



Order Filed on February 29, 2024
by Clerk
U.S. Bankruptcy Court
District of New Jersey

Proposed Co-Counsel to the Debtors and Debtors in Possession

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

In re:
CAREISMATIC BRANDS, LLC, *et al.*
Debtors.

Chapter 11

Case No. 24-10561 (VFP)

(Jointly Administered)

**ORDER (I) APPROVING THE
BIDDING PROCEDURES AND AUCTION, (II) APPROVING
STALKING HORSE BID PROTECTIONS, (III) SCHEDULING
BID DEADLINES AND AN AUCTION, (IV) APPROVING THE FORM AND
MANNER OF NOTICE THEREOF, AND (V) GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered two (2) through and including twelve (12), is
ORDERED.

DATED: February 29, 2024



Honorable Vincent F. Papalia
United States Bankruptcy Judge

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Debtors: CAREISMATIC BRANDS, LLC, *et al.*

Case No. 24-10561 (VFP)

Caption of Order: Order (I) Approving the Bidding Procedures and Auction, (II) Approving Stalking Horse Bid Protections, (III) Scheduling Bid Deadlines and an Auction, (IV) Approving the Form and Manner of Notice Thereof, and (V) Granting Related Relief

Upon the *Motion For Entry of an Order (I) Approving the Bidding Procedures and Auction, (II) Approving Stalking Horse Bid Protections, (III) Scheduling Bid Deadlines and an Auction, (IV) Approving the Form and Manner of Notice Thereof, and (V) Granting Related Relief* (the “Motion”),¹ of the above-captioned debtors and debtors in possession (collectively, the “Debtors”),² for entry of an order (this “Order”) (a) authorizing and approving the proposed marketing, auction, and bidding procedures attached hereto as **Exhibit 1** to the Order (the “Bidding Procedures”), by which the Debtors will solicit and select the highest or otherwise best offer(s) for (i) a sale of the equity of the reorganized Debtors (the “New Common Stock” and the reorganized Debtors, “Reorganized Careismatic”) or substantially all assets of the Debtors (the “Assets”, and collectively, with the New Common Stock, the “Sale Package”) to the highest or otherwise best bidder (the “Sale” or “Sale Transaction”) (b) establishing certain dates and deadlines related thereto and scheduling an auction, if any, (the “Auction”), (c) approving the manner of notice of the Auction, as may be necessary, and (d) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the Bidding Procedures, as applicable.

² A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.donlinrecano.com/careismatic>. The location of Debtor Careismatic Brands, LLC’s principal place of business and the Debtors’ service address in these chapter 11 cases is: 1119 Colorado Avenue, Santa Monica, California 90401.

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District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); 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 this Court having found that the Debtors' notice of the Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor **IT IS HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. The Debtors have articulated good and sufficient reasons for authorizing and approving the Bidding Procedures, which are fair, reasonable, and appropriate under the circumstances and designed to maximize the recovery on, and realizable value of the Debtors' enterprise, including with respect to the proposed procedures for providing the Stalking Horse Bid Protections as determined by the Debtors in an exercise of their business judgment in accordance with the Bidding Procedures.
3. The Debtors' proposed notice of the Motion and the Hearing was (i) appropriate and reasonably calculated to provide all interested parties with timely and proper notice, (ii) in compliance with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and (iii) adequate and sufficient under the circumstances of the chapter 11 cases,

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and no other or further notice is required. A reasonable opportunity to object or be heard regarding the relief granted by this Order has been afforded to all interested persons and entities.

4. All objections to the relief requested in the Motion that have not been withdrawn, waived, or settled prior to or at the Hearing are overruled.

I. Important Dates and Deadlines.

5. **Final Bid Deadline.** April 3, 2024, at 5:00 p.m. prevailing Eastern Time, is the deadline by which all Qualified Bids must be **actually received** by the parties specified in the Bidding Procedures.

6. **Stalking Horse Bidder and Stalking Horse Bid Protections.** The Debtors, upon entry of this Order, shall be authorized, but are not obligated or directed, in an exercise of their reasonable business judgment, in consultation with the Consultation Parties, and with consent of the First Lien Ad Hoc Group (if applicable), to select a Stalking Horse Bidder with respect to the Sale Package, by no later than April 10, 2024 at 5:00 p.m., prevailing Eastern Time, enter into a stalking horse agreement (the “Stalking Horse Agreement”), and, subject to paragraphs 7, 8, and 9, to provide such Stalking Horse Bidder with the Stalking Horse Bid Protections without further action or order by this Court.

7. In the event that the Debtors enter into a Stalking Horse Agreement with a Stalking Horse Bidder, within two (2) business days of entry, the Debtors shall file a notice and proposed form of order with the Court designating a Stalking Horse Bidder and authorizing entry into a Stalking Horse Agreement (the “Stalking Horse Notice”) and serve the Stalking Horse Notice on the Stalking Horse Bidder, counsel to the First Lien Ad Hoc Group, counsel to the Cross-Holder

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Ad Hoc Group, counsel to the DIP Agent, counsel to the Prepetition Equipment Financing Lender, the Committee, and the U.S. Trustee. The Stalking Horse Notice shall: (i) set forth the identity of the Stalking Horse Bidder (and if the Stalking Horse Bidder is a newly formed entity, then the Stalking Horse Bidder's parent company or sponsor); (ii) set forth the amount of the Stalking Horse Bid and what portion (if any) is cash; (iii) state whether the Stalking Horse Bidder has any connection to the Debtors other than those that arise from the Stalking Horse Bid; (iv) specify any proposed Stalking Horse Bid Protections (including the amount and calculation thereof); (v) specify (a) which portion of the Sale Package the Stalking Horse intends to acquire, and (b) if applicable, the liabilities and obligations to be assumed, including any debt and cure costs to be assumed; (vi) attach the Stalking Horse Agreement, including all exhibits, schedules and attachments thereto; and (vii) set forth the deadline to object to the Stalking Horse Bidder designation and any Stalking Horse Bid Protections. If there are no objections to the Stalking Horse Notice or, with respect to the Committee, the Committee's informal comments are not resolved, within two (2) business days of filing with the Court, (the "Notice Period"), the Debtors may submit an order to the Court that incorporates any comments received during the Notice Period that authorizes the Debtors to designate a Stalking Horse Bidder and to enter into a Stalking Horse Agreement, without the need for further hearing. If a party timely files an objection to the Stalking Horse Notice, or, with respect to the Committee, the Committee's informal comments are not resolved, the Court shall hold a hearing after the expiration of the Notice Period and as soon thereafter as the Court is available.

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8. Upon entry of an order that authorizes the Debtors to designate a Stalking Horse Bidder and to enter into a Stalking Horse Agreement (the “Stalking Horse Order”), the Debtors, with the consent of the First Lien Ad Hoc Group, and in consultation with the Consultation Parties, are authorized, but not directed, to incur and pay (a) the Break-Up Fee in an amount not to exceed three percent of the proposed Purchase Price and (b) the Expense Reimbursement to each Stalking Horse Bidder, each subject to the terms of the Stalking Horse Agreement and the Stalking Horse Order.

9. Except as otherwise set forth in the Bidding Procedures or the DIP Orders, no person or entity, other than the Stalking Horse Bidder, shall be entitled to any expense reimbursement, break-up fees, “topping,” termination, or other similar fee or payment, and by submitting a bid, such person or entity is deemed to have waived their right to request or to file with this Court any request for expense reimbursement or any fee of any nature, whether by virtue of Bankruptcy Code section 503(b) or otherwise.

10. **Auction.** The date and time of the Auction, if needed, is April 12, 2024, at 10:00 a.m. prevailing Eastern Time, which time may be extended by the Debtors, with consultation with the professionals to the Consultation Parties, and upon written notice with the Court. The Auction will be held at the offices of proposed co-counsel to the Debtors: Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 or such other place as the Debtors determine in consultation with the professionals to the Consultation Parties. Only (i) the Debtors, (ii) the members of the First Lien Ad Hoc Group, (iii) the members of the Cross-Holder Ad Hoc Group, (iv) representatives of the Prepetition Equipment Financing Lender, (v) the DIP Agent;

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(vi) representatives of the U.S. Trustee, (vii) any other Qualified Bidders, (viii) counsel to the Committee, (ix) the respective representatives and professionals of the foregoing parties, and (x) and any other parties as the Debtors may determine in their reasonable discretion, after consultation with the Consultation Parties, in each case, along with the representatives and advisors, shall be entitled to participate in the Auction, and only Qualified Bidders will be entitled to make Overbids (as defined in the Bidding Procedures) at the Auction.

11. **Notice of Successful Bidder.** As soon as reasonably practicable upon conclusion of the Auction, the Debtors shall file a Notice of Successful Bidder.

II. Auction, Bidding Procedures, Auction Notice, and Related Relief.

12. The Bidding Procedures, substantially in the form attached hereto as **Exhibit 1**, are incorporated herein and are hereby approved in their entirety, and the Bidding Procedures shall govern the submission, receipt, and analysis of all Bids relating to any proposed Sale Transaction. Any party desiring to submit a Bid shall comply with the Bidding Procedures and this Order. The Debtors are authorized to take any and all actions necessary to implement the Bidding Procedures. The Debtors may modify the Bidding Procedures, with the consent of the Required Consenting First Lien Lenders, and in consultation with the Consultation Parties, as necessary or appropriate to maximize value for their estates; *provided* that any modification to the Bidding Procedures that could limit, impair, or otherwise adversely affect the rights of the DIP Agent shall require the consent of the DIP Agent.

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13. Any deposit provided by a Stalking Horse Bidder or other Qualified Bidder shall be held in escrow by the Debtors or their agent and shall not become property of the Debtors' bankruptcy estates unless and until released from escrow to the Debtors pursuant to the terms of the applicable escrow agreement, the Bidding Procedures, or order of this Court, as applicable.

14. The Auction Notice, substantially in the form attached hereto as **Exhibit 2**, is hereby approved. As soon as reasonably practicable following the entry of this Order, the Debtors will cause the Auction Notice to be served upon (a) the office of the U.S. Trustee; (b) counsel to the First Lien Ad Hoc Group; (c) counsel to the Cross-Holder Ad Hoc Group; (d) counsel to the DIP Agent; (e) counsel to the Prepetition Equipment Financing Lender; (f) counsel to the Committee; (g) the United States Attorney's Office for the District of New Jersey, (h) the Internal Revenue Service, (i) the attorneys general in the states where the Debtors conduct their business operations, (j) any Qualified Bidders, and (k) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors shall also post notice of the date, time, and place of the Auction on the website of the Debtors' claims and noticing agent, Donlin, Recano & Company, Inc. (the "Notice and Claims Agent"), at <https://www.donlinrecano.com/careismatic>.

15. Pursuant to Local Rule 6004-2: (a) each bidder participating at the Auction shall be required to confirm that it has not engaged in any bad faith or collusion with respect to the bidding or the Sale Transaction, as set forth in the Bidding Procedures; (b) the Auction shall be conducted openly and all parties in interest will be permitted to attend; (c) the bidding at the Auction will be documented, recorded, or videotaped, and (d) the Court will consider whether to

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confirm the results of the Auction and whether to approve the Sale or Sale Transaction by no later than April 30, 2024 (or such other date as may be scheduled by the Court).

III. Miscellaneous.

16. Nothing in this Order or the Bidding Procedures shall be deemed a waiver of any rights, remedies or defenses that any party (including the Debtors, the Stalking Horse Bidder, if applicable, or any other prospective purchaser) has or may have under applicable bankruptcy and non-bankruptcy law, under any indemnity agreements, or related agreements or any letters of credit relating thereto, or any rights, remedies, or defenses of the Debtors with respect thereto, including seeking Bankruptcy Court relief with regard to the Auction, the Bidding Procedures, the Sale Transaction, and any related items (including, if necessary, to seek an extension of the Bid Deadline).

17. The Debtors, with the consent of the Required Consenting First Lien Lenders, and in consultation with the Consultation Parties, may modify any of the dates and deadlines set forth herein, *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, counsel to the First Lien Ad Hoc Group, counsel to the Cross-Holder Ad Hoc Group, counsel to the Prepetition Equipment Financing Lender, counsel to the DIP Agent, counsel to the Committee, and the U.S. Trustee, as applicable and appropriate, informing them of such modification.

18. The failure to include or reference a particular provision of the Bidding Procedures specifically in this Order shall not diminish or impair the effectiveness or enforceability of such a provision.

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19. In the event of any inconsistencies between this Order and the Motion and/or the Bidding Procedures, this Order shall govern in all respects.

20. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an implication or admission as to the amount of, basis for, or validity of any particular claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's rights to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission, or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in this Order or the Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission by the Debtors as to the validity, priority, enforceability or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors', or any other party in interest's, claims, causes of action, or other rights under the Bankruptcy Code or any other applicable law; (h) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy under section 365 of the Bankruptcy Code; (i) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens; (j) a waiver of the obligation of any party in interest to file a proof of claim; or (k) otherwise affecting the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any

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executory contract or unexpired lease. If the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

21. Nothing in the Motion, this Order, or the Bidding Procedures waives or modifies the requirements of the RSA, including, without limitation, the consent and consultation rights contained therein.

22. Notwithstanding anything to the contrary contained in the Motion or this Order, any payment to be made or obligation incurred shall not be inconsistent with, and shall be subject to and in compliance with, the requirements imposed on the Debtors under the terms of each interim and final order entered by the Court in respect of 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 Protections, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* [Docket No. 17] (the "DIP Orders"), including compliance with any budget or cash flow forecast in connection therewith and any other terms and conditions thereof. Nothing in this Order or the Bidding Procedures shall modify, alter, limit, or waive, in any way, (i) any terms, provisions, requirements, or restrictions of the DIP Orders or the DIP Credit Agreement, or (ii) the rights of the DIP Agent.

23. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Order shall be effective and enforceable immediately upon entry hereof.

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24. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

25. The requirement set forth in Local Rule 9013-1(a)(3) that any motion be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Motion or otherwise waived.

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

Exhibit 1

Bidding Procedures

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

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*Proposed Co-Counsel to the Debtors and
Debtors in Possession*

*Proposed Co-Counsel for Debtors and
Debtors in Possession*

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

In re:

CAREISMATIC BRANDS, LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10561 (VFP)

(Jointly Administered)

**BIDDING PROCEDURES FOR THE
SUBMISSION, RECEIPT, AND ANALYSIS OF BIDS IN
CONNECTION WITH THE SALE OF THE DEBTORS' SALE PACKAGE**

On January 22, 2024, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), in the United States Bankruptcy Court for the District of New Jersey (the “Court”).

The Debtors filed these chapter 11 cases after entering into a restructuring support agreement (the “RSA”) [Docket No. 3, Ex. C] with (a) the Debtors’ current equity holder, Partners Group (USA) Inc. and its affiliated investment funds, (b) an ad hoc group of holders of over

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.donlinrecano.com/careismatic>. The location of Debtor Careismatic Brands, LLC’s principal place of business and the Debtors’ service address in these chapter 11 cases is: 1119 Colorado Avenue, Santa Monica, California 90401.

73 percent of claims arising from the First Lien Loans² and approximately 20 percent of claims arising from the Second Lien Loans (the “First Lien Ad Hoc Group”), and (c) an ad hoc group of holders of approximately 3 percent of claims arising from the First Lien Loans and 50 percent of claims arising from the Second Lien Term Loans (the “Cross-Holder Ad Hoc Group”). The RSA contemplates two paths to a value-maximizing reorganization: (a) the Sale Transaction (as defined herein); or (b) a standalone recapitalization of the Debtors’ balance sheet via the equitization of all First Priority Claims (the “Recapitalization”). Specifically, the RSA contemplates that the Debtors will commence a Marketing Process on or shortly after the Petition Date, and, if such process does not maximize value for the Debtors’ stakeholders, pursue the Recapitalization.

On [●], 2024, the Court entered an order (the “Bidding Procedures Order”), approving, among other things, these bidding procedures (the “Bidding Procedures”). These Bidding Procedures set forth the process by which the Debtors are authorized to solicit bids and conduct an auction (the “Auction”) for the sale (the “Sale” or the “Sale Transaction”) of the New Common Stock or substantially all assets (the “Assets”) of the Debtors (the New Common Stock and the Assets, collectively, the “Sale Package”).

Copies of the Bidding Procedures Order or any other documents in the Debtors’ chapter 11 cases are available upon request to Donlin, Recano & Company, Inc. by calling (800) 416-3743 (U.S. / Canada) or (212) 481-1411 (International) or visiting the Debtors’ restructuring website at (<https://www.donlinrecano.com/careismatic>.)

I. Key Dates and Deadline:

The following is a table setting forth key dates and deadlines with respect to the Sale process:

Event or Deadline	Date and Time
Bid Deadline	April 3, 2024, at 5:00 p.m. prevailing Eastern Time
Qualified Bid and Stalking Horse Designation Deadline (if any)	April 10, 2024, at 5:00 p.m. prevailing Eastern Time
Auction (if any)	April 12, 2024, at 10:00 a.m. prevailing Eastern Time (if needed)
Notice of Successful Bidder(s)	As soon as reasonably practicable after the conclusion of the Auction (if needed)

² Capitalized terms used but not defined herein have the meanings set forth in the First Day Declaration, the RSA, the Debtors’ Motion For Entry of an Order (I) Approving the Bidding Procedures and Auction, (II) Approving Stalking Horse Bid Protections, (III) Scheduling Bid Deadlines and an Auction, (IV) Approving the Form and Manner of Notice Thereof, and (V) Granting Related Relief, filed contemporaneously herewith, (the “Motion”), or the Bidding Procedures Order (as defined below), as applicable.

Objection Deadline	April 22, 2024, at 5:00 p.m. prevailing Eastern Time
Deadline to reply to Objections	April 26, 2024
Confirmation Hearing (at which the Sale Transaction, if any, will be approved)	April 30, 2024, at 2:30 p.m., prevailing Eastern Time or such other date as may be scheduled by the Court

II. Public Announcement of Auction.

As soon as practicable after entry of the Bidding Procedures Order, the Debtors shall (i) cause a notice of the Auction, the Bidding Procedures Order, and the Bidding Procedures, substantially in the form attached to the Bidding Procedures Order as Exhibit 2 (the “Auction Notice”) to be served on the parties that received notice of the Motion, (ii) post the Auction Notice on the website of the proposed claims and noticing agent at <https://www.donlinrecano.com/careismatic>, and (iii) publish the Auction Notice, with any modifications necessary for ease of publication, on one occasion in *The New York Times* (National Edition), and/or another national publication to provide notice to any other potential interested parties. The Auction Notice shall include a general description of the contents of the Sale Package.

III. Potential Bidder Requirements.

To participate in the bidding process or otherwise be considered for any purpose hereunder, including to receive access to due diligence materials, a person or entity interested in purchasing all or substantially all of the Sale Package (a “Potential Bidder”) must deliver or have previously delivered to each of (i) proposed counsel to the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn.: Joshua Sussberg, P.C. (jsussberg@kirkland.com), 300 North LaSalle Street, Chicago, Illinois 60654, Attn.: Chad J. Husnick, P.C. (chusnick@kirkland.com); (ii) the Debtors’ proposed investment banker, PJT Partners LP (“PJT”), 280 Park Avenue, New York, New York 10017, Attn: Jamie Baird (baird@pjtpartners.com), Josh Abramson (abramson@pjtpartners.com), and Michael McGilvery (michael.mcgilvery@pjtpartners.com); (iii) counsel to the First Lien Ad Hoc Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001, Attn: Evan R. Fleck (efleck@milbank.com) and Nelly Almeida (nalmeida@milbank.com), (iv) counsel to the Cross-Holder Ad Hoc Group, King & Spalding LLP, 1185 6th Avenue, New York, New York 10036, Attn: Peter Montoni (pmontoni@kslaw.com) and Matt Warren (mwarren@kslaw.com), (v) counsel to the DIP Agent, Paul Hastings LLP, 200 Park Avenue, New York, New York 10166, Attn: Jayme Goldstein (jaymegoldstein@paulhastings.com) and Alex Cota (alexcota@paulhastings.com), (vi) counsel to Wingspire Equipment Finance, LLC (the “Prepetition Equipment Financing Lender”), Reed Smith LLP, 1201 North Market Street, Suite 1500, Wilmington, Delaware 19801, Attn: Jason D. Angelo (jangelo@reedsmith.com), and (vii) counsel to the Official Committee of Unsecured Creditors (the “Committee”), Pachulski Stang Ziehl & Jones LLP, 780 Third Avenue, 34th Floor, New York, New York 10017, Attn: Bradford J. Sandler (bsandler@pszjlaw.com), Robert J. Feinstein (rfeinstein@pszjlaw.com), and Paul J. Labov (plabov@pszjlaw.com) (collectively, the “Notice Parties”) the following preliminary documentation (collectively, the “Preliminary Bid Documents”):

- a. an executed confidentiality agreement (a “Confidentiality Agreement”) in form and substance acceptable to the Debtors;
- b. identification of the Potential Bidder and any principals and representatives thereof who are authorized to appear and act on its behalf for all purposes regarding the contemplated Sale Transaction;
- c. a statement identifying what segment (*i.e.*, the Assets or the New Common Stock) of the Sale Package that the Potential Bidder intends to acquire, and if applicable, the liabilities and obligations that the Potential Bidder intends to assume, including any debt and cure costs;
- d. sufficient information demonstrating that the Potential Bidder has or can reasonably obtain the financial capacity to close the contemplated Sale, the adequacy of which must be acceptable to the Debtors, in consultation with the Consultation Parties;³ and
- e. a statement detailing whether the Potential Bidder is partnering with any other interested party in connection with the potential submission of a joint Bid, the identity of any such party or parties, and a concise description of the nature of such partnership or joint Bid to the extent reasonably practicable.

Within five (5) business days after a Potential Bidder delivers the Preliminary Bid Documents, the Debtors will determine, in consultation with the Consultation Parties, and notify such Potential Bidder whether such Potential Bidder has submitted adequate documents so that such Potential Bidder may proceed to conduct due diligence and submit a bid (such Potential Bidder, an “Acceptable Bidder”).

IV. Qualified Bid Requirements.

To be eligible to participate in the Auction, an Acceptable Bidder must deliver to the Debtors and their advisors an irrevocable offer for the purchase of the Sale Package in the form of a document signed by the Acceptable Bidder (each, a “Bid”), and shall meet the following criteria,

³ “Consultation Parties” means the Committee, the First Lien Ad Hoc Group, the Prepetition Equipment Financing Lender, and the DIP Agent; *provided* that, subject to Section XX hereof, to the extent the First Lien Ad Hoc Group, the DIP Agent, or the Prepetition Equipment Financing Lender submits a Bid for any of the Sale Package (including a Credit Bid), the First Lien Ad Hoc Group, the DIP Agent, or the Prepetition Equipment Financing Lender, as applicable, shall not be a Consultation Party with respect to the evaluation and qualification of competing Bids for such portion of the Sale Package included in the First Lien Ad Hoc Group’s, the DIP Agent’s, or the Prepetition Equipment Financing Lender’s Bid (including a Credit Bid) or with respect to seeking and/or obtaining information about other Bids, but shall remain a Consultation Party for other purposes set forth in the Bidding Procedures; *provided further* that nothing in these Bidding Procedures or the Bidding Procedures Order, including section XX hereof, shall have any impact on (a) the Sale Transaction Trigger (as defined in section VI and as used throughout these Bidding Procedures), which shall remain in place under any and all circumstances along with any and all rights therein, (b) the First Lien Ad Hoc Group’s consent right over any proposed modification to these Bidding Procedures (as set forth in section XVII), (c) those rights preserved in section XXI, or (d) the DIP Agent’s consent rights over any proposed modification to these Bidding Procedures (as set forth in section XVII).

at a minimum, in each case, on or prior to the Bid Deadline (as defined below):

- a. **Purchased Sale Package and Assumed Liabilities.** Each Bid must clearly state (a) what segment (*i.e.*, the Assets or the New Common Stock) of the Sale Package the bidder seeks to purchase; and (b) if applicable, the liabilities and obligations to be assumed, including any debt and cure costs to be assumed.
- b. **Good Faith Deposit.** Each Bid must be accompanied by a cash deposit in the amount equal to ten (10) percent of the Purchase Price (as defined below), to be held in an escrow account to be identified and established by the Debtors (the “Good Faith Deposit”); *provided, however*, that a Potential Bidder will not be required to provide a Good Faith Deposit for any portion of its Bid that is a Credit Bid. To the extent that a Bid is modified at or prior to the Auction, the applicable Acceptable Bidder must adjust its Good Faith Deposit so that it equals ten percent of the increased Purchase Price promptly and in no event later than one (1) business day following the conclusion of the Auction.
- c. **Purchase Price.** Each Bid must (a) clearly set forth the purchase price to be paid for the Sale Package (or the segment thereof to which the Bid applies) (the “Purchase Price”), (b) identify separately the cash and non-cash components of the Purchase Price, (c) indicate the allocation of the Purchase Price among the components of the Sale Package (including liabilities and obligations to be assumed in connection with the Sale Transaction), if applicable; and (d) describe its proposed post-emergence debt obligations and liquidity position for Reorganized Careismatic, if applicable. The Purchase Price should be a single point value in U.S. Dollars on a cash-free, debt-free basis. Any Bid for substantially all Assets must also include a statement as to whether the Bid is conditioned on purchasing substantially all Assets or whether the bidder may be willing to purchase one or more sets of Assets.
- d. **Tax Structure; Structure.** Each Bid must specify with particularity its tax structure, including whether it is intended to be structured in a tax-free manner or if the Debtors will incur any incremental tax liabilities under the Bid. Each Bid must also identify the structure proposed for undertaking the Sale Transaction, including the specific assets of the Debtors being acquired and liabilities being assumed, the proposed steps to accomplish the Sale, and any financial, legal, or tax considerations upon which the Bid’s proposed structure relies.
- e. **Sources of Financing.** To the extent that the Bid is not accompanied by evidence of the Acceptable Bidder’s capacity to consummate the Sale Transaction set forth in its Bid with cash on hand, the Bid must include evidence of committed debt and/or equity financing, documented to the Debtors’ satisfaction, after consultation with the Consultation Parties, that demonstrates that the Acceptable Bidder has received sufficient funding commitments to satisfy the Acceptable Bidder’s obligations under the proposed Sale Transaction and other obligations under its Bid. Such funding commitments must be unconditional and must not be subject to any internal approvals, syndication requirements, diligence, or credit committee

approvals, and shall have covenants and conditions acceptable to the Debtors in consultation with the Consultation Parties.

- f. **Same or Better Terms; Bid Documents.** Each Bid must include duly executed and non-contingent transaction documents necessary to effectuate the Sale Transactions contemplated in the Bid (the “Bid Documents”). The Bid Documents shall include, at a minimum: (a) a chapter 11 plan for the Debtors (the “Plan”) or a draft purchase agreement (the “Purchase Agreement”), the form of which will be provided to Acceptable Bidders prior to the Bid Deadline (as defined herein), including the exhibits and schedules related thereto and any related material documents integral to such Bid pursuant to which the Acceptable Bidder proposes to effectuate the Sale Transaction, along with copies that are marked to reflect any amendments and modifications from the Plan or Purchase Agreement provided, which amendments and modifications may not be materially more burdensome than or otherwise inconsistent with these Bidding Procedures; (b) a schedule of contracts and leases to be rejected (to the extent applicable); (c) a statement from the Acceptable Bidder specifying what, if any, other materials, conditions, due diligence, documents, exhibits, schedules, and/or ancillary materials are integral to such Bid or the Debtors’ consideration thereof; (d), any other material documents integral to such Bid; and (e) a statement from the Acceptable Bidder that the Qualified Bid will be irrevocable until the consummation of the Sale Transaction whether or not such Qualified Bid is selected as the Successful Bid (as defined below) or next highest or otherwise best bid (the “Back-Up Bid”).
- g. **No Fees.** Each Acceptable Bidder presenting a Bid will bear its own costs and expenses (including legal fees) in connection with the bidding process and the Sale Transaction and, by submitting its Bid, is agreeing to refrain from and waive any assertion or request for reimbursement on any basis, including under section 503(b) of the Bankruptcy Code, any break-up fee, termination fee, or similar type of payment or reimbursement; *provided* that the Debtors are authorized to seek approval of the Stalking Horse Bid Protections (defined below) to a Stalking Horse Bidder in accordance with these Bidding Procedures.
- h. **Employee Obligations.** Each Bid must include a description of the Acceptable Bidder’s intentions with respect to the relevant members of the Debtors’ current management team and other employees, and a description of any contemplated incentive plan, to the extent applicable. Each Bid must explicitly provide that all Indemnification Obligations (as defined in the Restructuring Term Sheet) shall be assumed by and assigned to the Successful Bidder(s) (as defined below).
- i. **Contingencies; No Financing or Diligence Outs.** The Bid must not contain any contingencies as to the validity, effectiveness, or binding nature of the Bid, including, without limitation, contingencies for due diligence and inspection or financing of any kind (including any conditions pertaining to financial performance, conditions, or prospects) and all diligence must be completed before the Bid Deadline.

- j. **Identity & Corporate Authority.** Each Bid must (i) fully disclose, by their legal names, the identity of each entity that will be participating in connection with such Bid (including any equity owners or sponsors, if the purchaser is an entity formed for the purpose of consummating the Sale), and the complete terms of any such participation, along with sufficient evidence that the Acceptable Bidder is legally empowered, by power of attorney or otherwise, to complete the Sale Transaction on the terms contemplated by the parties, and (ii) include contract information for the specific person(s) and counsel whom the Debtors' advisors should contract regarding such Bid. A Bid must also fully disclose any business relationships, affiliations, or agreements with the Debtors, any other known, potential, prospective bidder or Qualified Bidder (as defined herein), or any officer, director, or equity security holder of the Debtors.
- k. **As-Is, Where-Is.** Each Bid must include a written acknowledgement and representation that the Acceptable Bidder: (i) has had an opportunity to conduct any and all due diligence prior to making its Bid; (ii) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or Assets in making its Bid; and (iii) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied, by operation of law, or otherwise, regarding the completeness of any information provided in connection therewith, except as expressly stated in the Acceptable Bidder's proposed Plan or Purchase Agreement.
- l. **Authorization.** Each Bid must contain evidence that the Acceptable Bidder has obtained all necessary authorizations or approvals from its shareholders and/or its board of managers or directors, or any other internal and other approvals, as applicable, with respect to the submission of its Bid and the consummation of the contemplated Sale Transaction.
- m. **Joint Bids.** The Debtors will be authorized to approve joint Bids in their reasonable business judgment on a case-by-case basis and in consultation with the Consultation Parties, so long as a joint bid meets the Qualified Bid requirements and the applicable bidders otherwise comply with these Bidding Procedures.
- n. **Adequate Assurance Information.** Each Bid must be accompanied by sufficient and adequate financial and other information (the "Adequate Assurance Information") to demonstrate, to the reasonable satisfaction of the Debtors, after consultation with the Consultation Parties, that such Acceptable Bidder can provide adequate assurance of future performance under the executory contracts and unexpired leases of the Debtors to be assumed in connection with the proposed Sale Transaction. The Bid must also identify a contact person that parties may contact to obtain additional Adequate Assurance Information.
- o. **Acknowledgement of Compliance with Bidding Procedures, Bidding Order, Bankruptcy Code, and Non-Bankruptcy Law.** Each Bid must acknowledge its compliance in all respects with these Bidding Procedures, the Bidding Procedures Order, the Bankruptcy Code, and any applicable non-bankruptcy law.

- p. **No Collusion.** The Acceptable Bidder must, in writing, (a) acknowledge that it has not engaged in any collusion with respect to any Bids or the Sale Transaction, specifying that it did not agree with any Acceptable Bidders or Potential Bidders to control the Purchase Price; and (b) agree not to engage in any collusion with respect to any Bids, the Auction, or the Sale Transaction. For the avoidance of doubt, this requirement does not restrict Potential Bidder(s) from working with other Potential Bidder(s) to formulate joint Bids with the Debtors' prior written consent (email from chusnick@kirkland.com shall suffice).
- q. **Good Faith Offer.** Each Bid must constitute a good faith, *bona fide* offer to consummate the Sale Transaction.
- r. **Irrevocable.** Each Bid must state that in the event such Bid is chosen as the Back-Up Bid, it shall remain irrevocable until the Debtors and the Successful Bidder(s) consummate the Sale Transaction.
- s. **Back-Up Bid.** Each Bid shall provide that the Acceptable Bidder will serve as a Back-Up Bidder (as defined below) if the Acceptable Bidder's Bid is the next highest or otherwise best bid after the Successful Bid for the applicable Sale Package.
- t. **Regulatory Approvals and Covenants.** Each Bid must set forth each regulatory and third-party approval required for the Acceptable Bidder to consummate the applicable Sale Transaction, if any, and the time period within which the Acceptable Bidder expects to receive such regulatory and third-party approvals (and in the case that receipt of any such regulatory or third-party approval is expected to take more than thirty (30) days following execution and delivery of the applicable Purchase Agreement and/or confirmation of the Plan, and those actions the Acceptable Bidder will take to ensure receipt of such approvals as promptly as possible).
- u. **Expected Closing Date.** Each Bid must state the Acceptable Bidder's expected date of closing of the Sale Transaction (the "Closing").
- v. **Time Frame for Closing.** A Bid must be reasonably likely (based on antitrust or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Successful Bid, within a time frame acceptable to the Debtors, consistent with the RSA and in consultation with the Consultation Parties.
- w. **Adherence to Bidding Procedures.** By submitting its Bid, each Acceptable Bidder is agreeing to abide by and honor the terms of these Bidding Procedures and agrees not to submit a Bid or seek to reopen the Auction after conclusion of the Auction.
- x. **Consent to Jurisdiction.** Each Acceptable Bidder must submit to the jurisdiction of the Court and waive any right to a jury trial in connection with any disputes relating to any written indications of interest, Preliminary Bid Documents, the Bids, the Debtors' evaluation thereof, the Bid Documents, the Auction, the Sale

Transaction(s), and the construction and enforcement of these Bidding Procedures, and any and all other agreements entered into in connection with the Sale Transaction and the Closing, as applicable.

- y. **Conditions to Closing.** Each Bid must identify with particularity each and every condition to Closing.

Only Bids fulfilling all of the preceding requirements contained in this section, or otherwise in the Debtors' reasonable business judgment (in consultation with the Consultation Parties) may be deemed to be "Qualified Bids," and only those parties submitting Qualified Bids may be deemed to be "Qualified Bidders"; *provided* that any Bid submitted by the DIP Agent (at the direction of the Requisite Lenders (as defined in the DIP Orders)), the First Lien Ad Hoc Group, and the Prepetition Equipment Financing Lender shall each be a Qualified Bid for all purposes, and the DIP Agent, the First Lien Ad Hoc Group, and the Prepetition Equipment Financing Lender shall each be a Qualified Bidder. The Debtors will provide the Consultation Parties notice of any Acceptable Bidder they do not deem a Qualified Bidder and the reason for such determination.

Neither the Debtors nor any of their advisors are making or have at any time made any warranties or representations of any kind or character, express or implied, with respect to the Sale Package and any liabilities and obligations to be assumed in connection with the Sale Transaction, including, but not limited to, any warranties or representations as to operating history or projections, valuation, governmental approvals, the compliance of the Sale Transaction with governmental laws, the truth, accuracy, or completeness of any documents related to the Sale Package and any liabilities and obligations to be assumed in connection with the Sale Transaction, or any other information provided by or on behalf of the Debtors to a bidder, or any other matter or thing regarding the Sale Package and any liabilities and obligations to be assumed in connection with the Sale Transaction. All bidders must acknowledge and agree that, upon Closing, the Debtors shall sell and transfer to the Successful Bidder(s) and the Successful Bidder(s) shall purchase and accept the applicable Sale Package. Neither the Debtors nor any of their advisors will be liable for or bound by any express or implied warranties, guaranties, statements, representations, or information pertaining to the Sale Package and any liabilities and obligations to be assumed in connection with the Sale Transaction, or otherwise relating thereto, that the Debtors, any advisor, or agent representing or purporting to represent the Debtors to whomever might have made or furnished, directly or indirectly, orally or in writing, unless (with respect to the Debtors only) specifically set forth in the Court's Sale Order.

By April 10, 2024 at 5:00 p.m., prevailing Eastern Time, the Debtors, after consultation with the Consultation Parties, shall determine which Acceptable Bidders are Qualified Bidders and will notify the Acceptable Bidders of such determination; *provided* that if the Debtors receive a Bid prior to the Bid Deadline that does not satisfy the requirements of a Qualified Bid, the Debtors may provide the Acceptable Bidder with the opportunity to remedy any deficiencies prior to the commencement of the Auction.

Without the written consent of the Debtors, in consultation with the Consultation Parties, a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid after the Bid Deadline, except to increase the Purchase Price or otherwise improve the terms of its Qualified Bid so long

as such Qualified Bid remains binding; *provided* that any Qualified Bid may be improved at the Auction as set forth in these Bidding Procedures.

V. Right to Credit Bid.

Any Qualified Bidder who has a valid and perfected lien on any segment of the Sale Package (a “Secured Creditor”) may, pursuant to section 363(k) of the Bankruptcy Code, submit a “credit bid” on such segment of the Sale Package, to the extent permitted by applicable law, any Court orders, and the documentation governing the Debtors’ prepetition or postpetition secured credit facilities, and subject to any applicable limitations set forth in any prepetition intercreditor agreement; *provided* that a Secured Creditor shall have the right to credit bid only on the Assets by which such Secured Creditor’s claim is secured; *provided further* that any such Credit Bid shall otherwise comply with these Bidding Procedures, the Bidding Procedures Order, the Bankruptcy Code, and any other applicable orders of the Bankruptcy Court, including the DIP Orders.

Notwithstanding anything to the contrary herein, the First Lien Ad Hoc Group, the DIP Agent, and the Prepetition Equipment Financing Lender shall each be deemed to be a Qualified Bidder and, subject to section 363(k) of the Bankruptcy Code and the terms and conditions of the DIP Credit Agreement (including the requirement for direction by the Requisite Lenders (as defined in the DIP Orders) and any applicable consent requirements), as applicable, may submit a credit bid of all or any portion of the aggregate amount of the First Priority Claims and/or DIP Claims, as applicable, held by the First Lien Ad Hoc Group, the DIP Agent, and the Prepetition Equipment Financing Lender, as applicable, and any such credit bid will be considered a Qualified Bid.

If the First Lien Ad Hoc Group, the DIP Agent, and/or the Prepetition Equipment Financing Lender does not indicate its intent to submit a Credit Bid on or before the Bid Deadline and/or submit a Credit Bid before the Bid Deadline, the Debtors shall promptly (but in no event later than the next business day following receipt) provide to the advisors to the First Lien Ad Hoc Group, the advisors to the DIP Agent, and the advisors to the Prepetition Equipment Financing Lender copies of all Qualified Bids received by the Debtors on a professionals’ eyes only basis; *provided* that such advisors must treat such Qualified Bids and any related information as confidential and shall not publicly disclose such information, or disclose such information to members of the First Lien Ad Hoc Group (if applicable), without the written consent of the Debtors and the applicable bidder.

VI. Sale Trigger.

After the receipt and review of all Qualified Bids, the Debtors shall determine, in their reasonable business judgment, and in consultation with the Consultation Parties, whether to continue forward with (i) a potential Sale Transaction, including the selection of a Starting Bid (as defined below) and (ii) the Auction. The Debtors will only proceed with a Sale Transaction if (i) the Debtors determine, in their reasonable business judgment, after consultation with the Consultation Parties, that acceptance of one or more Qualified Bids is value maximizing for the Debtors’ estates, and (ii) the Required Consenting First Lien Lenders consent to their treatment under the Sale Transaction ((i) and (ii) collectively, the “Sale Transaction Trigger”); *provided* that the Required Consenting First Lien Lenders will be deemed to consent to any Sale Transaction

that pays in full in cash all (i) Allowed DIP Claims, and (ii) Allowed First Priority Claims; *provided further* that any Sale Transaction that does not pay in full in cash all Allowed DIP Claims is subject to the terms and conditions of the DIP Credit Agreement (including any applicable requirements to obtain the consent of the Requisite Lenders (as defined in the DIP Orders) or all affected DIP Lenders).⁴

VII. Obtaining Due Diligence Access.

Only Acceptable Bidders shall be eligible to receive due diligence information, access to the Debtors' electronic data room, and additional non-public information regarding the Debtors; *provided* that such access will be terminated by the Debtors in their reasonable discretion, including if (i) an Acceptable Bidder does not become a Qualified Bidder, (ii) the Debtors determine any bidder is no longer an Acceptable Bidder or (iii) these Bidding Procedures are terminated. ***No Acceptable Bidder will be permitted to conduct any due diligence without entry into a Confidentiality Agreement.*** Beginning on the date the Debtors determine that a party is an Acceptable Bidder, or as soon as reasonably practicable thereafter, the Debtors will provide such Acceptable Bidder with access to an electronic data room and reasonable due diligence information, as requested by such Acceptable Bidder, as soon as reasonably practicable after such request.

Acceptable Bidders will not, directly or indirectly, contact or initiate or engage in discussions in respect of matters relating to the Debtors or a potential transaction with any customer, supplier, or other contractual counterparty of the Debtors without the prior written consent of the Debtors. The due diligence period will end on the Bid Deadline and subsequent to the Bid Deadline the Debtors shall have no obligation to furnish any due diligence information.

The Debtors shall not furnish any confidential information relating to the Debtors or a potential transaction to any person except an Acceptable Bidder or an Acceptable Bidder's duly authorized representatives to the extent provided in an applicable Confidentiality Agreement.

⁴ The term "Claim" has the meaning given to it in section 101(5) of the Bankruptcy Code.

The term "Allowed" means, with respect to any Claim: (a) a Claim that is evidenced by a proof of Claim timely filed by the applicable bar date (or for which Claim a proof of Claim is not required under the Plan, the Bankruptcy Code, or a final order of the Bankruptcy Court); (b) a Claim that is listed in the Debtors' schedules of assets and liabilities as not contingent, not unliquidated, and not disputed and for which no proof of Claim has been timely filed; or (c) a Claim Allowed pursuant to the Plan, any stipulation approved by the Bankruptcy Court, any contract, instrument, indenture, or other agreement entered into or assumed in connection with the Plan, or a final order of the Bankruptcy Court; *provided* that, with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court or, if such an objection is so interposed, such Claim shall have been Allowed by a final order of the Bankruptcy Court.

The term "DIP Claims" means any Claim against any Debtor derived from, based upon, or arising under the DIP Facility, the DIP Credit Agreement, and any other documents governing the DIP Facility, including the DIP Orders, as such documents may be amended, supplemented, or otherwise modified from time to time in accordance with their terms.

The Debtors and their advisors shall coordinate all reasonable requests for additional information and due diligence access from Acceptable Bidders; *provided* that the Debtors may decline to provide any information to an Acceptable Bidder who, in the Debtors' reasonable business judgment, and after notice to the Consultation Parties, has not established, or who has raised doubt, that such Acceptable Bidder intends in good faith to, or has the capacity to, consummate a Sale Transaction. For any bidder who is a competitor or customer of the Debtors or is affiliated with any competitor or customer of the Debtors, neither the Debtors nor any of their advisors shall be obligated to furnish any information of any kind whatsoever (except pursuant to "clean team" or other information sharing procedures reasonably satisfactory to the Debtors), and the Debtors reserve the right to withhold or modify any diligence materials that the Debtors determine are business-sensitive or otherwise inappropriate for disclosure to such bidder.

The Debtors shall keep the professionals to the Consultation Parties reasonably informed of all interested parties that become Acceptable Bidders, the status of their due diligence, and any indications of interest that are received.

A. Communications with Acceptable Bidders (including Qualified Bidders).

Notwithstanding anything to the contrary in these Bidding Procedures, all substantive direct communications with, including any diligence requests from, Acceptable Bidders (including Qualified Bidders) shall be through PJT. The Debtors reserve the right, in their reasonable business judgment, to disqualify any Acceptable Bidders that have communications between and amongst themselves without the prior consent of the Debtors.

B. Due Diligence from Acceptable Bidders (including Qualified Bidders).

Each Acceptable Bidder (including any Qualified Bidder) and their respective advisors shall comply with all reasonable requests for additional information and due diligence access requested by the Debtors or their advisors regarding the ability of such Acceptable Bidder (including any Qualified Bidder) to consummate its contemplated Sale Transaction. Failure by any Acceptable Bidder (including any Qualified Bidder), other than a Stalking Horse Bidder, if any, to comply with such reasonable requests for additional information and due diligence access may be a basis for the Debtors to determine that such bidder is no longer an Acceptable Bidder or that a bid made by such bidder is not a Qualified Bid.

The Debtors have designated Jamie Baird, Josh Abramson, and Michael McGilvery of PJT to coordinate all reasonable requests for additional information and due diligence access. They can be reached at baird@pjtpartners.com , abramson@pjtpartners.com , and michael.mcgilvery@pjtpartners.com .

VIII. Bid Deadline.

Binding Bids must be submitted in writing to the aforementioned Notice Parties so as to be **actually received** no later than **5:00 p.m. prevailing Eastern Time on April 3, 2024** (the "**Bid Deadline**").

The Debtors may extend the Bid Deadline for all or some Acceptable Bidders for any reason whatsoever, in their reasonable business judgment in consultation with the Consultation Parties.

IX. Evaluation of Qualified Bids.

Having evaluated all Qualified Bids, the Debtors shall, in consultation with the Consultation Parties, identify the Qualified Bid that (i) is, in the Debtors' business judgment, the highest or otherwise best Qualified Bid or combination of Qualified Bids for the Sale Package as a whole or for substantially all of the Sale Package and (ii) satisfies the Sale Transaction Trigger to serve as the starting bid at the Auction (the "Starting Bid").

At least twenty-four (24) hours prior to commencing the Auction, if any, the Debtors shall (i) notify the Stalking Horse Bidder(s), if any, the professionals to the Consultation Parties, and all Qualified Bidders as to which Qualified Bid is the Starting Bid, (ii) distribute copies of the Starting Bid(s) to the Stalking Horse Bidder(s), if any, each Qualified Bidder, the professionals to the Consultation Parties, and (iii) distribute summaries of the material terms of each Qualified Bid to the Consultation Parties; *provided* that (a) the First Lien Ad Hoc Group and its professionals, (b) the DIP Agent and its professionals, and (c) the Prepetition Equipment Financing Lender and its professionals shall not receive summaries of the material terms of each Qualified Bid pursuant to section (iii) if the First Lien Ad Hoc Group, the DIP Agent, or the Prepetition Equipment Financing Lender, respectively, elects to (or indicates its intent to) Credit Bid on or before the Bid Deadline.

When determining the Starting Bid for the Sale Package or substantially all of the Sale Package, the Debtors, in consultation with the Consultation Parties, may consider the following factors, in addition to any other factors that the Debtors deem appropriate: (a) the amount and nature of the Purchase Price; (b) the likelihood of the Qualified Bidder's ability to close the Sale Transaction and the timing of the proposed Closing; (c) the net economic effect of any changes to the value to be received by each of the Debtors' estates from the transaction contemplated by the Bid Documents; (d) the applicable component (*i.e.*, the Assets or the New Common Stock) of the Sale Package that the applicable Qualified Bidder intends to acquire; (e) whether the Qualified Bid contemplates a Sale Transaction that would be consummated through a Plan; (f) the certainty of a Qualified Bid leading to a confirmed Plan and (g) the tax consequences of such Qualified Bid.

X. Stalking Horse Bid and Bid Protections.

In the event the Debtors receive multiple Qualified Bids that satisfy the Sale Transaction Trigger, the Debtors, in consultation with the Consultation Parties, pursuant to the Bidding Procedures Order and with the consent of the First Lien Ad Hoc Group, may designate one such bidder to be a stalking horse bidder (the "Stalking Horse Bidder"), which, if any, is entitled to certain Stalking Horse Bid Protections (defined below) in the amounts set forth in, and in accordance with the terms of the Bidding Procedures Order. For the avoidance of doubt, the Qualified Bid submitted by the Stalking Horse Bidder must satisfy the Sale Transaction Trigger. For the further avoidance of doubt, except for the Stalking Horse Bidder, and as otherwise set forth herein or under the DIP Orders, no other party submitting an offer, a Bid, or a Qualified Bid shall be entitled to any Expense Reimbursement, Break-Up Fees, "topping," termination, or other similar

fee or payment, and by submitting a bid, such person or entity is deemed to have waived their right to request or to file with the Court any request for Expense Reimbursement or any fee of any nature, whether by virtue of Bankruptcy Code section 503(b) or otherwise.

In the event that the Debtors receive multiple Qualified Bids that satisfy the Sale Transaction Trigger, at any time until **April 10, 2024, at 5:00 p.m., prevailing Eastern Time**, the Debtors shall be authorized, but not obligated, in their reasonable business judgment, in consultation with the Consultation Parties, to (a) select one such Qualified Bidder to act as the Stalking Horse Bidder in connection with the Auction, and (b) in connection with any stalking horse agreement with a Stalking Horse Bidder (x) agree to provide a Break-Up Fee not to exceed three percent of the Purchase Price and (y) agree to reimburse the reasonable and documented out of pocket fees and expenses of such Stalking Horse Bidder (the “Stalking Horse Bid Protections”).

In the event that the Debtors enter into a stalking horse agreement (the “Stalking Horse Agreement”) with a Stalking Horse Bidder, within two (2) business days of entry, the Debtors shall file a notice and proposed form of order with the Court designating a Stalking Horse Bidder and authorizing entry into a Stalking Horse Agreement (the “Stalking Horse Notice”) and serve the Stalking Horse Notice on the Committee, Stalking Horse Bidder, the U.S. Trustee, counsel to the DIP Agent, counsel to the First Lien Ad Hoc Group, counsel to the Cross-Holder Ad Hoc Group, and counsel to the Prepetition Equipment Financing Lender. The Stalking Horse Notice shall: (i) set forth the identity of the Stalking Horse Bidder (and if the Stalking Horse Bidder is a newly formed entity, then the Stalking Horse Bidder’s parent company or sponsor); (ii) set forth the amount of the Bid submitted by the Stalking Horse Bidder and what portion (if any) is cash; (iii) state whether the Stalking Horse Bidder has any connection to the Debtors other than those that arise from the Bid submitted by the Stalking Horse Bidder; (iv) specify any proposed Stalking Horse Bid Protections (including the amount and calculation thereof); (v) specify which component (*i.e.*, the Assets or New Common Stock) of the Sale Package the Stalking Horse Bidder intends to acquire, and, if applicable, the liabilities and obligations to be assumed, including any debt and cure costs to be assumed; (vi) attach the Stalking Horse Agreement, including all exhibits, schedules and attachments thereto; and (vii) set forth the deadline to object to the Stalking Horse Bidder designation and any Stalking Horse Bid Protections. If there are no objections to the Stalking Horse Notice within two (2) business days of filing with the Court, (the “Notice Period”), the Debtors may submit an order to the Court that incorporates any comments received during the Notice Period that authorizes the Debtors to designate a Stalking Horse Bidder and to enter into a Stalking Horse Agreement, without the need for further hearing. If a party timely files an objection to the Stalking Horse Notice, or the Committee’s informal comments have not been resolved, the Court shall hold a hearing after the expiration of the Notice Period and as soon thereafter as the Court is available.

XI. No Qualified Bids; No Auction.

If the Debtors do not receive a Qualified Bid or combination of Qualified Bids that satisfy the Sale Transaction Trigger by the Bid Deadline (or by such date reflecting an extension of the Bid Deadline by the Debtors for all or some Acceptable Bidders, in consultation with the Consultation Parties), the Debtors will not conduct an Auction.

If only one Qualified Bid or combination of Qualified Bids with respect to the Sale Package or substantially all of the Sale Package is received by the Bid Deadline and such Qualified Bid or combination of Qualified Bids satisfies the Sale Transaction Trigger, the Debtors may decide, in their reasonable business judgment and after consulting with the professionals to Consultation Parties, to forego the Auction and designate such Qualified Bid or combination of Qualified Bids as the Successful Bid as to the applicable Sale Package and pursue the Plan and entry of an order approving the Sale Transaction with respect to such Sale Package. In the event the Successful Bid is the Credit Bid, the Recapitalization terms, as set forth in the RSA and Restructuring Term Sheet, shall govern. The Debtors shall, as soon as reasonably practicable after the Bid Deadline, file notice of any cancellation of the Auction with the Court.

XII. Auction.

Other than as expressly set forth herein, if (i) the Debtors receive more than one Qualified Bid or combination of Qualified Bids for the Sale Package or substantially all of the Sale Package by the Bid Deadline and (ii) the Sale Transaction Trigger is satisfied, the Debtors shall conduct the Auction in accordance with the Auction Procedures (as defined below) to determine the Successful Bidder(s) (if any) in their reasonable business judgment in consultation with the Consultation Parties, with respect to such Sale Package.

An Auction, if necessary, shall commence on **April 12, at 10:00 a.m., prevailing Eastern Time**, or such later time or other place as the Debtors determine in consultation with the Consultation Parties. The Auction shall be held at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York, 10022.

The Auction will be conducted in accordance with the following procedures (the “Auction Procedures”):

- a. except as otherwise provided herein, only Qualified Bidders that satisfy the Sale Transaction Trigger shall be entitled to bid at the Auction;
- b. the Qualified Bidders, including the Stalking Horse Bidder(s), if any, must appear in person or through duly-authorized representatives at the Auction;
- c. bidding shall begin with the Starting Bid;
- d. subsequent bids (each, an “Overbid”) may only be made at the Auction and shall be at least (i) a 2% increase in cash, cash equivalents, or other such consideration that the Debtors, in their reasonable business judgment and in consultation with the Consultation Parties, deem equivalent (including the right of a Secured Creditor to credit bid any remaining amount of its secured claims) over the previous bid *plus* (ii) in the event that the Debtors have entered into a Stalking Horse Agreement to which the Overbid relates, the aggregate amount of the Stalking Horse Bid Protections under such Stalking Horse Agreement (a “Minimum Overbid”), and each successive Overbid shall exceed the then-existing Overbid by an incremental amount that is not less than the Minimum Overbid. The Debtors may, in their reasonable business judgment and in consultation with the Consultation Parties,

announce increases or reductions to the Minimum Overbid at any time during the Auction. For the avoidance of doubt, each successive Bid that a Qualified Bidder may submit at the Auction must contain a Purchase Price in cash, cash equivalents, or such other consideration that the Debtors, in their reasonable business judgment, and in consultation with the Consultation Parties, deem equivalent (including the right of a secured creditor to credit bid any remaining amount of its secured claims) that exceeds the then existing highest Bid by at least the amount of the Minimum Overbid;

- e. at the commencement of the Auction, the Debtors may announce procedural and related rules governing the Auction, including time periods available to all Qualified Bidders to submit successive bid(s);
- f. each Qualified Bidder will be permitted a reasonable time to respond to previous bids at the Auction, as determined by the Debtors; *provided*, that, unless the Debtors determine otherwise, a failure to respond and submit successive bid(s) at the Auction will result in disqualification;
- g. during the course of the Auction, the Debtors shall, after submission of each Overbid, promptly inform each Qualified Bidder, the professionals to the Consultation Parties of the terms of such Overbids and inform each Qualified Bidder, the professionals to the Consultation Parties which Overbid(s) reflect, in the Debtors' view, the highest or otherwise best bid(s) with respect to the applicable Sale Package;
- h. the Auction will be transcribed to ensure an accurate recording of the bidding at the Auction;
- i. each Qualified Bidder will be required to confirm on the record that it has not engaged, and will not engage, in any collusion with respect to the bidding or any Sale Transaction. For the avoidance of doubt, this requirement does not restrict Qualified Bidder(s) from working with other Qualified Bidder(s) to submit joint Bids with the Debtors' prior written consent (email being sufficient);
- j. each Qualified Bidder will be required to confirm that its bid is a good faith, *bona fide* offer and it intends to consummate the Sale Transaction if selected as the Successful Bidder(s) in accordance with these Bidding Procedures (as may be modified in accordance herewith at the Auction);
- k. the Court and the Debtors will not consider bids made after the Auction has been closed;
- l. the Debtors, in their reasonable business judgment, in consultation with the Consultation Parties, may reject, at any time before entry of an order of the Court approving a Successful Bid, any Bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or the Bidding Procedures, or (iii) contrary to the best interests of the Debtors, their estates, their creditors, and other stakeholders;

- m. the Debtors, in consultation with the Consultation Parties, have the right to request any additional information that will allow the Debtors to make a reasonable determination as to a Qualified Bidder's financial and other capabilities to consummate the transactions contemplated by their proposal and any further information that the Debtors believe is reasonably necessary to clarify and evaluate any Overbid made by a Qualified Bidder during the Auction; and
- n. notwithstanding anything herein to the contrary at any time the Debtors may, in consultation with the Consultation Parties, at any time choose to adjourn the Auction by announcement at the Auction. The Debtors shall promptly file notice of such adjournment with the Court.

For the avoidance of doubt, nothing in the Bidding Procedures, including the Auction Procedures, will prevent the Debtors from exercising their respective fiduciary duties under applicable law (as reasonably determined in good faith by the Debtors, in consultation with counsel).

Any Auction rules adopted by the Debtors will not modify any of the terms of the Stalking Horse Agreement, if any, or the rights of the Stalking Horse Bidder, if any, as memorialized in an order entered by the Court, if any, without the consent of the Stalking Horse Bidder.

Except as otherwise determined by the Debtors, only (i) the Debtors, (ii) the members of the First Lien Ad Hoc Group, (iii) the members of the Cross-Holder Ad Hoc Group; (iv) representatives of the Prepetition Equipment Financing Lender, (v) representatives of the Office of the United States Trustee, (vi) the DIP Agent, (vii) any other Qualified Bidders, (viii) the Committee, and (ix) the respective representatives and professionals of the foregoing parties shall be entitled to attend and participate in the Auction.

XIII. Acceptance of the Successful Bid.

The Auction shall continue until (i) there is only one Qualified Bid or a combination of Qualified Bids that the Debtors determine, in their reasonable business judgment, in consultation with the Consultation Parties, and in a manner consistent with the exercise of their fiduciary duties and outlined below in further detail, (a) is the highest or otherwise best bid to purchase the Sale Package and satisfies the Sale Transaction Trigger (each, a "Successful Bid"), and (b) the Debtors determine, in their reasonable business judgment, in consultation with the Consultation Parties, that further bidding is unlikely to result in a different Successful Bid that would be reasonably acceptable to the Debtors, at which point, the Auction will be closed or (ii) the Debtors determine, in their reasonable business judgment, in consultation with the Consultation Parties, and in a manner consistent with the exercise of their fiduciary duties and outlined below in further detail, that no Qualified Bid or a combination of Qualified Bids satisfies the Sale Transaction Trigger, in which case the Recapitalization terms, as set forth in the RSA and Restructuring Term Sheet, shall govern.

When determining the Successful Bid for the Sale Package or substantially all of the Sale Package, the Debtors may consider the following factors in addition to any other factors that the Debtors deem appropriate: (a) the amount and nature of the total consideration, which includes

but is not limited to, assumed liabilities (administrative liabilities, cure payments), and the amount of executory contracts and unexpired leases being assumed; (b) the likelihood of the Qualified Bidder's ability to close the Sale Transaction and the timing of the Closing; (c) the net economic effect of any changes to the value to be received by each of the Debtors' estates from the transaction contemplated by the Bid Documents; (d) the tax consequences of such Qualified Bid; and (e) any other consideration that may impact the Debtors' stakeholders.

Any Qualified Bidder that submits a Successful Bid will be deemed a "Successful Bidder" with respect to the Sale Package contemplated for purchase pursuant to such Successful Bid. The Debtors shall file the Notice of Successful Bidder with the Court as soon as reasonably practicable after conclusion of the Auction. Following conclusion of the Auction and selection of the Successful Bidder(s), the Debtors shall, at the Confirmation Hearing, seek (a) certain findings from the Court regarding the Auction, including, among other things, that (i) the Auction was conducted, and the Successful Bidder(s) were selected, in accordance with these Bidding Procedures, (ii) the Auction was fair in substance and procedure, and (iii) consummation of the Successful Bid or Successful Bids will provide the highest or otherwise best value for the applicable Sale Package and is in the best interests of the Debtors' estates, and (b) Court approval to enter into a binding Purchase Agreement, if applicable, with the Successful Bidder(s) on the terms of the Successful Bid.

Within one (1) business day of the selection of the Successful Bidder(s), (i) such Successful Bidder(s) (including both the Stalking Horse Bidder(s), if any, and Back-Up Bidder(s), if applicable) shall replenish its Good Faith Deposit, by wire transfer of immediately available funds, in an amount calculated on the basis of the increased Purchase Price such that its Good Faith Deposit is equal to ten percent of the aggregate Purchase Price in the applicable Bid, (ii) the Successful Bidder(s) shall submit to the Debtors fully executed documentation memorializing the terms of the Successful Bid and (iii) the Back-Up Bidder(s), if any, shall submit to the Debtors execution versions of the documentation memorializing the terms of the Back-Up Bid. Each Successful Bidder and the Debtors shall, as soon as commercially reasonable and practicable, complete and sign all agreements, contracts, instruments, or other documents evidencing and containing the terms upon which each such Successful Bid was made.

XIV. Designation of Back-Up Bidder.

The Qualified Bidder that submitted the Back-Up Bid to purchase the Sale Package (the "Back-Up Bidder"), if any, will be determined by the Debtors at the conclusion of the Auction from that Qualified Bid that, by itself or in combination with other Qualified Bid(s), satisfy the Sale Transaction Trigger, and will be announced at that time to all the Qualified Bidders participating in the Auction; *provided* that there will be no Back-Up Bidder in the event that only one Qualified Bid or combination of Qualified Bids satisfies the Sale Transaction Trigger. The Debtors' selection of, or failure to select, a Back-Up Bid shall be deemed final and the Debtors shall not accept any further bids or offers to submit a bid after such selection.

If for any reason the Successful Bidder(s) fail(s) to consummate the purchase of the applicable Sale Package within the time permitted, then the applicable Back-Up Bidder(s), if any, will automatically be deemed to have submitted the Successful Bid, and will be deemed to be the Successful Bidder(s) and shall be required to consummate the Sale Transaction with respect to

such Sale Package as soon as is reasonably practicable without further order of the Court, upon twenty-four (24) hours advance notice filed with the Court. The Debtors will be authorized, but not required, to consummate the Sale Transaction with the Back-Up Bidder(s) without further order of the Court, so long as the Back-Up Bid(s) shall have been approved in connection with the Court's approval of the Successful Bid, or subject to Court approval if not.

To the extent any objections are raised and remain unresolved, the Court may schedule a hearing on an expedited basis to adjudicate such objection.

The Back-Up Bid, if any, shall remain open and irrevocable until the earliest to occur of (i) forty-five (45) days after completion of the Auction, (ii) consummation of a Sale Transaction with one or more Successful Bidders at an Auction, and (iii) the release of such Back-Up Bid by the Debtors in writing (the "Back-Up Termination Date"). The Debtors shall return any Back-Up Bidder's deposit owed within five (5) business days of the Back-Up Termination Date.

If for any reason either (i) the Successful Bidder(s) fail(s) to consummate the Sale within the time permitted and there is no Back-Up Bidder or (ii) both the Successful Bidder(s) and the Back-Up Bidder(s) fail to consummate the Sale within the time permitted, then the Recapitalization terms set forth in the RSA and Restructuring Term Sheet shall govern.

XV. Confirmation Hearing.

A hearing before the Court to consider confirmation of the Plan (the "Confirmation Hearing") and approval of the Sale Transaction, if any, will be held at a date and time consistent with the order approving the Debtors' disclosure statement and scheduling applicable dates and deadlines related thereto, including confirmation of the Plan. These Bidding Procedures contemplate a Confirmation Hearing on or about **April 30, 2024, at 2:30 p.m., prevailing Eastern Time** or such other date as may be scheduled by the Court in accordance with the order approving the Debtors' disclosure statement and scheduling applicable dates and deadlines related thereto. The Confirmation Hearing will be before the Honorable Vincent F. Papalia, United States Bankruptcy Judge for the Bankruptcy Court for the District of New Jersey at 50 Walnut Street, Newark, New Jersey 07102, Courtroom 3B, and otherwise in accordance with any scheduling orders entered by the Court relating to confirmation of the Plan or approval of any disclosure statement related thereto.

At the Confirmation Hearing, the Debtors will present the Plan, which will incorporate the terms of the Successful Bid, if any, to the Court for confirmation.

XVI. Return of Good Faith Deposit.

All Good Faith Deposits shall be held in escrow and shall not be deemed property of the Debtors' estates except as set forth below or absent further order of the Court.

The Good Faith Deposit(s) of the Successful Bidder(s), if any, will, upon consummation of the Sale(s), become property of the Debtors' estates and be credited to the portion of such Successful Bidder's or Successful Bidders' applicable Purchase Price.

If the Successful Bidder(s) (or Back-Up Bidder(s), if applicable), fail to consummate the Sale(s) contemplated by such applicable Successful Bid(s) or Back-Up Bid(s), then their respective Good Faith Deposit(s) will be irrevocably forfeited to the Debtors and may be retained by the Debtors as liquidated damages, in addition to any and all rights, remedies, or causes of action that may be available to the Debtors.

The Good Faith Deposits of any unsuccessful Qualified Bidders (except for any Back-Up Bidder(s) and the Stalking Horse Bidder(s), if any) will be returned following the designation of the Successful Bidder(s) for the applicable Sale Transaction.

The Good Faith Deposit(s) of any Back-Up Bidder(s), if any, will be returned to such Back-Up Bidder(s) no later than five (5) business days of the Back-Up Termination Date.

The return of any Good Faith Deposit(s) of the Stalking Horse Bidder(s), if any, will be subject to the terms of the applicable Stalking Horse Agreement(s).

XVII. Reservation of Rights.

The Debtors reserve their rights to modify these Bidding Procedures in good faith and with the consent of the Required Consenting First Lien Lenders, and in consultation with the Consultation Parties, to further the goal of attaining the highest or otherwise best offer for the Sale Package, or impose, at or prior to the Auction, additional terms and conditions on the Auction or the Sale; *provided* that any modification to these Bidding Procedures that could limit, impair, or otherwise adversely affect the rights of the DIP Agent shall require the consent of the DIP Agent. The Debtors shall provide notice of any such modification to any Qualified Bidders, including the Stalking Horse Bidder(s), if any.

XVIII. Consent to Jurisdiction.

All Qualified Bidders participating in the Auction will be deemed to have consented to the core jurisdiction of the Court and waived any right to a jury trial in connection with any disputes relating to the Auction, the Sale Transaction(s), the construction and enforcement of these Bidding Procedures, any written indications of interest, Preliminary Bid Documents, the Bids, the Bid Documents, and any and all other agreements entered into in connection with any proposed Sale Transaction, and consented to the entry of a final order or judgment by the Court in any way related to these Bidding Procedures, the bid process, the Auction, the Sale Transaction hearing (which shall be the same hearing as the Confirmation Hearing), or the construction and enforcement of any agreement or any other document relating to the Sale Transaction if it is determined that the Court lacks Article III jurisdiction to enter such a final order or judgment absent the consent of the parties.

Any parties raising a dispute relating to these Bidding Procedures must request that such dispute be heard by the Court on an expedited basis.

XIX. Fiduciary Out.

Notwithstanding anything to the contrary in these Bidding Procedures, nothing in these Bidding Procedures or the Bidding Procedures Order shall require any Debtor or the board of directors, board of managers, transaction committee, or similar governing body of any Debtor to take any action or to refrain from taking any action related to any Sale Transaction or with respect to these Bidding Procedures, to the extent such Debtor, board of directors, board of managers, transaction committee, or such similar governing body reasonably determines in good faith, in consultation with counsel, that taking or failing to take such action, as applicable, would be inconsistent with applicable law or its fiduciary obligations under applicable law.

Further, notwithstanding anything to the contrary in these Bidding Procedures or the Bidding Procedures Order, through the date of the Auction (if held), nothing in these Bidding Procedures or the Bidding Procedures Order shall diminish the right of the Debtors and their respective directors, officers, employees, investment bankers, attorneys, accountants, consultants, and other advisors or representatives to: (a) consider, respond to, and facilitate alternate proposals for a sale or any other restructuring transaction involving the Sale Package (each an “Alternate Proposal”); (b) provide access to non-public information concerning the Debtors to any entity or enter into confidentiality agreements or nondisclosure agreements with any entity with respect to any Alternate Proposal; (c) maintain or continue discussions or negotiations with respect to Alternate Proposals; (d) otherwise cooperate with, assist, participate in, or facilitate any inquiries, proposals, discussions, or negotiations of any Alternate Proposal; and (e) enter into or continue discussions or negotiations with any person or entity regarding any Alternate Proposal.

XX. Consultation and Consent Rights of the First Lien Ad Hoc Group.

Notwithstanding anything to the contrary herein, during any period in which the First Lien Ad Hoc Group submits (or expressly indicates its intent to submit) a Bid (including a Credit Bid) for the Sale Package or substantially all of the Sale Package, such First Lien Ad Hoc Group shall no longer be entitled to the consultation and consent rights set forth in these Bidding Procedures (solely with respect to those consultation rights involving (a) the evaluation and qualification of competing Bids for such portion of the Sale Package included in the First Lien Ad Hoc Group’s Bid (including a Credit Bid) or (b) with respect to seeking and/or obtaining information about other Bids) unless and until the First Lien Ad Hoc Group unequivocally revokes its Bid and waives its right to continue in the Auction process as a bidder; *provided* that, notwithstanding anything to the contrary herein, nothing in these Bidding Procedures, the Bidding Procedures Order, or this section XX shall have any impact on (a) the Sale Transaction Trigger (as defined in section VI and as used throughout these Bidding Procedures), which shall remain in place under any and all circumstances along with any and all rights therein, (b) the First Lien Ad Hoc Group’s consent right over any proposed modification to these Bidding Procedures (as set forth in section XVII), or (c) those rights preserved in section XXI.

XXI. DIP Orders & RSA.

For the avoidance of doubt, nothing in these Bidding Procedures shall amend, modify, limit, or impair any provision of the DIP Orders, the DIP Credit Agreement (including any applicable requisite consents for any Sale Transaction), or the RSA (each of the foregoing, as may

be amended or modified in the ordinary course in accordance with the respective terms thereof), or the rights of the DIP Agent, the Required Consenting Creditors, or the Prepetition Equipment Financing Lender, as applicable.

[Remainder of page intentionally left blank]

Exhibit 2

Auction Notice

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

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*Proposed Co-Counsel to the Debtors and
Debtors in Possession*

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

In re:

CAREISMATIC BRANDS, LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10561 (VFP)

(Jointly Administrated)

NOTICE OF SALE BY AUCTION

PLEASE TAKE NOTICE that on [], 2024, the United States Bankruptcy Court for the District of New Jersey (the “Court”) entered the *Order (I) Approving the Bidding Procedures and Auction, (II) Approving Stalking Horse Bid Protections, (III) Scheduling Bid Deadlines and an Auction, (IV) Approving the Form and Manner of Notice Thereof, and (V) Granting Related Relief* [Docket No. []] (the “Bidding Procedures Order”)² in the chapter 11 cases of the above-captioned debtors and debtors in possession (collectively, the “Debtors”).

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.donlinrecano.com/careismatic>. The location of Debtor Careismatic Brands, LLC’s principal place of business and the Debtors’ service address in these chapter 11 cases is: 1119 Colorado Avenue, Santa Monica, California 90401.

² Capitalized terms used but not defined in this notice have the meanings given to them in the Bidding Procedures or the Bidding Procedures Order, as applicable.

PLEASE TAKE FURTHER NOTICE that the Debtors are soliciting offers for the purchase of 100% of the equity of Reorganized Careismatic (the “New Common Stock”) or substantially all of the Debtors’ assets (the “Assets”) (collectively, the “Sale Package”) consistent with the bidding procedures (the “Bidding Procedures”) approved by the Court pursuant to the Bidding Procedures Order. **All interested bidders should carefully read the Bidding Procedures and Bidding Procedures Order.** To the extent that there are any inconsistencies between this notice and the Bidding Procedures or Bidding Procedures Order, the Bidding Procedures or Bidding Procedures Order, as applicable, shall govern in all respects.

PLEASE TAKE FURTHER NOTICE that the deadline by which all binding bids must be actually received pursuant to the Bidding Procedures is **April 3, 2024, at 5:00 p.m. (prevailing Eastern Time).**

PLEASE TAKE FURTHER NOTICE that if the Debtors receive qualified competing bids within the requirements and time frame specified by the Bidding Procedures, the Debtors will conduct an auction (the “Auction”) of the Assets **on April 12, 2024, at 10:00 a.m. (prevailing Eastern Time)** at the offices of co-counsel to the Debtors: Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022.

PLEASE TAKE FURTHER NOTICE that only (i) the Debtors, (ii) the members of the First Lien Ad Hoc Group, (iii) the members of the Cross-Holder Ad Hoc Group, (iv) representatives of the Prepetition Equipment Financing Lender; (v) the DIP Agent; (vi) the Committee; (vii) the Qualified Bidders, (viii) representatives of the U.S. Trustee, and (ix) 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, and only Qualified Bidders will be entitled to make Overbids (as defined in the Bidding Procedures) at the Auction. **All interested or potentially affected parties should carefully read the Bidding Procedures and the Bidding Procedures Order.** Copies of the Bidding Procedures, the Bidding Procedures Order, and any other related documents are available upon request to Donlin, Recano & Company, Inc. by calling (800) 416-3743 (U.S. / Canada) or (212) 481-1411 (International) or visiting the Debtors’ restructuring website at (<https://www.donlinrecano.com/careismatic>).

Dated: [____], 2024

/s/ *DRAFT*

COLE SCHOTZ P.C.

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