

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re: : Chapter 11
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STARRY GROUP HOLDINGS, INC., et al.,<sup>1</sup> : Case No. 23-10219 (KBO)
:
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Debtors. : (Jointly Administered)
:
:
: Hearing Date: N/A
: Obj. Deadline: N/A
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MOTION OF DEBTORS FOR ENTRY OF
ORDER (I) AUTHORIZING MODIFICATIONS TO CASH
MANAGEMENT SYSTEM AND (II) GRANTING RELATED RELIEF

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

RELIEF REQUESTED

1. By this Motion, the Debtors seek entry of an order, substantially in the form
attached hereto as Exhibit A (the “Proposed Order”): (a) authorizing the Debtors to modify the
Cash Management System,<sup>2</sup> as further described herein, by (i) establishing bank accounts at an
alternative bank that has executed a Uniform Depository Agreement with the U.S. Trustee, or at

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

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion
of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Continue Operating Existing Cash
Management System, (B) Honor Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business
Forms, and (D) Continue to Perform Intercompany Transactions, (II) Waiving Certain Requirements Under
Section 345 of the Bankruptcy Code and the U.S. Trustee Guidelines and (III) Granting Related Relief [Docket
No. 13] (the “Cash Management Motion”).



such bank that is willing to immediately execute such agreement (an “**Alternative Bank**”), and (ii) transferring the Debtors’ cash from Debtor Accounts maintained at Silicon Valley Bank (“**SVB**”) to accounts at an Alternative Bank; and (b) granting related relief.<sup>3</sup>

### **JURISDICTION AND VENUE**

2. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory and legal predicates for the relief requested herein are sections 105(a) and 363(b) of title 11 of the United States Code (the “**Bankruptcy Code**”).

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

### **BACKGROUND**

5. On February 20, 2023 (the “**Petition Date**”), the Debtors commenced with the Court voluntary cases (the “**Chapter 11 Cases**”) under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue operating their business and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On March 3,

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<sup>3</sup> The Debtors seek to shorten the time required for notice of the hearing to consider this Motion as set forth in the *Motion for Order Pursuant to Local Rule 9006-1(e) Shortening the Time for Notice of the Hearing to Consider Motion of Debtors for Entry of Order (I) Authorizing Modification to Cash Management System and (II) Granting Related Relief*, filed contemporaneously herewith.

2023, the Office of the United States Trustee for the District of Delaware (the “**U.S. Trustee**”) appointed an official committee of unsecured creditors in the Chapter 11 Cases [Docket No. 99] (the “**Creditors’ Committee**”). No trustee or examiner has been appointed in the Chapter 11 Cases. The Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

6. On the Petition Date, the Debtors filed the (a) *Motion of Debtors for Entry of Order (I)(A) Establishing Bidding Procedures for Sale of Substantially All Assets, (B) Scheduling Auction and Sale Hearing, and (C) Approving Form and Manner of Notice Thereof, (II) Approving Sale of Substantially All Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests, and (III) Granting Related Relief* [Docket No. 21] (the “**Bidding Procedures Motion**”) and (b) the *Joint Chapter 11 Plan of Reorganization of Starry Group Holdings, Inc. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* [Docket No. 22] (the “**Plan**”) and the *Disclosure Statement for Joint Chapter 11 Plan of Reorganization of Starry Group Holdings, Inc. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* [Docket No. 23] (the “**Disclosure Statement**”). The Court has scheduled hearings for approval of the relief requested in the Bidding Procedures Motion and the Disclosure Statement for March 22, 2023 at 2:00 p.m. (prevailing Eastern Time) and March 31, 2023 at 10:00 a.m. (prevailing Eastern Time), respectively.

7. The factual background regarding the Debtors, including their business operations, their capital and debt structures, and the circumstances leading to the commencement of the Chapter 11 Cases, is set forth in detail in the *Declaration of Chaitanya Kanojia in Support of*

*Chapter 11 Petitions and First Day Pleadings* [Docket No. 41] (the “**First Day Declaration**”), and is incorporated herein by reference.<sup>4</sup>

### **THE DEBTORS’ BANK ACCOUNTS**

8. As set forth in the Cash Management Motion,<sup>5</sup> before the Petition Date all of the Debtor Accounts were maintained with SVB. On March 10, 2023, SVB was closed by the California Department of Financial Protection and Innovation, which appointed the Federal Deposit Insurance Corporation (“**FDIC**”) as receiver.<sup>6</sup> The Debtors seek to withdraw their cash from the Debtor Accounts at SVB as and when it is made available and to transfer such cash to accounts at an Alternative Bank.

### **MODIFICATIONS TO CASH MANAGEMENT SYSTEM**

9. The Interim Cash Management Order<sup>7</sup> provides, in relevant part, that “[a]ny material change to the Cash Management System shall require written consent of ArrowMark Agency Services LLC, in its capacity as DIP Agent, and shall be subject to approval by this Court.” Interim Cash Management Order ¶ 18.

10. As contemplated by the Interim Cash Management Order, by this Motion the Debtors seek approval from the Court to modify the Cash Management System, as described

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<sup>4</sup> The Bidding Procedures Motion, Plan, Disclosure Statement, First Day Declaration, and other relevant case information is available on the following website maintained by the Debtors’ claims and noticing agent, Kurtzman Carson Consultants LLC (“**KCC**”): <http://www.kccllc.net/Starry>.

<sup>5</sup> The Cash Management Motion is incorporated herein by reference.

<sup>6</sup> See Federal Deposit Insurance Corporation, March 10, 2023, *FDIC Creates a Deposit Insurance National Bank of Santa Clara to Protect Insured Depositors of Silicon Valley Bank, Santa Clara, California* [Press Release], <https://www.fdic.gov/news/press-releases/2023/pr23016.html>.

<sup>7</sup> “**Interim Cash Management Order**” means the *Interim Order (I) Authorizing Debtors to (A) Continue Operating Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms, and (D) Continue to Perform Intercompany Transactions, (II) Waiving Certain Requirements Under Section 345 of the Bankruptcy Code and the U.S. Trustee Guidelines and (III) Granting Related Relief* [Docket No. 71], entered on February 23, 2023.

above, to (a) establish bank accounts at an Alternative Bank, (b) transfer the Debtors' cash from the Debtor Accounts at SVB to accounts at an Alternative Bank, and (c) implement substantially similar cash management practices with the new accounts at an Alternative Bank as the Debtors employed for their accounts at SVB. The Debtors will consult with ArrowMark Agency Services LLC ("**ArrowMark**"), as the DIP Agent and Prepetition Agent (each as defined in the First Day Declaration), and the Creditors' Committee in connection with the Debtors' selection of an Alternative Bank.

11. Before filing this Motion, counsel to the Debtors notified counsel for ArrowMark, proposed counsel for the Creditors' Committee, and the U.S. Trustee of the relief requested in this Motion. ArrowMark indicated that it is supportive of the relief requested herein. The Creditors' Committee indicated that it is supportive of the relief requested herein, subject to the reservation of rights set forth in paragraph 16 of this Motion. The U.S. Trustee indicated that it is reserving its rights with respect to the Motion.

#### **BASIS FOR RELIEF REQUESTED**

12. The Court has authority, pursuant to section 363(b) of the Bankruptcy Code, to grant the relief requested herein, because such relief will preserve the value of the Debtors' estates for the benefit of all parties in interest. Section 363(b)(1) of the Bankruptcy Code provides, in pertinent part, that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." To approve the use of assets outside the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code, courts require only that the debtor "show that a sound business purpose justifies such actions." *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) (internal citations omitted); accord *In re Phoenix Steel Corp.*, 82 B.R. 334,

335–36 (Bankr. D. Del. 1987). Moreover, if “the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted); *see also Stanziale v. Nachtomi (In re Tower Air, Inc.)*, 416 F.3d 229, 238 (3d Cir. 2005) (stating that “[o]vercoming the presumptions of the business judgment rule on the merits is a near-Herculean task”).

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

14. The Court may also rely on the doctrine of necessity and its equitable powers under section 105(a) of the Bankruptcy Code to authorize the relief requested herein because it is essential to the continued operation of the Debtors’ business. *See, e.g., In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that section 105(a) of the Bankruptcy Code provides

a statutory basis for relief, particularly when such relief is necessary for the debtor's survival during chapter 11); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity is the standard for enabling a court to authorize certain relief).

15. As stated above, before the Petition Date all of the Debtors' cash was maintained in the Debtor Accounts at SVB, over which the FDIC has been appointed as receiver. The Debtors are seeking to move their cash to an Alternative Bank, which has executed or will execute a Uniform Depository Agreement with the U.S. Trustee. The Debtors' funds at an Alternative Bank will be insured up to the applicable FDIC limits and the United States government intends to take measures to make available additional liquidity to help assure banks have the ability to meet the needs of all their depositors.<sup>8</sup> In addition, the Debtors' understanding is that under a Uniform Depository Agreement an Alternative Bank will be obligated to collateralize all debtor in possession accounts with bonds or other securities. Accordingly, the relief requested herein will inure to the benefit of all parties in interest and should be granted.

### **RESERVATION OF RIGHTS**

16. Nothing contained herein is or should be construed as: (a) an admission as to the validity of any claim against the Debtors or the existence of any lien against the Debtors' property; (b) a waiver of the Debtors' 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

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<sup>8</sup> See Board of Governors of the Federal Reserve System, March 12, 2023, *Federal Reserve Board announces it will make available additional funding to eligible depository institutions to help assure banks have the ability to meet the needs of all their depositors* [Press Release], <https://www.federalreserve.gov/newsevents/pressreleases/monetary20230312a.htm>.

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 the Proposed Order once entered; 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 the Proposed Order will be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

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

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

18. Additionally, to the extent that any aspect of the relief sought herein constitutes a use of property under section 363(b) of the Bankruptcy Code, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a), to the extent not satisfied, and of the 14-day stay under Bankruptcy Rule 6004(h). As described above, the relief that the Debtors seek in this Motion is immediately necessary in order for the Debtors to be able to continue to operate their business and preserve the value of their estates. Accordingly, the Debtors submit that the requested waiver of the notice requirements of Bankruptcy Rule 6004(a) and of the 14-day stay imposed by Bankruptcy Rule 6004(h) is appropriate.



**NOTICE**

19. Notice of this Motion will be provided to (a) the U.S. Trustee (Attn: Benjamin Hackman); (b) proposed counsel to the Creditors' Committee, McDermott Will & Emery LLP (Attn: Darren Azman, Kristin Going, Stacy A. Lutkus, Natalie Rowles, and David R. Hurst); (c) counsel to ArrowMark 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); (d) the Banks; and (e) 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 Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: March 13, 2023  
Wilmington, Delaware

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*Proposed Counsel for Debtors and Debtors in Possession*

**EXHIBIT A**

**Proposed Order**

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

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In re:	:	Chapter 11
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STARRY GROUP HOLDINGS, INC., <i>et al.</i> , <sup>1</sup>	:	Case No. 23-10219 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
	x	Re: Docket Nos. 13, 68, 71, & ____

**ORDER (I) AUTHORIZING MODIFICATIONS TO CASH  
MANAGEMENT SYSTEM AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for entry of an order (a) authorizing the Debtors to modify the Cash Management System, as described in the Motion, and (b) granting related relief, all as more fully set forth in the Motion; and this Court having reviewed the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or

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

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

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 Order, therefore, it is hereby

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is granted, as set forth herein.
2. All objections to the entry of this Order, to the extent not withdrawn or settled, are overruled.
3. The Debtors are authorized, but not directed, to modify the Cash Management System as described in the Motion by establishing bank accounts at an Alternative Bank and transferring the Debtors' cash from the Debtor Accounts at SVB to accounts at an Alternative Bank.
4. The Interim Cash Management Order shall apply to the Cash Management System, as modified, and any account established by the Debtors at an Alternative Bank shall be deemed a Debtor Account (as defined in the Cash Management Motion).
5. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Order shall be effective and enforceable immediately upon entry hereof.
6. The requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.
7. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied because the relief set forth in this Interim Order is necessary to avoid immediate and irreparable harm.
8. 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 Order.
9. Nothing in the Motion or this Order is intended to be or shall be deemed as a waiver of the Debtors' or any other party in interest's respective rights (i) to dispute any claim or lien on

any grounds or (ii) under the Bankruptcy Code, any other applicable non-bankruptcy law, or any other order of this Court.

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