, 664 F.2d 1158, 1162 (9th Cir. 1981). “The good-faith requirement prohibits fraudulent, collusive actions specifically intended to affect the sale price or control the outcome of

the sale.” *In re Gucci*, 126 F.3d 380, 390 (2d Cir. 1997). The Third Circuit has “rejected a finding of good faith if there is a possibility that the debtor colluded with one of the bidders during the bankruptcy process.” *In re Pursuit Capital Mgmt., LLC*, 874 F.3d 124, 136 (summarizing *In re Abbots Diaries*, 788 F.2d 143 (3d Cir. 1986)).

55. “Debtors **and powerful creditors** do not qualify as good faith purchasers where they seek to ‘maximize [their] leverage,’ *In re Hertz Corp.*, 120 F.4th 1181, 1205 (3d Cir. 2024), by dictating the terms of Chapter 11 plans up front without ‘scal[ing] the hurdles erected’ by the Bankruptcy Code, *In re Braniff Airways, Inc.*, 700 F.2d at 940.” *In re BSA*, 137 F.4th 126, 157 (3d Cir. 2025) (emphasis added). The Court in *In re BSA* was also “not convinced that an intentional attempt to transact by ‘means forbidden by law’ constitutes good faith by a purchaser.” *Id.*

56. If the Minority Lenders prevail in the LMT Adversary Proceeding and the Court finds that the Debtors and the Favored Lenders breached the Minority Lenders’ contractual rights by conspiring to improperly transfer assets to STG Distribution out of the reach of the Minority Lenders’ liens, then the Favored Lenders may be precluded from obtaining a finding under section 363(m) that they are good faith purchasers based on a credit bid arising from FLFO Term Loans and FLSO Term Loans owed by STG Distribution.

57. Here, the sale rests upon a capital structure under active judicial challenge, and allegations of improper lien reordering remain pending. As a result, the Minority lenders submit that the Court should proceed cautiously before approving Proposed Bidding Procedures that could lead to predetermining the Favored Lenders’ rights and the entry of sale findings that could insulate a credit bid by the Favored Lenders from meaningful review.

IV. The Proposed Minimum Bid Requirement and Bidder Qualification Structure are Designed for the Sole Benefit of the Favored Lenders and Should Be Denied

A. The Minimum Bid Requirement Should be Rejected

58. The Debtors, at the Favored Lenders' behest, seek to impose a minimum bid requirement of payment in full in cash at closing of the DIP Loans and the FLFO Term Loans, and a payment to FLSO Term Loans in an unspecified amount (the "Minimum Bid Requirement"). The Minimum Bid Requirement should be rejected for three reasons.

59. *First*, as set forth above, the validity of the FLFO Term Loans is subject to a bona fide dispute. The Minimum Bid Requirement is a mandated payoff-and-recovery construct that requires any bid for "all or substantially all" assets to provide for (i) payment in full in cash at closing of all DIP obligations (including accrued and unpaid fees and interest), (ii) payment in full in cash at closing of all FLFO claims (including accrued and unpaid fees and interest), and (iii) a recovery at closing to holders of FLSO claims at least equal to the amount provided pursuant to the RSA. *See* Bidding Procedures § IV.s (Minimum Bid Requirement). Those requirements hardwire the treatment of the Favored Lenders' asserted secured loan claims and embed the RSA's recovery construct into the sale floor in a case where the validity, extent and priority of those claims and liens is actively contested. Thus, the practical effect would be to predetermine the economic baseline of the sale based on contested priorities.

60. *Second*, neither the Debtors nor the Favored Lenders have demonstrated that the value of the collateral (which collateral is in dispute through the LMT Adversary Proceeding) securing the FLFO Term Loans is equal to or greater than the balance of the FLFO Term Loans, and therefore the Debtors and the Favored Lenders have not established a basis to require that the FLFO Term Loans be paid in full as a prerequisite for any sale.

61. *Third*, the Minimum Bid Requirement’s inclusion of a condition that any bid must provide “a recovery at closing to the holders of FLSO Claims in an amount at least equal to the amount provided pursuant to the Restructuring Support Agreement” (Proposed Bidding Procedures § IV.s (Minimum Bid Requirement)) is unreasonable because it lacks specificity. The RSA provides that holders of FLSO Claims must receive a *pro rata* share of any sale proceeds left over after payment in full of FLFO Claims. At a minimum, the Minimum Bid Requirement should be revised to directly incorporate the relevant language from the RSA.

B. The Bidder Qualification Structure Grants the Favored Lenders Advantages That Chill Competitive Bidding

62. If a debtor wishes to sell its assets, it must “adopt procedures that promote, rather than dissuade competitive offers.” *In re Diocese of Buffalo*, 637 B.R. 701, 705 (Bankr. W.D.N.Y. 2022). A court must consider “whether the debtor has formulated procedures that will foster competitive bidding.” *Id.* at 702-03.

63. The proposed bidder qualification structure confers advantages on the Favored Lenders that a third-party bidder cannot match without accepting litigation risk and structural constraints.

64. The Favored Lenders may credit bid, competing without incremental cash against bidders who must fund the minimum bid in cash while also satisfying RSA-driven recovery floors. See 11 U.S.C. § 363(k); Proposed Bidding Procedures § V (Right to Credit Bid) and § IV.s (Minimum Bid Requirement).

65. The Proposed Bidding Procedures also embed veto-like consent mechanics over stalking horse protections. Specifically, they provide that “no Stalking Horse Bid Protections may be provided to any Bidder without the prior consent of the Required Consenting FLFO Term Lenders.” Proposed Bidding Procedures § IX (Stalking Horse Bid Protections). That consent right

is not a typical procedural “consultation” protection. It is a structural lever that can shape bidder incentives and sale dynamics, predictably favoring the constituency whose asserted secured claims and lien priority are the subject of ongoing litigation.

66. In addition, the proposed Bidding Procedures Order states that “[o]nly the Debtors, the Qualified Bidders, the Consultation Parties, the U.S. Trustee, and any other parties as the Debtors may determine in their reasonable discretion, in each case, along with the representatives and advisors, shall be entitled to participate in the Auction(s). . . .” Bidding Procedures Order ¶ 9. In *In re Diocese of Buffalo*, the court rejected a similar provision and held that the debtor may not have the sole discretion to choose bidders without judicial oversight. *See* 637 B.R. at 704 (“[T]he Court will not assign ‘sole discretion’ to the debtor without the opportunity for judicial oversight.”).

67. As a result, from the standpoint of a third-party bidder, the process is not simply “open and competitive.” It is structured around the Favored Lenders’ asserted secured loan claims and priorities, and it gives those parties leverage and discretion to shape key economic features of the process. The Proposed Bidding Procedures are thus designed to chill bidding as opposed to maximize value, and should be denied.

C. Approval of the Proposed Bidding Procedures is Premature Absent Full Transparency Into the Sale Baseline

68. The Court cannot evaluate whether the minimum bid and stalking horse mechanics are value-maximizing without full transparency into the operative economics that define the baseline. The record here shows that the sale process is driven by RSA constraints and milestones. *See* Bidding Procedures Motion ¶ 3 (“the Schedule is consistent with the case timeline required by the Debtors’ DIP Credit Agreement and the Restructuring Support Agreement). Where the minimum bid embeds RSA recovery floors and the process is constrained by RSA conditions, the

Court should require a record sufficient to assess whether the process is genuinely competitive or instead functions to implement a predetermined outcome.

69. For these additional reasons, the minimum bid and bidder qualification structure is improper and should be denied or materially modified.

V. The Debtors Must Identify the Assets Being Sold and Address the Consequences of a Potential Reversal of the October 2024 LMT

70. A sale under sections 363(b) and 363(f) of the Bankruptcy Code requires clarity about what is being sold, what interests are being extinguished, and what risks are being transferred. 11 U.S.C. §§ 363(b)(1), 363(f). In a case involving contested transfers of assets among affiliated entities (particularly where there is a question as to the magnitude of assets that were actually transferred) and contested lien priorities arising from the October 2024 LMT, the Debtors must address, with specificity, the assets ultimately being sold and the consequences of a potential reversal of that transaction.

71. The Proposed Bidding Procedures should not simply include generic descriptions that leave bidders, parties in interest, and the Court unable to evaluate ownership and litigation risk. At minimum, the Debtors must clearly and publicly identify which Debtor entities hold which assets in the proposed sale package and must provide notice to bidders of the pending October 2024 LMT dispute and the potential consequences of an adverse ruling. At present, the Debtors have not done so with sufficient specificity.

72. Critically, the Proposed Bidding Procedures must also include language preserving the Court's authority to grant effective relief, including relief affecting sale proceeds and value allocations, if the October 2024 LMT is invalidated or modified. A free-and-clear transfer without such protections risks creating a sale that is practically insulated from meaningful post-closing relief.

VI. The Proposed Sale Risks Functioning as an Impermissible Sub Rosa Plan

73. A section 363 sale cannot be used to dictate the terms of a chapter 11 plan or to effectuate distributional consequences that properly belong in the confirmation process. *In re BSA*, 137 F.4th 126, 156 (3d Cir. 2025); *In re Braniff Airways, Inc.*, 700 F.2d 935, 940 (5th Cir. 1983) (“The debtor and the Bankruptcy Court should not be able to short circuit the requirements of Chapter 11 for confirmation of a reorganization plan by establishing the terms of the plan sub rosa in connection with a sale of assets. . . . In any [] attempts to specify the terms whereby a reorganization plan is to be adopted, the parties and the district court must scale the hurdles erected in Chapter 11.”); *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983) (rejecting a pre-plan § 363(b) sale of the debtor's most important asset that effectively “swallow[ed] up Chapter 11's safeguards.”); *In re Iridium Operating LLC*, 478 F.3d 452, 466 (2d Cir. 2007) (“[S]ub rosa plans are prohibited” to prevent “transactions that will, in effect, short circuit the requirements of chapter 11 for confirmation of a reorganization plan.”) (internal quotation marks omitted).

74. The risk here is structural. The minimum bid requirement hardwires a distributional baseline by requiring payment in full in cash of DIP obligations and FLFO claims and requiring an RSA-tied recovery for FLSO claims. Proposed Bidding Procedures § IV.s (Minimum Bid Requirements). Those features do not merely “set a floor.” They embed a recovery and priority structure derived from the October 2024 LMT and the RSA into the sale process before adjudication of the October 2024 LMT Dispute.

75. Here, the sale process predetermines recoveries and locks in contested priority outcomes, functioning as a plan substitute. As proposed, the Minority Lenders would be deprived of the procedural and substantive safeguards that attach to plan confirmation, including the ability to litigate, among other things, priority and the propriety of distributional consequences through the confirmation framework.

76. The Court should not permit the Debtors to achieve through sale mechanics what would require plan confirmation standards if pursued through a chapter 11 plan.

VII. The Debtors Have Not Demonstrated a Basis for Waiving the Stays Imposed by Rules 6004(h) and 6006(d)

77. Bankruptcy Rule 6004(h) provides that an “order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). Additionally, Bankruptcy Rule 6006(d) provides that an “order authorizing the trustee to assign an executory contract or unexpired lease . . . is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6006(d).

78. The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to “protect the rights of an objecting party.” Collier on Bankruptcy ¶ 6004.11 (16th ed. 2016) (“Collier”). The rules are intended to provide sufficient time for an objecting party to request a stay pending appeal before an order can be implemented. Fed R. Bankr. P. 6004(d) (advisory committee's note). The stay pursuant to Bankruptcy Rule 6004(h) may be waived to allow a sale to close immediately “where there has been no objection to the procedure.” Collier at ¶ 6004.11. Courts may waive the stays under rules 6004 and 6006 upon an “evidentiary showing of a business exigency requiring a closing within 10 days of an approval order” *In re PSINet, Inc.*, 268 B.R. 358, 379 (Bankr. S.D.N.Y. 2001) (decided under the pre-revision rules providing for a ten day stay period).

79. Here, the Debtors have made no showing of any business exigency constituting cause to waive the fourteen day stay period. To the contrary, waiving such period could seriously prejudice the Debtors’ other creditors, including the Minority Lenders, as it could allow a sale to close prior to any reasonable investigation of the assets being sold, and prior to the end of any

appeal period. Since no exigency exists, the fourteen day stays under Bankruptcy Rules 6004(h) and 6006(d) should not be waived.

80. In addition, the validity and priority of the secured loan claims and liens asserted by the Favored Lenders are the subject of active litigation. If the Court were to enter a sale order and immediately waive the Bankruptcy Rule 6004(h) and 6006(d) stays, consummation could occur before appellate review of core structural rulings is meaningfully available.

81. Section 363(m) already imposes substantial constraints on appellate relief once a sale closes to a good faith purchaser. 11 U.S.C. § 363(m). To combine Section 363(m) protections with an immediate waiver of procedural stays would materially increase the risk that disputed priority and lien issues become practically unreviewable. That result would be particularly inappropriate in these cases, where the secured claim hierarchy underlying the sale is actively contested.

82. The preservation of the stays imposed by Bankruptcy Rules 6004(h) and 6006(d) does not prevent the Debtors from proceeding with a sale. Rather, preservation simply ensures that, if substantial legal issues remain unresolved at the time of entry of a sale order, appellate rights are not extinguished through procedural acceleration. Under these circumstances, any sale order should preserve the Bankruptcy Rule 6004(h) and 6006(d) stays. Waiver of such stays is neither necessary nor appropriate under the circumstances.

VIII. The Minority Lenders Should Be Afforded the Same Notice Treatment as the Consultation Parties Under Paragraph 26 of the Proposed Order

83. Finally, Paragraph 26 of the Proposed Bidding Procedures Order states, in pertinent part:

The Debtors may modify any of the dates and deadlines set forth herein without further order of the Court; provided that the Debtors will serve notice (email from counsel to the Debtors, Kirkland & Ellis LLP, to suffice) to any Qualified Bidder, Stalking Horse Bidder, the Consultation Parties, and the U.S. Trustee, as applicable and appropriate, informing them of such modification.

Id.

84. The Minority Lenders should be afforded the same notice under the Bidding Procedures Order as the Consultation Parties.

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CONCLUSION

WHEREFORE, for the foregoing reasons, the Minority Lenders respectfully request that the Court (i) deny the Bidding Procedures Motion, and (ii) grant such other and further relief as the Court deems just and proper.

February 24, 2026
Madison, New Jersey

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