

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

VILLAGE ROADSHOW ENTERTAINMENT  
GROUP USA INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 25-10475 (TMH)

(Jointly Administered)

Re: D.I. 11 & 145

**WARNER BROS. ENTERTAINMENT INC.'S OBJECTION TO THE DEBTORS' MOTION FOR ENTRY OF ORDERS (I)(A) APPROVING BID PROCEDURES FOR THE SALE OF THE DEBTORS' ASSETS, (B) AUTHORIZING THE DEBTORS' ENTRY INTO THE STALKING HORSE APA AND APPROVING BID PROTECTIONS THEREUNDER, (C) SCHEDULING AN AUCTION FOR, AND HEARING TO APPROVE, SALE OF THE DEBTORS' ASSETS, (D) APPROVING FORM AND MANNER OF NOTICES OF SALE, AUCTION, AND SALE HEARING, AND (E) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES; (II)(A) APPROVING THE SALE OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, AND (B) APPROVING ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (III) GRANTING RELATED RELIEF**

Warner Bros. Entertainment Inc. and its affiliates (collectively, "Warner Bros.") files this objection (the "Objection") to the *Debtors' Motion for Entry of Orders (I)(A) Approving Bid Procedures for the Sale of the Debtors' Assets, (B) Authorizing the Debtors' Entry Into the Stalking Horse APA and Approving Bid Protections Thereunder, (C) Scheduling an Auction for, and Hearing to Approve, Sale of the Debtors' Assets, (D) Approving Form and Manner of Notices of Sale, Auction, and Sale Hearing, and (E) Approving Assumption and Assignment Procedures; (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of all Liens, Claims, Interests,*

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<sup>1</sup> The last four digits of Village Roadshow Entertainment Group USA Inc.'s federal tax identification number are 0343. The mailing address for Village Roadshow Entertainment Group USA Inc. is 750 N. San Vicente Blvd., Suite 800 West, West Hollywood, CA 90069. Due to the large number of debtors in these cases, which are being jointly administered for procedural purposes only, a complete list of the Debtors and the last four digits of their federal tax identification is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://www.veritaglobal.net/vreg>.



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*and Encumbrances, and (B) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granted Related Relief* [Dkt. No. 11] (the “Bid Procedures Motion”)<sup>2</sup> filed by the above-captioned debtors and debtors-in-possession (the “Debtors”). In support of this Objection, Warner Bros. respectfully states as follows:

**I. PRELIMINARY STATEMENT**

1. The Debtors ask this Court to approve Bid Procedures in connection with a sale of the Debtors’ interests in the Library Assets (including, among other things, assumed contracts and audit rights in connection therewith) to the Stalking Horse Bidder. The Debtors also seek to have this Court memorialize proposed sale-related deadlines, bid protections (including the rights of bidders to bid on one or more segments of the Debtors’ business, *e.g.*, the Derivative Rights and Studio Business), and procedures for the assumption and assignment of certain executory contracts, many of them with Warner Bros.

2. Both the Library Assets and the Derivative Rights primarily consist of the Debtors’ side of their executory contracts with Warner Bros. concerning motion pictures that Warner Bros. created, distributes, and controls under its exclusive copyrights. Thus, the Debtors’ proposed sale necessarily implicates Warner Bros.’ rights under those contracts and applicable law, as well as Warner Bros.’ protected intellectual property rights. The Bid Procedures cannot be approved without protecting these rights. Among other things, the Debtors’ proposed sale to the Stalking Horse Bidder contemplates assigning the Debtors’ participation interests in 108 feature films—91 of which Warner Bros. created, and the Debtors co-financed. The underlying agreements for the

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<sup>2</sup> Capitalized terms used but not otherwise defined in this Objection shall have the meanings ascribed to them in the Bid Procedures Motion.

distribution and participation revenues for these feature films provide Warner Bros. with certain exclusive rights, including consent rights and intellectual property protections.

3. Given the limitations on the Debtors' assignment of certain intellectual property agreements under the Copyright Act, the Bankruptcy Code, and other applicable law, no sale of these assets will be successful if and to the extent Warner Bros.' rights are impaired. Although Warner Bros. reserves many of these issues in connection with any forthcoming sale objection, certain of these concerns are previewed below. It is therefore critical that the Bid Procedures and Bid Procedures Order, at a minimum, be modified to:

- Expressly include Warner Bros. as a Consultation Party.
- Limit credit bidding so that such right is not automatic, particularly with respect to the Debtors' pre-petition equity holder/noteholders (the "Prepetition Noteholders"), none of whom should be permitted to Credit Bid absent further order of the Court.
- Reserve all of Warner Bros.' objections to the proposed assignment of rights concerning its films and contracts for the Sale Hearing.
- Explicitly provide that the proceeds of any sale conducted by the Library Debtors<sup>3</sup> (including the Sale contemplated by the Stalking Horse APA) will be held in escrow for the benefit of creditors of the Library Debtors—most sizably, Warner Bros., pending further order of the Court.
- Extend the period of time Warner Bros. will have to object to the proposed sale (to the Stalking Horse Bidder or any other Successful Bidder), including adequate assurance issues, and any assumption, assignment, or transfer of rights related to Warner Bros.' contracts and films until fourteen (14) days after the identity of any Successful Bidder(s) (including any back-up bidder) is made known from the Auction, so that Warner Bros. can negotiate satisfactory protections with any such bidder(s) or object to their bid(s).

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<sup>3</sup> The "Library Debtors" include: Village Roadshow Pictures North America Inc., ("VRPNA") Village Roadshow Films North America Inc. ("VRFNA"), Village Roadshow Films (BVI) Limited ("VRF-BVI"), and Village Roadshow Distribution USA Inc. ("VRD-USA") and any Debtor entity that purports to hold any interest in, or contract right concerning, any Warner Bros. motion picture or television production. The obligations owed to Warner Bros. are also guaranteed by the Debtors' parent, Village Roadshow Entertainment Group (BVI) Ltd. ("VREG-BVI"). All references to "Village" as used later in this Objection are references to one or more of the Library Debtors, its parent-guarantor and/or Village Roadshow Distribution (BVI) Ltd. ("VRD-BVI").

- Alter the provisions concerning Cure claims with respect to Warner Bros., so that Warner Bros. will be carved out from proving up its Cure Costs in the truncated fashion currently set forth in the Bid Procedures. Warner Bros.’ claims are already subject to recent arbitration with Warner Bros. concerning the fourth Matrix film, *The Matrix Resurrections* (the “Matrix Arbitration”) and the estate is well aware of their scope. Liability has already been determined in the Matrix Arbitration.<sup>4</sup> Warner Bros. has also provided the Debtors with a damages assessment. Warner Bros.’ claims and rights are complex. To the extent that any Warner Bros. contract is assignable, cure and adequate assurances must be given. However, the process of proving up, liquidating (or reserving for) Warner Bros.’ claims should be separately addressed by the parties, or the Court if necessary, rather than forced into the generic, accelerated process the Debtors propose in the Bid Procedures.
- Although unclear, it appears that the Stalking Horse APA includes the estates’ avoidance actions as Purchased Assets. *See* Stalking Horse APA [Dkt. No. 11-2, Exh. 2], p. 20 (including “Avoidance Actions” under “Purchased Assets”). If that is intended, more disclosure must be provided in the sale process as to exactly what avoidance actions are being purchased, what is being paid for them, and what the rationale is for including them. Valuable rights related to Warner Bros.’ contracts (including Derivative Rights) were improperly transferred after Warner Bros. obtained a liability determination. These and other potential avoidance actions should be maintained by the estates. Warner Bros. does not consent to any interests in its contracts and motion pictures being transferred through the putative assignment of Avoidance Actions. At a minimum, creditors are entitled to understand what Avoidance Actions the Debtors propose to convey under the Bid Procedures.

4. While Warner Bros. wants to participate in a cooperative process for a value-maximizing sale, Warner Bros.’ own rights must be protected in the process. Warner Bros.’ objections to the Bid Procedures Motion, and corresponding objection to the DIP Motion, raise significant and case-defining issues that will need to be addressed prior to any contemplated sale of the Debtors assets. Addressing these issues in advance is the best course to make the process successful for all of the Debtors’ stakeholders.

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<sup>4</sup> Indeed, Village spent, on information and belief, approximately \$18 million in litigating its loss on liability with Warner Bros.

## II. FACTUAL BACKGROUND

### A. Village Co-Finances Certain Warner Bros. Films Under Specific Contractual Terms, Village's Subsequent Breach of the Contract, and Warner Bros.' Matrix Arbitration Liability Determination Against Village.

5. Warner Bros. adopts and incorporates by reference the facts and arguments set forth in its objection to the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* [Dkt. No. 9] (the "DIP Motion").

### B. Village Commences These Chapter 11 Cases and Seeks Approval of DIP Financing and Bid Procedures for a Sale of Substantially all (or all) of its Assets.

6. On March 18, 2025 (the "Petition Date"), the Debtors each filed a voluntary petition for relief under title 11 of the United States Code, 11 U.S.C. §§ 101-1552 (the "Bankruptcy Code"). The Debtors are continuing in possession of their property and are operating and managing their businesses as debtors in possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code.

7. No trustee or examiner has been appointed in the Debtors' bankruptcy cases. On March 27, 2025, the Office of the United States Trustee for the District of Delaware (Region 3) appointed an Official Committee of Unsecured Creditors in these bankruptcy cases (the "Committee"), but did not include Warner Bros. on the Committee.

8. On the Petition Date, the Debtors also filed the DIP Motion, through which the Debtors seek to (i) obtain secured, superiority, debtor-in-possession financing in the aggregate principal amount of up to \$12,786,104.96 in DIP financing, of which \$7,000,000 constitutes new money loans, and a proposed roll-up of \$5,786,104.96 of the Debtors' prepetition obligations under the Bridge Financing (ii) authority from the Court to use cash

collateral. *See* DIP Mot., ¶¶ 4, 13. The DIP Facility is linked to certain case milestones that provide for the sale process as outlined in the Bid Procedures Motion. *See* DIP Mot., ¶¶ 5-6.

9. That same day, the Debtors subsequently filed their Bid Procedures Motion. Pursuant to the Bid Procedures Motion, the Debtors seek the Court’s (i) approval of their Bid Procedures and (ii) authorization for the Debtors to enter into the Stalking Horse APA, including a \$10 million break-up fee and up to \$2 million in reimbursement and documented out-of-pocket costs, fees and expenses of the Stalking Horse Bidder). *See* Bid Procedures Mot., ¶¶ 1, 15.

10. The Stalking Horse APA identifies CP Ventura, LLC (“CP Ventura”) as the Stalking Horse Bidder. Although the Stalking Horse APA contemplates that the Debtors’ sale of assets to CP Ventura will be limited to their interests in the Library Assets (including, among other things, Assumed Contracts, Trademarks, Copyrights, Contract Rights, Audit Rights, and avoidance actions), the Debtors’ Bid Procedures set forth a bid process pursuant to which the Debtors intend to accept bids for their interests in the Derivative Rights and/or Studio Business. *See* Bid Procedures Mot., ¶¶ 17-19.

### III. ARGUMENT

11. Bid procedures are intended to promote what courts have deemed to be the paramount goal of any proposed sale of a debtor’s property: maximizing the value of sale proceeds received by the estate. *See Burtch v. Ganz (In re Mushroom Co.)*, 382 F.3d 325, 339 (3d Cir. 2004) (finding that debtor “had a fiduciary duty to protect and maximize the estate’s assets”); *Official Comm. of Unsecured Creditors of Cybergenics Corp. v. Chinery*, 330 F.3d 548, 573 (3d Cir. 2003) (debtor has “fiduciary duty to maximize the value of the bankruptcy estate”).

12. Courts uniformly recognize that procedures established for the purpose of enhancing competitive bidding are consistent with the fundamental goal of maximizing the value

of a debtor's estate. See *Calpine Corp. v. O'Brien Envtl. Energy, Inc. (In re O'Brien Envtl. Energy, Inc.)*, 181 F.3d 527, 537 (3d Cir. 1999) (noting that bidding procedures that promote competitive bidding provide a benefit to a debtor's estate); *In re Fin'l News Network, Inc.*, 126 B.R. 152, 156 (Bankr. S.D.N.Y. 1992) (“[C]ourt-imposed rules for the disposition of assets . . . [should] provide an adequate basis for comparison of offers, and [should] provide for fair and efficient resolution of bankrupt estates.”).

13. While the sale process may be guided by the Debtors' business judgment, it is for the Court to determine whether it is fair and reasonable. See Hr'g Tr. at 7:6-13, *In re Am. Safety Razor Co., LLC*, Case No. 10-12351 (MFW) (Bankr. D. Del. Sept. 30, 2010) (“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 debtor—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.”). Further, the Court does not have to take the Bid Procedures as an all-or-nothing proposition that the Court must accept or reject *in toto*. Rather, the Court can modify the Bid Procedures to ensure an open, fair sale process that will maximize the value to be realized by the Debtors' estates.

14. Warner Bros.—who the Debtors assert is their largest unsecured creditor, and a primary contract counterparty for 91 of the 108 feature films, the agreements for which the Debtors contemplate assigning in connection with their proposed sale of interests in the Library Assets—has identified several issues in connection with such sale. Although Warner Bros. reserves its rights in connection with many of these issues, Warner Bros. believes it is critical that it preview its rights and concerns for the benefit of the Debtors and the Court. The Bid Procedures and Bid

Procedures Order must be modified to ensure Warner Bros.’ rights are not impaired, and unless the Debtors’ Bid Procedures and Bid Procedures Order are modified as set forth later in this Objection, the Court should deny the Bid Procedures Motion for the reasons set forth below.

**A. All of Warner Bros.’ Objections to the Sale Must be Preserved for the Sale Hearing.**

15. Through the Bid Procedures Motion, the Debtors ask that this Court bless the Debtors’ entry into the Stalking Horse APA. *See* Bid Procedures Mot., ¶¶ 15-18. The Stalking Horse APA seeks to, among other things, sell the Debtors’ interests in the Library Assets, including, among other things, Copyrights and Trademarks for each Picture, Contract Rights, and Assumed Contracts for a purchase price of \$365 million less certain post-cutoff income and liabilities. *See* Bid Procedures Mot., ¶ 17. Importantly, of the 108 feature films that comprise the Debtors’ film library, 91 of such films stem from various film rights and distribution agreements that the Debtors entered into with Warner Bros. years prepetition. *See* Bid Procedures Mot., ¶ 7; *see also Declaration of Keith Maib in Support of First Day Relief* [Dkt. No. 2] (“First Day Decl.”), ¶ 12 (noting the “majority of motion pictures—91” of the Library Assets “were developed through co-financing and co-production agreements between the [Debtors] and Warner Bros.”). These agreements provide Warner Bros. with important contractual and intellectual property rights that the Debtors should not be permitted to assume or assign in connection with a sale without Warner Bros.’ consent.<sup>5</sup> While Warner Bros. reserves all of its rights in connection with the Sale, Warner

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<sup>5</sup> As discussed in its objection to the DIP Motion (which such facts and arguments are incorporated herein by reference), Warner Bros.’ prepetition agreements with the Debtors that involve Warner Bros.’ intellectual property rights contain a number of anti-assignment provisions. Notwithstanding the Debtors’ proposed “free and clear” Sale, the Bankruptcy Code affords protections to holders of intellectual property rights that arguably guard against such assignment. *See In re West Elecs. Inc.*, 852 F.2d 79, 83 (3d Cir. 1988) (Under section 365(c)(1) “if non-bankruptcy law provides that the [counterparty] would have to consent to an assignment of the [executory] contract to a third party, i.e., someone ‘other than the debtor or the debtor in possession,’ then [the Debtor] . . . cannot assume that contract” and, by extension, assign it.”); *see also In re Trump Entm’t Resorts, Inc.*, 526 B.R. 116, 122 (Bankr. D. Del. 2015) (“The Section 365(c)(1) limitation on the assumption of executory contracts applies whenever the



Bros. believes it is imperative that the Court and parties-in-interest be made aware of these issues in connection with the Bid Procedures Order, which seeks to authorize the Debtors' entry into the Stalking Horse APA.

16. The Debtors do not propose that closing will be impacted or a purchase price adjustment made if required counterparty consent is not obtained for most contracts associated with the Debtors' proposed sale of Library Assets.<sup>6</sup> The major exception, however, is for "Fundamental Contracts," which is a closing condition.<sup>7</sup> "Fundamental Contracts," in turn, include Warner Bros.' domestic and foreign distribution agreements with the Debtors in connection with the Library Assets.<sup>8</sup>

17. Further, while the Stalking Horse APA pursues a sale of the Debtors' interests in the Library Assets and not the Derivative Rights, the Bid Procedures include procedures for the Debtors to accept "all asset" and "partial asset" bids, including those for the Derivative Rights. *See* Bid Procedures Mot., ¶ 19 (noting the Debtors' reserve all rights to seek to sell the Derivative

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contract is 'subject to a legal prohibition against assignment' to a third party and the non-debtor party to the contract does no consent to assignment.").

<sup>6</sup> Stalking Horse APA, § 2.05(a) ("Except with respect to the Fundamental Contracts as provided in Section 3.01(g), if such consent is not obtained or such assignment is not attainable pursuant to sections 105, 363, 365, and/or 1123 of the Bankruptcy Code, then such Purchased Asset shall not be transferred hereunder and the Closing shall proceed with respect to the remaining Purchased Assets without any reduction in the Purchase Price other than with respect to the Specified Contracts as provided in Section 2.06(a)(iii) . . .").

<sup>7</sup> Stalking Horse APA, § 3.01(g) (Delivery of Fundamental Contracts from Debtors to Stalking Horse Purchaser listed as a condition precedent to closing).

<sup>8</sup> "Fundamental Contracts" means:

[E]ach of (a) the Warner F/D Agreement (together with all right, title and interest in and to the Pictures licensed to the applicable Foreign Distributor pursuant thereto or otherwise necessary to comply with the terms thereof); (b) the Domestic Distribution Agreement (together with all right, title and interest in and to the Pictures licensed to the Domestic Distributor pursuant thereto or otherwise necessary to comply with the terms thereof); (c) the Warner Foreign Agreement (together with all right, title and interest in and to the Pictures licensed to the applicable Foreign Distributor pursuant thereto or otherwise necessary to comply with the terms thereof); and (d) the Virtual Co-Financing Agreement (together with all right, title and interest in and to the Pictures licensed to the Virtual Distributor pursuant thereto or otherwise necessary to comply with the terms thereof).

*Id.*

Assets to the extent there is not a Successful Bidder for such assets); Bid Procedures, ¶¶ 6.3-6.4 (noting that any Partial Asset Bid that includes the Library Assets must be for *all* of the Library Assets). As with the Debtors' proposed Sale of interests in the Library Assets, any sale of the Derivative Rights is subject to Warner Bros.' intellectual property and contractual rights.<sup>9</sup>

18. The Debtors acknowledge that the Debtors' interest in the Library Asset film library are the Debtors' "most valuable" assets. *See* Bid Procedures Mot., ¶ 7. Importantly, the Debtors do not share co-equal rights with Warner Bros. for either the Library Assets or Derivative Rights under its film rights and distribution agreements with Warner Bros. Hence, Warner Bros.' intellectual property rights must be preserved, including its rights under Bankruptcy Code section 365(c) limiting assignment of certain contracts.

19. The proposed Stalking Horse APA raises other issues of concern to Warner Bros. The Debtors seek to sell their Audit Rights to the Stalking Horse Bidder while excluding a percentage of revenues derived from the Audit Rights. *See* Bid Procedures Mot., § 17. Indeed, the Stalking Horse APA specifies that "Audit Rights"—*i.e.*, "rights to (A) exercise, control, settle, compromise and/or direct any noticed, pending or future audit and/or inspection . . . of or relating to amounts reflected in any Financial Information with respect to any Picture, and (B) receive the economic benefit and/or any payments resulting from any audit set forth in clause (A) above," are

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<sup>9</sup> In addition, and as previously discussed, the Stalking Horse APA provides that "Avoidance Actions" will be sold in connection with the Sale. *See* Bid Procedures Mot., § 17; *see also* Stalking Horse APA, p. 20 (including "Avoidance Actions" under "Purchased Assets"). Because the Sellers include the Debtor entities who previously held the Debtors' interests in the Derivative Rights assets that were fraudulently transferred to other Debtor affiliates approximately a year before the Petition Date in violation of Warner Bros.' contracts with the Debtors, this may suggest that Avoidance Actions related to these transfers are also being sold. This would potentially strip creditors—like Warner Bros.—from recovering on potentially valuable estate claims. The Bid Procedures should be clarified to inform creditors what Avoidance Actions the Debtors intend to convey. No interest in any Warner Bros. picture of contract should can be transferred through assignment of Avoidance Rights.

included as Purchased Assets. *See* Stalking Horse APA, p. 20. “Specified Audit Proceeds,” however, are Excluded Assets. Stalking Horse APA, § 2.03.<sup>10</sup>

20. As previewed earlier in this Objection, Warner Bros.’ co-financing and distribution agreements with Village [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

21. It is also well-established that courts cannot alter terms of contracts, and must instead enforce them as written. *See, e.g., Wilson v. Career Educ. Corp.*, 729 F.3d 665, 679 (7<sup>th</sup> Cir. 2013) (“A court may not rewrite a contract to suit one of the parties but must enforce the terms as written.”) (citation omitted); *In re Coupon Clearing Serv., Inc.*, 113 F.3d 1091 (9<sup>th</sup> Cir. 1997) (noting that a debtor’s estate has “no greater rights in property than those held by the debtor prior to the bankruptcy”). Moreover, a party cannot receive the benefits of a contract without being liable for the obligations thereunder. *See Tavenner v. United States (In re Vance)*, 298 B.R. 262, 268 (Bankr. E.D. Va. 2003) (“[A] debtor may not assume the favorable aspects of a contract [ ]

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<sup>10</sup> The Stalking Horse APA defines “Specified Audit Proceeds,” as:

[A]n amount equal to fifty percent (50%) of (a) all payments received by Buyer from the applicable counterparty to the applicable Distribution Agreement resulting from any audit of amounts reflected in any Financial Information with respect to the applicable Picture for any period commencing prior to the Cutoff Date and ending prior to the Cutoff Date (the “Pre-Cutoff Period”), less (b) all documented out of pocket costs (including legal fees) incurred by Buyer or its Affiliates in connection with the negotiation, litigation and/or settlement of such audit; provided, that to the extent that any such audit is in respect of both the Pre-Cutoff Period and any audit period commencing on or after the Cutoff Date (the “Post-Cutoff Period”), then Buyer shall allocate the amounts described in the foregoing (a) and (b) between the Pre-Cutoff Period and the Post-Cutoff Period reasonably and in good faith based on the number of days in the applicable period subject to such audit occurring during the Pre-Cutoff Period relative to the total number of days in the applicable period subject to such audit.

Stalking Horse APA, pp. 23-24.

and reject the unfavorable aspects of the same contract. . . [.]”) (citation omitted); *Tompkins ex. rel. A.T. v. Troy Sch. Dist.*, 199 Fed. App’x. 463, 468 (6th Cir. 2006) (holding that it is a basic principle of contract law that a party to an agreement is constrained to accept the burdens as well as the benefits of the agreement); *see also In re Fleming Cos.*, 499 F.3d 300, 308 (3d Cir. 2007) (“The [debtor] . . . may not blow hot and cold. If he accepts the contract he accepts it *cum onere*. If he receives the benefits he must adopt the burdens. He cannot accept one and reject the other.”) (internal citations and quotations omitted) (alterations in original).

22. Ultimately, the Debtors’ cannot seek to rewrite the terms of its motion-picture rights and distribution agreements in connection with a Sale. Nor can the Debtors seek to assign the these contracts without Warner Bros.’ agreement to do so. As Warner Bros. intends to show the Court in a forthcoming Sale objection to the extent this issue is not addressed, the Court cannot approve the Sale without Warner Bros.’ consent.

23. While Warner Bros. is hopeful a resolution might be reached between itself, the Debtors, and potential buyers, Warner Bros.’ intellectual and contractual property rights must also be preserved and protected. Warner Bros. recognizes that these issues should more properly be raised in connection with the Sale Hearing, and all of Warner Bros. rights and objections must be preserved, but Warner Bros. wants to ensure that the Bid Procedures cannot be used as a Trojan Horse to prejudice Warner Bros.’ rights. If and to the extent that the Court permits the Debtors to enter the Stalking Horse APA, it must be clear that all of Warner Bros.’ rights and objections are preserved to be addressed at the Sale Hearing.

**B. In Light of These Gating Issues, Certain Sale-Related Deadlines Must be Extended to Provide Warner Bros. With Additional Time to Vet the Debtors’ Proposed Sale.**

24. In light of the sale issues Warner Bros. previews for the Court in this Objection, several of the Debtors’ proposed Bid Procedures deadlines need to be extended. Notably, Warner

Bros. does not seek to delay or extend the Debtors' proposed bid and auction deadlines. Warner Bros. instead recognizes that these bankruptcy cases need to move forward in an expedient yet robust manner in order for Warner Bros. to meaningfully recover on its claims.

25. The Debtors' current schedule, however, does not provide Warner Bros. with an adequate opportunity to evaluate whether the proposed sale—including the identity of any Successful Bidder, and corresponding adequate assurance of future performance and cure issues—is in Warner Bros.' best interest. Due to the fact that (i) Warner Bros. is one of the Debtors' largest creditors and primary contract counter-party to the Library Assets, with protected contractual and intellectual property consent rights, and (ii) the Debtors have already conceded that Warner Bros. is slated to recover from any sale proceeds flowing from the sale of Library Assets behind the ABS Noteholders and ahead of the Prepetition Noteholders,<sup>11</sup> Warner Bros. must have adequate time to vet these issues. It is critical that Warner Bros. investigate and understand whether any Successful Bidder is capable of performing under its contracts with Warner Bros.

26. Accordingly, the Debtors' proposed sale timeline should be modified to (i) extend the Sale and Contract Objection deadlines as to Warner Bros. so that such deadlines and objections in connection therewith are carried to the Post-Auction Deadline (including that the Contract Objection Deadline carves out Warner Bros. from having to prove up its cure issues at that time), (ii) kick out the Post-Auction Objection deadline by at least 14 days after the Debtors' filing of their notice of Successful Bidder, so that Warner Bros. has adequate time to assess its position in

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<sup>11</sup> March 18, 2025 Hr'g. Tr. [41:2-20] (. . . [T]he proposed library sale, if we just take the three-hundred-and-sixty-five-million-dollar number and we less the ABS obligation which are approximately \$223 million, we have a new result of \$142 million. And then the DIP would be immediately junior to that ABS obligation. ***So, as those ABS entities where we believe the only material, potential creditor is Warner Bros., we have excess proceeds of approximately \$140 million or \$130 million*** if you were to assume that the DIP were to be fully funded and repaid. . . . ***The point is, that is a significant sum of money that creates a cushion at those ABS entities, again where no other material unsecured creditors sit.***") (emphasis added).

connection with the Stalking Horse Bidder, the Successful Bidder (to the extent such bidder is not the Stalking Horse Bidder, including any back-up bidder),<sup>12</sup> including Warner Bros.’ right to object to the Debtor’s assumption and assignment of any of its contracts or licenses with Warner Bros. to the Stalking Horse Bidder, Successful Bidder (or back-up bidder) and adequate assurance of future performance concerns, and (iii) further extend the Debtors’ proposed Sale Hearing and outside closing date by at least 13 days, respectively. A proposed schedule setting forth Warner Bros.’ requested modifications to the sale timeline is below:

<b>Event</b>	<b>Debtors’ Proposed Date</b>	<b>Warner Bros. Alt. Proposed Date</b>
Entry of Bid Procedures Order	April 11, 2025	-
Deadline to Serve and Publish the Sale Notice	April 15, 2025	-
Deadline to File and Serve the Cure Notice	April 15, 2025	-
Sale Objection Deadline	April 26, 2025, at 4:00 p.m. (ET)	14 days after the Debtors’ Filing of Notice of Successful Bidder
Contract Objection Deadline <sup>13</sup>	April 26, 2025, at 4:00 p.m. (ET)	14 days after the Debtors’ Filing of Notice of Successful Bidder
Bid Deadline	May 16, 2025	-
Auction (if necessary)	May 21, 2025	-
Deadline to File Notice of Successful Bidder	1 business day after conclusion of the Auction	-
Post-Auction Objection Deadline	2 business days after conclusion of the Auction	14 days after the Debtors’ Filing of Notice of Successful Bidder
Sale Hearing (subject to Court availability)	May 29, 2025	June 11, 2025

<sup>12</sup> For the avoidance of doubt, Warner Bros. reserves all rights to object to the identity of the Stalking Horse Bidder in connection with the any proposed sale objection deadline.

<sup>13</sup> Warner Bros. also seeks to modify this deadline, as extended, so that the process of proving up, liquidating (or reserving for) Warner Bros.’ Cure claims should be carved out from the Contract Objection Deadline with respect to Warner Bros., so that it will be separately addressed by the parties, or the Court if necessary, rather than forced into the generic, accelerated process proposed in the Bid Procedures.

Sale Closing Outside Date	July 5, 2025	July 18, 2025
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27. The Court should require that the sale process be extended in accordance with the dates set forth above in order to provide Warner Bros., the Debtors, any bidder, and other parties-in-interest with a meaningful opportunity to work together toward a value maximizing sale of the Debtors' assets for the benefit of all of the Debtors' stakeholders, including Warner Bros. The Debtors are well aware of Warner Bros.' position on its claims and will have to cure any defaults under its agreements with Warner Bros. (including its Matrix Arbitration claim) in connection with a sale process. In addition, the Debtors' proposed Cure procedures in connection with Warner Bros.' extended contract objection deadline should be modified to carve out Warner Bros.' claims from the Bid Procedures' accelerated process, so that such Cure issues are separately addressed by the parties or the Court. The sale timeline cannot prejudice Warner Bros. To the extent the Stalking Horse Bidder is the only bidder in connection with the proposed sale, and an auction is not held, Warner Bros. is willing to work with the Debtors and parties on the scheduling of its response deadline in connection with the sale, assumption and assignment, and adequate assurance issues. For all these reasons, these sale-related deadlines must be extended.

**C. The Bid Procedures and Bid Procedures Order Contain Additional Definitional Omissions and Objectionable Provisions that Must be Rectified.**

***a. Warner Bros. Must be Added as a Consultation Party.***

28. In light of Warner Bros. concerns and contractual rights under its co-financing and distribution agreements with the Debtors for the Library Assets, Warner Bros. must be explicitly added as a Consultation Party under the Bid Procedures. The Consultation Parties presently include: (a) the DIP Lenders, (b) the ABS Trustee, and (c) any statutory committee that may be appointed in these cases. *See* Bid Procedures, ¶ 3. The Bid Procedures further provide that the Debtors "shall consult with the Consultation Parties in good faith regarding the sale process for

the Assets and the Sale, including evaluation of any and all Bids, determination of whether Bids are Qualified Bids, scheduling and operation of the Auction (if applicable), selection of a Successful Bid or Bids . . . , negotiation of purchase agreements or other agreements, as applicable, as well as any modifications of these Bid Procedures. The Debtors shall also provide to the Consultation Parties and their advisors regular reports concerning the sale process, including parties contacted, proposals received, and any due diligence requested by potential purchasers.” Bid Procedures, ¶ 3. Because Warner Bros. has the ability to block the Debtors’ Sale for the reasons set forth above, the Bid Procedures and Bid Procedures Order must, at a minimum, be revised to include Warner Bros. as a Consultation Party.

***b. Potential Credit Bid Rights Cannot be Automatic.***

29. The Bid Procedures Order provides that “[a]ny bidder holding a perfected security interest in any of the Debtors’ Assets may seek to credit bid all, or a portion of, such bidder’s claims for its respective collateral,” so long as it complies with the Bid Procedures. Bid Procedures Order, ¶ 20. The Bid Procedures further elaborate that any “Secured Party shall be entitled to credit bid credit bid all or a portion of the face value of such Secured Party’s claims against the Debtors toward the Purchase Price specified in such Qualified Bidder’s Bid in accordance with section 363(k) of the Bankruptcy Code.” *See* Bid Procedures, ¶ 10. Warner Bros. submits that any party’s right to credit bid in connection with any sale in these cases should not be automatic. Instead, credit bidding should only be permitted upon further order of the Court, particularly with respect to the Prepetition Noteholders. The assets being sold are counter-party rights under contracts with Warner Bros. As such, any assumption or assignment must remain subject to Warner Bros.’ objections.

30. Indeed, none of the Prepetition Noteholders (nor their collateral agent) should be



permitted to credit bid on the Derivative Rights given the transfer and assignment restrictions in Warner Bros.' agreements with the Debtors. As noted in Warner Bros. response to the DIP Motion, the Prepetition Noteholders' alleged liens in the Derivative Rights may be subject to challenge. But whether asserted by the Prepetition Noteholders or any other party, all potential credit bids must remain subject to all of Warner Bros.' objections, including any consent rights and protections it may have under the Copyright Act, the Bankruptcy Code, and other applicable law, as well as Warner Bros.' rights to cure and adequate assurances of future performance. Given the prepetition history of willful contract defaults and fraudulent transfers, Warner Bros. doubts that any of their affiliated parties will be able to give adequate assurance of future performance. At a minimum, the approval of Bid Procedures cannot control that ultimate determination.

***c. The Allocation of Purchase Price Proceeds for the Library Assets Must be Confined to the Library Debtors.***

31. The Bid Procedures also provide that each Bid must specify the purchase price to be paid for the Debtors' applicable assets, separately identify cash and non-cash components, and indicate the allocation of the purchase price among the Debtors' applicable business assets, business segments or subset thereof. *See* Bid Procedures, ¶ 6.2. The Bid Procedures and Bid Procedures Order, however, must also explicitly provide that the proceeds of any sale conducted by the Library Debtors (including the Sale contemplated by the Stalking Horse APA) is appropriately allocated and will otherwise be held in escrow for the benefit of creditors of the Library Debtors. Such language would ensure that the proceeds of assets sold by the Library Debtors will be distributed for the benefit of creditors of the Library Debtors (*e.g.*, Warner Bros.).<sup>14</sup>

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<sup>14</sup> On March 28, 2025, the Debtors filed a motion seeking to extend their deadline to file their schedules of assets and liabilities, schedules of executory contracts and unexpired leases, and statements of financial affairs by 45 days, through an including May 29, 2025. *See* Dkt. No. 115. It is critical that Warner Bros. be afforded the opportunity to

To find otherwise could permit potential mischief and dissipation of the Debtors' most valuable assets that Warner Bros. is otherwise entitled to receive. For these reasons, the Bid Procedures and Bid Procedures Order should be amended to adequately safeguard any forthcoming potential sale proceeds.

#### IV. RESERVATION OF RIGHTS

32. Warner Bros. expressly reserves all of its rights with respect to the Sale, including but not limited to (i) the Debtors' proposed auction of the Debtors' alleged interests in the Library Assets and Derivative Rights, (ii) the identity of any Successful Bidder and any post-auction results, (iii) the ability of any Successful Bidder or potential buyer to provide Warner Bros. with adequate assurance of future performance, including any cure issues, and (iv) Warner Bros. rights to object to the Sale wholesale based on its contractual and intellectual property rights, and applicable bankruptcy and nonbankruptcy law.

33. In addition, nothing contained herein is intended to be or shall be deemed as waiver of Warner Bros.' rights under the Bankruptcy Code or any other applicable non-bankruptcy law, including its rights to (a) move to withdraw the reference from this Court; (b) contest the jurisdiction of this Court; (c) contest whether any matter constitutes a core proceeding; (d) contest the entry of final orders or judgments by this Court; or (e) demand arbitration or a trial by jury.

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view the Debtors' schedules in connection with any Sale, particularly before any sale proceeds are allocated and/or distributed.

V. CONCLUSION

**WHEREFORE**, Warner Bros. respectfully requests that this Court (i) deny the Bid Procedures Motion, until the issues raised by Warner Bros. in this Objection are fully addressed, or (ii) in the alternative, grant the Bid Procedures Motion, *solely* to the extent Warner Bros.’ concerns and reservation of rights are addressed and set forth in the Bid Procedures (and corresponding notices) and Bid Procedures Order, and (iii) grant such other and further relief as the Court deems just and proper.

*[Remainder Page Intentionally Left Blank]*

Dated: April 7, 2025  
Wilmington, Delaware

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing document and any corresponding attachments were served this 7<sup>th</sup> day of April 2025, via CM/ECF upon those parties registered to receive such electronic notifications and via electronic mail upon the parties identified below.

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