

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

In re:)	
)	Chapter 11
PLASTIQ INC., <i>et al.</i> , ¹)	
)	Case No. 23-10671 (BLS)
Debtors.)	
)	(Jointly Administered)
)	
)	Ref. Docket Nos. 11, 38 & 138

**CERTIFICATION OF COUNSEL REGARDING
ORDER APPROVING STIPULATION BETWEEN
THE DEBTORS AND THE PREPETITION SECURED PARTIES
REGARDING THE POST-CLOSING USE OF CASH COLLATERAL**

The undersigned counsel to the debtors and debtors in possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases certify and state as follows:

1. On May 24, 2023 (the “**Petition Date**”), PlastiQ Inc. and each of its affiliated debtors filed their 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 “**Court**”).

2. On June 22, 2023, the Court entered that certain *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503 and 507 (I) Authorizing the Debtors to Obtain Senior Secured Superpriority Postpetition Financing; (II) Granting (A) Liens and Superpriority Administrative Expense Claims and (B) Adequate Protection to Certain Prepetition Lenders; (III) Authorizing Use of Cash Collateral; (IV) Scheduling a Final Hearing; and (V) Granting Related Relief* [Docket No. 138] (the “**Final DIP Order**”).²

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PlastiQ Inc. (6125), PLV Inc. d/b/a/ PLV TX Branch Inc. (5084), and Nearside Business Corp. (N/A). The corporate headquarters and the mailing address for the Debtors is 1475 Folsom Street, Suite 400, San Francisco, California 94103.

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to it in the Final DIP Order.



3. On July 31, 2023, the Court entered that certain *Order Authorizing (I) the Sale of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Other Interests; (II) the Debtors to Enter into and Perform Their Obligations Under the Asset Purchase Agreement and Related Documents; and (III) the Debtors to Assume and Assign Certain Contracts and Unexpired Leases; (IV) Waiver of the Stay Periods Under Bankruptcy Rules 6004(h) and 6006(d); and (V) Granting Related Relief* [Docket No. 223] (the “**Sale Order**”).

4. The Debtors and the Prepetition Secured Parties (collectively, the “**Parties**”) have entered into that certain *Stipulation Between the Debtors and the Prepetition Secured Parties Regarding the Post-Closing Use of Cash Collateral*, attached as Exhibit 1 (the “**Stipulation**”), to the proposed order (the “**Proposed Order**”), attached hereto as **Exhibit A**, to allow for the use of Cash Collateral on deposit in the DIP Escrow Account from and after the Closing Date and to memorialize certain other agreements.

5. The Debtors, on behalf of the estates and the Parties, respectfully request the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, approving the Stipulation at its earliest convenience.

[Signature page follows]

Dated: August 4, 2023
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Joseph M. Mulvihill

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EXHIBIT A

Proposed Order

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

In re: § Chapter 11
PLASTIQ INC. *et al.*,¹ §
§ Case No. 23-10671 (BLS)
§
Debtors. § Jointly Administered
§
§ RE: Docket No. 11, 38, 138

**ORDER APPROVING STIPULATION BETWEEN
THE DEBTORS AND THE PREPETITION SECURED PARTIES
REGARDING THE POST-CLOSING USE OF CASH COLLATERAL**

Upon consideration of the *Stipulation between the Debtors and the Prepetition Secured Parties Regarding the Post-Closing Use of Cash Collateral* (the “Stipulation”) filed by the Debtors and the Prepetition Secured Parties; and the Court having reviewed the Stipulation, a copy of which is attached hereto as **Exhibit 1**; and good cause appearing for the relief requested therein, it is hereby ORDERED THAT:

1. The Stipulation, attached hereto as **Exhibit 1**, is approved in its entirety.
2. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PlastiQ Inc. (6125), PLV Inc. d/b/a/ PLV TX Branch Inc. (5084), and Nearside Business Corp. (N/A). The corporate headquarters and the mailing address for the Debtors is 1475 Folsom Street, Suite 400, San Francisco, California 94103.

Exhibit 1

Stipulation

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

In re:	§	Chapter 11
	§	
PLASTIQ INC. <i>et al.</i> , ¹	§	Case No. 23-10671 (BLS)
	§	
Debtors.	§	Jointly Administered
	§	
	§	RE: Docket No. 11, 38, 138

**STIPULATION BETWEEN THE DEBTORS AND THE PREPETITION SECURED
PARTIES REGARDING THE POST-CLOSING USE OF CASH COLLATERAL**

This stipulation (this “Stipulation”) is entered into by and between the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) and the Prepetition Agent, on behalf of the Prepetition Secured Parties (such terms as defined in the Final DIP Order (as defined herein), and together with the Debtors, the “Parties”). The Parties hereby stipulate and agree as follows:

WHEREAS, on May 23, 2023 (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

WHEREAS, on June 22, 2023, the Bankruptcy Court entered that certain *Final Order Pursuant To 11 U.S.C. §§ 105, 361, 362, 363, 364, 503 And 507 (I) Authorizing The Debtors To Obtain Senior Secured Superpriority Postpetition Financing; (II) Granting (A) Liens And*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PlastiQ Inc. (6125), PLV Inc. d/b/a/ PLV TX Branch Inc. (5084), and Nearside Business Corp. (N/A). The corporate headquarters and the mailing address for the Debtors is 1475 Folsom Street, Suite 400, San Francisco, California 94103.

Superpriority Administrative Expense Claims And (B) Adequate Protection To Certain Prepetition Lenders; (III) Authorizing Use Of Cash Collateral; (IV) Scheduling A Final Hearing; And (V) Granting Related Relief [D.I. 138] (the “Final DIP Order”)² pursuant to which proceeds of the DIP Loans have been funded into the DIP Escrow Account. Pursuant to the terms of the Final DIP Order, the DIP Escrow Account and all amounts on deposit therein constitute DIP Collateral and Cash Collateral, and are subject to the Adequate Protection Liens of the Prepetition Secured Parties.

WHEREAS, on June 21, 2023, the Bankruptcy Court entered that certain *Order (I) Approving Bidding Procedures in Connection With the Sale of the Debtors’ Assets and Related Bid Protections; (II) Approving Form and Manner of Notice; (III) Scheduling Auction and Sale Hearing; (IV) Authorizing Procedures Governing Assumption and Assignment of Certain Contracts and Unexpired Leases; and (V) Granting Related Relief* [Docket No. 127] (the “Bidding Procedures Order”) pursuant to which the Debtors were authorized to market and sell their assets.

WHEREAS, on July 21, 2023 the Debtors’ filed the *Notice of Cancellation of Auction* [Docket No. 189] in accordance with the Bidding Procedures Order and announced Plastiq, Powered by Priority, LLC (the “Purchaser”) as the party having submitted the highest and best offer for the Debtors’ assets that are identified in the Purchase Agreement (as amended, and to be filed with a forthcoming proposed form of sale order (the “Proposed Sale Order”) and, once entered by the Bankruptcy Court, the “Sale Order”).

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to it in the Final DIP Order.

WHEREAS, following entry of the Sale Order and the occurrence of the Closing Date (as defined in the Purchase Agreement), the Debtors' anticipate having outstanding administrative expenses that arose prior to the Closing Date.

WHEREAS, it is anticipated that the DIP Loans will be satisfied in full from the cash consideration payable by the Purchaser pursuant to the Purchase Agreement, but that the Prepetition Obligations shall not be satisfied in cash in full. As a result, the Prepetition Secured Parties will retain their Adequate Protection Lien with respect to the DIP Escrow Account and the Cash Collateral on deposit therein.

WHEREAS, as of the date hereof, the DIP Agent has funded the full amount of the DIP Loans into the DIP Escrow Account; however, the Debtors have not made Withdrawals up to the full amount of the DIP Loans.

WHEREAS, the Parties have engaged in good faith negotiations to consensually allow for the use of Cash Collateral on deposit in the DIP Escrow Account from and after the Closing Date and Withdrawals for the sole purpose of satisfying pre-Closing Date administrative expenses and payment of post-Closing Date wind-down expenses, and desire to memorialize certain other agreements and understandings on the terms set forth herein;

WHEREAS, the Debtors have determined that the compromise set forth herein is fair, reasonable, and in the best interests of the Debtors and their estates;

NOW, THEREFORE, the Parties hereby stipulate and agree, through their undersigned representatives, as follows:

1. The above recitals are true and correct and are incorporated herein by reference with the same force and effect as if fully set forth hereafter.

2. Notwithstanding anything in the Final DIP Order or any other order of this Bankruptcy Court to the contrary, after the Closing Date, the Debtors shall be permitted to make Withdrawals and use Cash Collateral from the DIP Escrow Account upon submission of a Withdrawal Notice to the Prepetition Agent and the Escrow Agent that certifies, among other things, that the proceeds of the requested Withdrawal shall be used solely for the purpose of paying administrative expenses arising prior to the Closing Date and costs of the wind-down of the Debtors' estates in accordance with the budget attached hereto as **Exhibit A** (the "Post-Sale Budget"). For the avoidance of doubt, the DIP Secured Parties are consenting to the Debtors' use of proceeds from the DIP Loans withdrawn after the Closing Date for the sole purpose of satisfying administrative expenses that arose prior to the Closing Date.

3. Notwithstanding anything in the Final DIP Order or any other order of this Bankruptcy Court to the contrary, the DIP Escrow Account (and all amounts from time to time on deposit therein) shall constitute DIP Collateral and Cash Collateral for all purposes. Furthermore, any unused funds remaining in the DIP Escrow Account after satisfaction of the administrative expense incurred prior to the Closing Date and set forth in the Post-Sale Budget shall be returned by the Escrow Agent to the Prepetition Agent for the benefit of the Prepetition Lenders.

4. This Stipulation is subject to the approval of the Bankruptcy Court and shall be effective and enforceable for all purposes immediately upon entry of an order by the Bankruptcy Court approving the Stipulation. The Parties further acknowledge and agree that if this Stipulation is not approved in the form executed by the Parties: (a) the arrangement contemplated herein shall be null and void and of no effect; (b) nothing contained in this Stipulation shall be deemed an admission of liability or culpability on behalf of any Party; and (c) this Stipulation shall not be

construed to support the validity of any claim, defense or contention made or asserted by or against any Party.

5. This Stipulation and Order constitutes a final order within meaning of 28 U.S.C. § 158(a).

6. Notwithstanding any provision in the Bankruptcy Rules to the contrary, including, without limitation, Bankruptcy Rule 6004(h) or Bankruptcy Rule 4001(a)(3), this Stipulation and Order shall be immediately effective and enforceable upon its entry.

7. The Parties are authorized to take all actions necessary to effectuate the relief set forth in this Stipulation. Furthermore, the signatories for the Parties each certify that he or she is authorized to enter into the terms and conditions of this Stipulation, and to execute and bind such party to this Stipulation. The Bankruptcy Court shall have exclusive jurisdiction to resolve any and all disputes arising from or related to this Stipulation. Each of the Parties irrevocably consents to the jurisdiction of the Bankruptcy Court and agrees that venue is proper in the Bankruptcy Court with respect to any and all issues pertaining to, or arising from, this Stipulation.

8. The Parties each represent to the other that they have taken all actions necessary and have full authority to enter into this Stipulation.

9. This Stipulation constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings, both written and oral, between the Parties with respect to the matters addressed herein.

10. This Stipulation shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, successors, and permitted assigns.

11. This Stipulation has been drafted through a cooperative effort of the Parties, and no Party shall be considered the drafter of this Stipulation so as to give rise to any presumption or convention regarding construction of this Stipulation.

12. This Stipulation may be executed in counterparts, any of which may be transmitted by facsimile or electronic mail, and each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[Remainder of this page intentionally left blank]

Dated: August 4, 2023
Wilmington, Delaware

**YOUNG CONAWAY STARGATT & TAYLOR,
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Counsel to the DIP Secured Parties

Exhibit A

Post-Sale Budget

PLASTIQ INC. (ESTATE)*Post-Sale Budget***Post-Sale Budget***(\$000's)*

Administrative Claim Reserve	\$	375.0
Tax Claim Reserve		100.0
Residual Tax Filings		100.0
Post-Sale Expenses (<i>Contractors, etc.</i>)		75.0
Independent Directors (<i>September</i>)		<u>50.0</u>
Total Post-Sale Budget	\$	700.0