

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:

Dynamic Aerostructures LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 25-10292 (LSS)

(Jointly Administered)

Hearing Date: June 10, 2025 at 2:00 p.m. (ET)

Obj. Deadline: June 3, 2025 at 4:00 p.m. (ET)

DEBTORS' MOTION FOR ENTRY OF ORDERS (I) ESTABLISHING PROCEDURES FOR PAYMENT OF FINAL FEE APPLICATIONS, (II) DISMISSING THE CHAPTER 11 CASES, (III) AUTHORIZING THE DEBTORS TO ABANDON OR DESTROY CERTAIN BOOKS AND RECORDS, (IV) AUTHORIZING THE DEBTORS TO DISSOLVE, (V) EXCULPATING CERTAIN PARTIES FROM LIABILITY IN CONNECTION WITH THE CHAPTER 11 CASES, (VI) TERMINATING ENGAGEMENT OF CLAIMS AGENT, AND (VII) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (collectively, the “Debtors”), hereby move this Court, through this motion (this “Motion”),² for entry of orders, substantially in the forms attached hereto as **Exhibit A** (the “Professional Fee Order”) and **Exhibit B** (the “Dismissal Order”), respectively: (i) establishing procedures for payment of final fee applications by professionals retained in these Chapter 11 Cases (the “Professionals”), and providing for payment of fees and expenses incurred by the Professionals (“Professional Fees and Expenses”), (ii) dismissing the Debtors’ chapter 11 cases (collectively, these “Chapter 11 Cases”); (iii) authorizing, but not directing, the Debtors or their designee to abandon or destroy the Debtors’ remaining books and records, to the extent not acquired by the purchaser, subject to the terms herein; (iv) authorizing the Debtors to dissolve; (v) exculpating certain parties in connection with

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors’ service address is 27756 Avenue Mentry, Valencia, California 91355.

² Capitalized terms used but not otherwise defined in this Motion shall have the meanings ascribed to such terms in the Bidding Procedures Motion or the Sale Order (each as defined below), as applicable.



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the Chapter 11 Cases; (vi) terminating the services of Kurtzman Carson Consultants, LLC dba Verita Global, as claims agent (the “Claims Agent”) in these Chapter 11 Cases; and (vii) granting related relief. In support of this Motion, the Debtors represent as follows:

PRELIMINARY STATEMENT

1. The Debtors filed these Chapter 11 Cases to effectuate a sale (the “Sale”) of all or substantially all of their assets (the “Assets”) to maximize value for all stakeholders. Following an extensive prepetition and postpetition marketing process, the Debtors designated FMI Holdco LLC (the “Purchaser”) as the successful bidder and, on April 7, 2025, this Court entered an order approving the Sale to the Purchaser. Consummation of the Sale, including the assumption and assignment of the Assigned Agreements (as defined in the APA), occurred on April 11, 2025.

2. Although the Debtors have explored alternative options to bring these Chapter 11 Cases to a conclusion, the Debtors believe that dismissal is the most expeditious and cost-effective mechanism to wind down these Chapter 11 Cases.³ In reaching this conclusion, the Debtors consulted with counsel to the Debtors’ prepetition secured lender. Because all of the Debtors’ cash constitutes encumbered “cash collateral” or is otherwise held in trust exclusively for the benefit of professionals in the Professional Fee Reserve (as defined below), the Debtors determined that dismissal would not negatively impact creditors (vis-à-vis conversion to chapter 7). Further, the Debtors submit that there are no assets of any value available for distribution to unsecured creditors or to support the administrative costs of pursuing anything other than the prompt exit from bankruptcy. Moreover, a conversion to chapter 7 would not serve a purpose if

³ By separate motion, the Debtors are seeking authority to retain Carroll Services LLC (“Carroll Services”) to provide James Carroll as the chief restructuring officer to the Debtors (the “CRO”) and additional personnel to support the CRO to assist in conducting an orderly and efficient wind down of these chapter 11 cases. *See* Docket No. 229.

there is no unencumbered cash (or cash which is not otherwise held in trust) to administer the chapter 7 cases, as the Debtors anticipate would be the case in this instance.

3. Accordingly, the Debtors seek to establish procedures for the filing of final fee applications by professionals retained in these Chapter 11 Cases, as well as to provide for the payment of fees incurred by the Professionals, on the terms set forth in the Professional Fee Order, attached as **Exhibit A** hereto. The Debtors also seek to dismiss the Chapter 11 Cases on the terms set forth in the Dismissal Order attached as **Exhibit B** hereto.

JURISDICTION AND VENUE

4. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

5. The Debtors confirm their consent, pursuant to Rule 9013-1(f) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

6. Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

7. The statutory and legal predicates for the relief requested herein are sections 105(a), 305, 349, 554(a), and 1112(b) of title 11 of the United States Code (the “Bankruptcy Code”), Rules 1017, 2002, and 6007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rule 1017-2.

BACKGROUND

A. The Chapter 11 Cases

8. On February 26, 2025 (the “Petition Date”), each Debtor filed a voluntary petition for relief pursuant to chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Chapter 11 Cases are jointly administered pursuant to Bankruptcy Rule 1015(b). No request has been made for the appointment of a trustee or examiner and no committee has been appointed in the Chapter 11 Cases.

9. Additional factual background regarding the Debtors, including their business operations, their corporate and capital structure, and the events leading to the filing of these Chapter 11 Cases, is set forth in detail in the *Declaration of Eric N. Ellis in Support of Debtors’ Chapter 11 Petitions and First Day Motions* [Docket No. 2] (the “First Day Declaration” or “First Day Decl.”), which is incorporated by reference herein.

B. The Claims Agent and Interim Compensation Procedures

10. On February 27, 2025, the Court entered the *Order Appointing Kurtzman Carson Consultants, LLC DBA Verita Global as Claims and Noticing Agent Effective as of the Petition Date* [Docket No. 51] (the “Verita Retention Order”). Pursuant to the Verita Retention Order, the Claims Agent was appointed to serve as the Debtors’ claims and noticing agent in these Chapter 11 Cases.

11. On March 20, 2025, the Court entered the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* [Docket No. 132] (the “Interim Compensation Order”), pursuant to which the Court approved procedures governing applications for and payments of fees and expenses requested by Professionals.

C. The Prepetition Credit Agreement

12. As of the Petition Date, the Debtors were party to a Loan and Security Agreement, dated as of July 30, 2021 (as amended, restated, supplemented, or otherwise modified from time to time, the “Prepetition Credit Agreement” and, collectively with any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, or otherwise modified from time to time, the “Prepetition Loan Documents”) with BMO Harris Bank N.A. (“BMO”), as successor in interest to Bank of West, as lender (the “Prepetition Lender”). *See* First Day Decl. ¶ 14.

13. The Prepetition Credit Agreement provided for a total credit facility of up to \$51,500,000, consisting of (a) a term loan facility in the aggregate principal amount of \$39,000,000 (the “Prepetition Term Loan Facility”) and (b) a prepetition revolving loan facility in the aggregate principal amount of up to \$12,500,000 (the “Prepetition Revolving Credit Facility” and, together with the Prepetition Term Loan Facility, the “Prepetition Credit Facility”). *See* First Day Decl. ¶ 15.

14. The Debtors’ obligations under the Prepetition Credit Facility are secured by liens on substantially all of the Debtors’ assets. As of the Petition Date, the Debtors were indebted and liable to the Prepetition Lender under the Prepetition Credit Facility in the aggregate amount of not less than \$54,734,827.71.

15. On March 14, 2025, FMI Holdco LLC filed a notice stating that it had acquired one hundred percent (100%) of BMO’s right, title, and interest in and to the claims and outstanding loans and commitments under the Prepetition Loan Documents. *See* Docket No. 102. Accordingly, FMI Holdco LLC is currently the Prepetition Lender with respect to the Prepetition Credit Facility.

D. The DIP Financing

16. On February 26, 2025, the Debtors filed the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Financing, (II) Authorizing the Debtors to Use Cash Collateral on a Limited Basis, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* [Docket No. 14] (the “DIP Motion”).

17. An interim order granting the DIP Motion was entered on February 28, 2025 [Docket No. 65] (the “Interim DIP Order”) and a final order granting the DIP Motion was entered on March 21, 2025 [Docket No. 149] (the “Final DIP Order” and, together with the Interim DIP Order, the “DIP Orders”), which, among other things, (a) authorized the Debtors to obtain senior secured postpetition financing (the “DIP Facility” and the loans thereunder, the “DIP Loans”) from CRG Financial LLC, as lender (the “DIP Lender”), in an aggregate principal amount of up to \$12,500,000 and (b) approved the Approved Budget (as defined in the Final DIP Order). The DIP Orders also established the “Professional Fee Reserve,” into which professional fees were funded throughout these cases to be held in trust exclusively for the benefit of the Professionals in these Chapter 11 Cases.

E. The Sale Process

18. As further discussed in the First Day Declaration, the Debtors commenced these Chapter 11 Cases to effectuate a sale of all or substantially all of their assets to maximize value for the benefit of stakeholders. To that end, on the Petition Date, the Debtors filed the *Debtors' Motion Pursuant To Sections 105, 363, and 365 of the Bankruptcy Code for Entry of Orders (A)(I) Approving Bidding Procedures for the Sale of Debtors' Assets, (II) Scheduling Hearings and Objection Deadlines with Respect to the Sale, (III) Scheduling Bid Deadlines and an Auction,*

(IV) Approving the Form and Manner of Notice Thereof, (V) Approving Assumption and Assignment Procedures for Executory Contracts and Unexpired Leases, (VI) Authorizing and Approving the Debtors' Entry Into the Stalking Horse APA, (VII) Authorizing and Approving Bid Protections, and (VIII) Granting Related Relief and (B)(I) Approving the Sale of Substantially All of the Debtors' Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (II) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases and (III) Granting Related Relief [Docket No. 16] (the "Sale Motion").

19. On March 25, 2025, the Court entered an order [Docket No. 169] (the "Bidding Procedures Order") granting the relief sought in the Bidding Procedures Motion, including, among other things, (a) the Debtors' selection of FMI Holdco LLC (the "Stalking Horse Bidder" or the "Purchaser") as the stalking horse bidder in connection with a sale of substantially all of the Debtors' assets in accordance with the terms of an Asset Purchase Agreement, dated as of February 25, 2025 (as amended, restated, supplemented, or otherwise modified from time to time and together with all schedules and exhibits thereto, the "APA"), (b) the scheduling of an auction in the event the Debtors receive at least one qualified bid for their assets in addition to the Stalking Horse Bidder's bid, and (c) the establishment of certain other key dates and times related to the sale process and auction.

20. On April 2, 2025, after not receiving any additional qualified bids for their assets, in accordance with the Bidding Procedures Order, the Debtors filed a *Notice of Successful Bidder and Cancellation of Auction* [Docket No. 187] (a) cancelling the auction and (b) announcing the Debtors' designation of the Stalking Horse Bidder as the successful bidder for substantially all of the Debtors' assets.

21. On April 7, 2025, following a hearing, the Court entered the *Order (I) Approving the Sale of Substantially All of the Debtors' Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (II) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases and (III) Granting Related Relief* [Docket No. 199] (the “Sale Order”), among other things, approving the sale of substantially all of the Debtors’ assets to the Purchaser.

22. In accordance with the Sale Order, the closing of the sale of substantially all of the Debtors’ assets to the Purchaser occurred on April 11, 2025 (the “Closing Date”). See Docket No. 204 (the “Notice of Closing”). Pursuant to the APA and the Sale Order, the Purchaser (a) acquired substantially all of the Debtors’ assets as set forth in more detail in Section 1.1 of the APA,⁴ (b) was assigned all of the Debtors’ executory contracts and unexpired leases as set forth on Exhibit A to the Notice of Closing, with all counterparties having received payment in full of any Cure Costs, and (c) assumed various liabilities of the Debtors, including all Accounts Payable arising after the Petition Date that remained unpaid and outstanding as of the Closing Date, excluding unpaid fees and expenses of Professionals, as set forth in more detail in Section 1.3 of the APA. In addition, on the Closing Date, the Debtors paid to the DIP Lender all DIP Obligations (as defined in the Final DIP Order) in full from the proceeds of the Sale.

F. Administrative Expense Claims

23. Following entry of the Sale Order, the Debtors continued to evaluate all known and asserted administrative expense claims (both through formal court process and informal demands) and pay such valid claims in the ordinary course pursuant to the Approved Budget. In that context

⁴ The Purchased Assets under the APA includes, among other things, avoidance actions, claims arising under any assumed and assigned contract or lease or related to the acquired business, and commercial tort claims, in each case against any of the Debtors’ (a) employees that accept an offer of employment with the Purchaser and (b) customers, suppliers, and vendors with whom the Purchaser intends to do business after the Closing Date. See APA § 1.1(l).

and given that the Purchaser assumed all postpetition Accounts Payable pursuant to the APA, the Debtors determined it was not in the estates' best interests to establish a bar date (and thereby incur significant costs in pursuit thereof). To the extent creditors believed that they had postpetition administrative expense claims and contacted the Debtors' undersigned counsel or the Debtors' representatives directly, the Debtors endeavored to reconcile such asserted claims and satisfy undisputed postpetition administrative expense claims in the ordinary course and in accordance with the Approved Budget.

24. The Debtors are not aware of any asserted, valid, and unpaid administrative expense claims as of the date hereof that will not be paid in the ordinary course or that were otherwise not assumed by the Purchaser pursuant to the APA. The Debtors will continue to work with any claimant that receives notice of this Motion to address any such administrative claims, to the extent any are asserted.

25. Following closing of the Sale and payment in full of the DIP Obligations, the Debtors have approximately (a) \$2.6 million that has been funded to the Professional Fee Reserve, and (b) \$6.2 million in additional funds in the Debtors' operating account maintained at BMO (the "Operating Account").⁵ As set forth in the DIP Orders, the amounts in the Professional Fee Reserve are held in trust exclusively for the benefit of Professionals, and the Debtors will utilize such amounts to pay allowed Professional Fees and Expenses. The Debtors propose to apply the remaining funds in the BMO account as follows:

- a) *first*, towards any remaining U.S. Trustee Fees and other administrative expense claims in these Chapter 11 Cases, including the fees and expenses of the Debtors' chief restructuring officer (but excluding Professional Fees and Expenses);

⁵ Figures are as of the date of filing of this Motion.

- b) *second*, an amount equal to \$650,000 will be set aside in reserve (the “Wind-Down Reserve”) and used to wind down the Debtors’ business affairs; and
- c) *third*, subject to expiration of the Challenge Period (as defined in the Final DIP Order) and assuming no timely Challenge (as defined in the Final DIP Order) is filed, any remaining amounts will be paid to the Prepetition Lender to be applied towards the Debtors’ obligations under the Prepetition Credit Facility.⁶

26. The Debtors propose to apply any funds remaining in the Professional Fee Reserve after payment in full of all allowed Professional Fees and Expenses as follows:

- a) *first*, to fund any deficiency in the Wind-Down Reserve; and
- b) *second*, subject to expiration of the Challenge Period and assuming no timely Challenge is filed, any remaining amounts will be paid to the Prepetition Lender to be applied towards the Debtors’ obligations under the Prepetition Credit Facility.

G. The Debtors’ Books and Records

27. As of the Petition Date, the Debtors maintained various books and records (collectively, the “Books and Records”), including, without limitation, hard copy and electronic copies of: (a) accounting documents; (b) bank documents; (c) corporate governance documents; (d) documents related to contracts, leases and other contractual agreements of the Debtors; (e) insurance documents; (f) human resources and other related employment documents; (g) documents related to these Chapter 11 Cases; and (h) electronic documents. To the extent not acquired under the APA, the continued preservation of such Books and Records would be a cost and burden to the Debtors’ estates, and the destruction or abandonment of such Books and Records is necessary. Because the Debtors do not have any ongoing operations and there will not be any further claims reconciliation at the time of the dismissal of the Chapter 11 Cases, the Debtors do

⁶ The Challenge Period is scheduled to expire on May 14, 2025, which is the date that is seventy-five days after entry of the Interim DIP Order. *See* Final DIP Order ¶ 41.

not believe that abandonment or destruction of the Books and Records would be prejudicial to the Debtors' stakeholders. Accordingly, the Debtors seek approval, but not direction, to abandon or destroy the Books and Records not acquired under the APA that remain in their possession or to designate such authority to a designated representative, pursuant to this Motion and the Dismissal Order.

RELIEF REQUESTED

28. The Debtors request entry of the proposed Professional Fee Order, attached hereto as **Exhibit A**, (a) establishing procedures for payment of final fee applications by Professionals and the payment of Professional Fees and Expenses and (b) granting related relief. In addition, upon filing of a certification of counsel and the satisfaction of certain conditions set forth in the Professional Fee Order, the Debtors request entry of the proposed Dismissal Order, attached hereto as **Exhibit B**, (a) dismissing the Debtors' Chapter 11 Cases, (b) authorizing, but not directing, the Debtors or their designee to abandon or destroy the Debtors' remaining books and records not acquired by the Purchaser, (c) authorizing the Debtors to dissolve, (d) exculpating certain parties from liability in connection with the Chapter 11 Cases, (e) terminating the services of the Claims Agent in these Chapter 11 Cases, and (f) granting related relief.

BASIS FOR RELIEF REQUESTED

I. THE COURT SHOULD DISMISS THE CHAPTER 11 CASES

A. The Chapter 11 Cases Should Be Dismissed Under Section 1112(b)(1) of the Bankruptcy Code

29. Upon the request of a party in interest, section 1112(b)(1) of the Bankruptcy Code provides that "the court shall convert a [chapter 11 case] to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause," unless there are unusual circumstances. 11 U.S.C. § 1112(b)(1). The statutory language in 11

U.S.C. § 1112(b)(1) was modified by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”), which changed the statutory language with respect to conversion or dismissal from permissive to mandatory.⁷ See H.R. Rep. No. 109-31(I), at 442, reprinted in 2005 U.S.C.C.A.N. 88, 94 (stating that the Act “mandate[s] that the court convert or dismiss a chapter 11 case, whichever is in the best interests of creditors and the estate, if the movant establishes cause, absent unusual circumstances”); see also *Nester v. Gateway Access Sols., Inc. (In re Gateway Access Sols., Inc.)*, 374 B.R. 556 (Bankr. M.D. Pa. 2007) (stating that the amendments to section 1112 limit the court’s discretion to refuse to dismiss or convert a chapter 11 case upon a finding of cause); accord *In re TCR of Denver, LLC*, 338 B.R. 494, 498 (Bankr. D. Colo. 2006) (“Congress has purposefully limited the role of this Court in deciding issues of conversion or dismissal, such that this Court has no choice, and no discretion, in that it ‘shall’ dismiss or convert a case under Chapter 11 if the elements for ‘cause’ are shown under 11 U.S.C. § 1112(b)(4).”).

30. The amendments to section 1112 of the Bankruptcy Code thus limit the Court’s discretion to refuse to dismiss or convert a chapter 11 case upon a finding of cause. See *In re 3 Ram, Inc.*, 343 B.R. 113, 119 (Bankr. E.D. Pa. 2006) (“Under new § 1112 when cause is found, the court shall dismiss or convert unless special circumstances exist that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate.”); see also *In re Broad Creek Edgewater, LP*, 371 B.R. 752, 759 (Bankr. D.S.C. 2007). For reasons more fully explained below, the Court should dismiss the Chapter 11 Cases because cause exists. Further, dismissal is preferable because converting these cases to chapter 7 would impose additional administrative costs with no corresponding benefit to the Debtors’ creditors or their

⁷ Prior to the enactment of BAPCPA, a bankruptcy court had the discretion, pursuant to its broad equitable powers, to dispose of a debtor’s case, including by means of dismissal. However, a court was not mandated to dismiss a case upon the showing of cause. H.R. Rep. No. 95-595, at 405 (1977), reprinted in 1978 U.S.C.C.A.N. 5963; S. Rep. No. 95-989, at 117 (1978), reprinted in 1978 U.S.C.C.A.N. 5787.

estates. Additionally, dismissing these Chapter 11 Cases is in the best interests of the Debtors, their creditors, and their estates because such dismissal allows the Debtors to exit the Chapter 11 Cases as efficiently as possible.

1. Cause Exists Under Section 1112(b)(4) of the Bankruptcy Code

31. Section 1112(b) of the Bankruptcy Code provides a nonexclusive list of 16 grounds for dismissal for cause. 11 U.S.C. § 1112(b)(4)(A)-(P). *See In re Gateway Access Sols.*, 374 B.R. at 561 (“Generally, such lists are viewed as illustrative rather than exhaustive, and the Court should ‘consider other factors as they arise.’”) (*quoting First Jersey Nat’l Bank v. Brown (In re Brown)*, 951 F.2d 564, 572 (3d Cir. 1991)); *Frieouf v. U.S.*, 938 F.2d 1099, 1102 (10th Cir. 1991) (stating that section 1112(b) of the Bankruptcy Code’s list is nonexhaustive); *In re 3 Ram, Inc.*, 343 B.R. at 117 (“While the enumerated examples of ‘cause’ to convert or dismiss a chapter 11 case now listed in § 1112(b)(4) have changed under BAPCPA, the fact that they are illustrative, [and] not exhaustive has not.”) (citation omitted); *accord Frieouf v. United States (In re Frieouf)*, 938 F.2d 1099, 1102 (10th Cir. 1991) (stating that section 1112(b)’s list is non-exhaustive).⁸

32. One such ground is where a party in interest shows that (i) there has been a “loss” or “diminution” of value of the estate and (ii) the debtor does not have a “reasonable likelihood of rehabilitation.” *See* 11 U.S.C. § 1112(b)(4)(A). Another such ground is a debtor’s inability to effectuate a successful plan of reorganization justifies “cause” for purposes of § 1112(b) dismissal. *See id.* § 1112(b)(4)(M); *In re Am. Cap. Equip., LLC*, 688 F.3d 145, 162 n.10 (3d Cir. 2012) (“the ‘inability to effectuate a plan’ remains a viable basis for dismissal because the listed examples of

⁸ In *In re TCR of Denver*, the court recognized the apparent typographical error in section 1112(b)(4) of the Bankruptcy Code. 338 B.R. at 498. The 16 illustrative examples of “cause” set forth in that section are linked by the word “and” after subsection (O). *Id.* Accordingly, strict construction of the statute would require that a debtor establish all of the items constituting “cause” before a case can be dismissed by the court. *Id.* The TCR Court held that Congress could not have intended to require a “perfect storm” of all 16 circumstances listed before a case may be dismissed. *Id.*

cause [in section 1112(b)] are not exhaustive”). Inability to effectuate a plan arises when a debtor lacks the capacity to “formulate a plan or carry one out” or where the “core” for a workable plan of reorganization “does not exist.” *See Preferred Door*, 990 F.2d 547, 549 (10th 1993) (quoting *Hall v. Vance*, 887 F.2d 1041, 1044 (10th Cir. 1989)) (finding an inability to effectuate a plan arises where debtor lacks capacity to formulate a plan or carry one out); *In re Blunt*, 236 B.R. 861, 865 (Bankr. M.D Fla. 1999) (finding cause to dismiss debtor’s case under section 1112(b)(2) of the Bankruptcy Code where “core” for a workable plan of reorganization found to be nonexistent).

33. As detailed herein, the Debtors sold substantially all of their assets in connection with the Sale. Following closing of the Sale, the Debtors’ estates will exist solely to (a) meet the Debtors’ obligations under the APA, (b) effectuate an orderly exit from the Chapter 11 Cases, (c) satisfy the Debtors’ valid postpetition obligations incurred during the course of the Chapter 11 Cases, and (d) distribute any remaining funds to the Prepetition Lender, which holds a lien on such funds pursuant to the Prepetition Loan Documents, the Final DIP Order, and the Sale Order. While doing so, the estates continue to accrue U.S. Trustee fees and fees and expenses incurred by the professionals in the Chapter 11 Cases, which have been reserved for and segregated in a finite amount pursuant to the final Approved Budget, as approved by the DIP Orders. Following closing of the Sale, there is no longer a business to reorganize or unencumbered assets to distribute to unsecured creditors, and thus there is no reason, nor are there unencumbered funds available, to pursue a chapter 11 plan of reorganization or a liquidating chapter 11 plan. Accordingly, the Debtors submit that cause exists to dismiss the Chapter 11 Cases pursuant to section 1112(b)(4) of the Bankruptcy Code.

2. Dismissal of the Chapter 11 Cases is Warranted Under Section 305(a) of the Bankruptcy Code

34. Cause also exists to dismiss these Chapter 11 Cases pursuant to section 305(a) of the Bankruptcy Code, which provides that the “court, after notice and a hearing, may dismiss a case under this title . . . at any time if—(1) the interests of creditors and the debtor would be better served by such dismissal or suspension” *See* 11 U.S.C. § 305(a); *In re AMC Investors, LLC*, 406 B.R. 478, 487-88 (Bankr. D. Del. 2009).

35. Whether dismissal is appropriate under this provision is determined on a case-by-case basis and rests in the sound discretion of the bankruptcy court. *In re Sky Grp. Int’l, Inc.*, 108 B.R. 86, 91 (Bankr. W.D. Pa. 1989). Many factors are considered when determining the best interests of creditors and the debtor, including (a) the economy and efficiency of administration, (b) whether federal proceedings are necessary to reach a just and equitable solution, (c) whether there is an alternative means of achieving an equitable distribution of assets, and (d) whether the debtor and the creditors are able to work out a less expensive out-of-court arrangement that better serves all interests in the case. *AMC Investors*, 406 B.R. at 488.

36. Here, cause exists for dismissal under section 305 of the Bankruptcy Code. The Debtors have sold substantially all of their assets, and do not believe that there are any additional potential recoveries for unsecured creditors that would warrant keeping the Chapter 11 Cases open for further administration. Under the circumstances, conversion to chapter 7 would impose additional administrative costs with no corresponding benefit to the Debtors’ unsecured creditors or their estates. Dismissal of the Chapter 11 Cases, as set forth in this Motion, among other things, provides the most efficient, cost-effective method of effectuating the wind-down of the Debtors’ estates, ensuring payment of all Professional Fees and Expenses and U.S. Trustee fees pursuant to

the Approved Budget approved by the DIP Orders, and providing a meaningful recovery to the Prepetition Lender on account of the outstanding secured Prepetition Credit Facility obligations.

3. Dismissal is in the Best Interests of the Debtors' Creditors and the Debtors' Estates

37. Once a court determines that cause exists to dismiss a chapter 11 case, the court must also evaluate whether dismissal is in the best interests of the estate and creditors. *See In re Calrissian LP*, 2018 WL 3854004, at *2 (Bankr. D. Del. 2018); *In re Superior Sliding & Window, Inc.*, 14 F.3d 240, 243 (4th Cir. 1994) (“Once ‘cause’ is established, a court is required to consider this second question of whether to dismiss or convert.”). As set forth herein, a variety of factors demonstrate that it is in the best interests of the Debtors, their estates, and their creditors to dismiss the Chapter 11 Cases and authorize the relief sought herein.

38. **First**, dismissal of a debtor’s case meets the best interests of creditors test where a debtor has nothing left to reorganize and the debtor’s assets are fixed and liquidated. *See In re BTS, Inc.*, 247 B.R. 301, 310 (Bankr. N.D. Okla. 2000); *In re Camden Ordinance Mfg. Co. of Arkansas, Inc.*, 245 B.R. 794, 799 (E.D. Pa. 2000) (finding that a reorganization to salvage a business which ceased doing business was not feasible); *In re Brogdon Inv. Co.*, 22 B.R. 546, 549 (Bankr. N.D. Ga. 1982) (dismissing chapter 11 case in part where there was “simply nothing to reorganize” and no reason to continue the reorganization). The Debtors have nothing left to reorganize because substantially all of their assets have been sold pursuant to the Sale Order. Further, the Debtors have insufficient unencumbered cash (or cash which is not otherwise held in trust) to administer chapter 7 cases if these Chapter 11 Cases were converted.

39. **Second**, courts have found that dismissal is in the “best interests of creditors” where an interested party, other than the debtor, supports the dismissal of the debtor’s chapter 11 case. *See Camden Ordinance*, 245 B.R. at 798; *In re Mazzocone*, 183 B.R. 402, 414 (Bankr. ED. Pa.

1995), *aff'd*, 200 B.R. 568 (E.D. Pa. 1996) (factors weighed more heavily in favor of dismissal of chapter 11 case rather than conversion to chapter 7 where debtor and U.S. Trustee both favored dismissal). Here, the Prepetition Lender, which holds the largest secured and unsecured claims against the Debtors, supports dismissal of these Chapter 11 Cases rather than conversion to chapter 7.

40. **Third**, a court may find dismissal to be in the “best interests of the creditors” where a debtor demonstrates the ability to oversee its own liquidation. *See Camden Ordnance*, 245 B.R. at 798; *Mazzocone*, 183 B.R. at 412 (“Only when a Chapter 11 debtor has no intention or ability to . . . perform its own liquidation . . . should a debtor be permitted to remain in bankruptcy[.]”). Here, to the extent this factor is applicable to the facts and circumstances of these proceedings, the Debtors will have already liquidated substantially all of their assets in advance of dismissal.

41. **Fourth**, and finally, dismissal is appropriate where, as here, the dismissal of a chapter 11 case will maximize the value of a debtor’s estate,⁹ because conversion to chapter 7 would impose substantial and unnecessary additional administrative costs upon the Debtors’ estates with no hope that the estate and creditors would receive more consideration. Under the circumstances, a chapter 7 trustee would have little to no funds to satisfy additional claims arising after conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code.

42. The Debtors have further determined that there are no remaining unencumbered assets of any material value that warrant keeping the Chapter 11 Cases open or that warrant the appointment of a chapter 7 trustee. As a result, creditors would not receive greater recoveries in a chapter 7 liquidation and there would be nothing for a chapter 7 trustee to do.

⁹ One element of the best interest test focuses upon whether the economic value of the estate is greater inside or outside of bankruptcy. *In re Clark*, 1995 WL 495951, at *5 (N.D. Ill. 1995); *In re Staff Inv. Co.*, 146 B.R. 256, 261 (Bankr. E.D. Cal. 1993). The prime criterion for assessing the best interests of the estate is the maximization of value as an economic enterprise. *See id.*

43. Numerous courts, both in this district and other districts, have approved orderly dismissals under similar circumstances to the Debtors, where the debtor lacks the requisite financial ability to confirm a chapter 11 plan and/or where the costs associated with plan confirmation would eliminate the possibility of a meaningful creditor recovery. *See, e.g., The RP Co. Liquidating, LLC*, Case No. 23-10774 (BLS) (Bankr. D. Del. 2024) [Docket No. 700]; *Makeup Liquidating Holdings, LLC (f/b/a BHCosmetics Holdings, LLC)*, Case No. 22-10050 (JKS) (Bankr. D. Del. 2022) [Docket No. 415]; *In re KB Toys, Inc.*, Case No. 08-13269 (KJC) (Bankr. D. Del. 2009) [Docket No. 914]; *In re CFM U.S. Corporation, et. al.*, Case No. 08-10668 (KJC) (Bankr. D. Del. 2009) [Docket No. 1097]; *In re Wickes Holdings, LLC, et al.*, Case No. 08-10212 (KJC) (Bankr. D. Del. 2009) [Docket No. 1418]; *In re Bag Liquidation, Ltd*, Case No. 08-32096 (SGJ) (Bankr. N.D. Tex. 2009) [Docket No. 688]; *In re Levitz Home Furnishings, Inc.*, Case No. 05-45189 (BRL) (Bankr. S.D.N.Y. 2008) [Docket No. 1167]; *In re Princeton Ski Shop, Inc., et al*, Case No. 07-26206 (MS) (Bankr. D.N.J. 2008) [Docket No. 546]; *In re Harvey Elecs., Inc.*, Case No. 07-14051 (ALG) (Bankr. S.D.N.Y. 2008) [Docket No. 177].

44. For these reasons, the Debtors submit that dismissal pursuant to section 1112(b) of the Bankruptcy Code is in the best interest of the Debtors' creditors and their estates.

B. The Court Should Dismiss the Chapter 11 Cases Pursuant to Section 105(a) of the Bankruptcy Code

45. Section 105(a) of the Bankruptcy Code provides the Court with supplemental authority to effectuate the overall policy objectives of the Bankruptcy Code in connection with a motion to dismiss a chapter 11 case. *See* 11 U.S.C. § 105(a) (“[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”).

46. Here, given the circumstances discussed above, the Chapter 11 Cases should be dismissed to allow the other Debtor entities to wind down their affairs and pursue an exit from the

Chapter 11 Cases as efficiently as possible. The voluntary dismissal of the Chapter 11 Cases accomplishes this goal. Absent a dismissal, the Debtors would continue to incur substantial chapter 11 administrative expenses.

47. Accordingly, the dismissal of the Chapter 11 Cases is consistent with the policy objectives of the Bankruptcy Code and this Court should dismiss such cases.

II. ALL ORDERS ENTERED IN THESE CHAPTER 11 CASES SHOULD REMAIN IN EFFECT

48. The dismissal of a chapter 11 case ordinarily vacates all orders previously entered by the bankruptcy court and restores all parties to the prepetition status quo. *See* 11 U.S.C. § 349(b). A bankruptcy court may, however, “for cause, order[] otherwise” *Id.* Courts in this jurisdiction have regularly allowed orders, including those approving releases and settlements, to be given continued effect after a dismissal, notwithstanding section 349 of the Bankruptcy Code. *See, e.g., In re iPic-Gold Class Entertainment, LLC*, No. 19-11739 (LSS) (Bankr. D. Del. Sep. 30, 2020) [Docket No. 785] (giving continued effect to orders entered throughout the pendency of the chapter 11 cases, including sale orders); *In re CP Holdings LLC*, No. 21-10950 (LSS) (Bankr. D. Del. Mar. 10, 2022) [Docket No. 233] (same); *In re TSAWD Holdings, Inc.*, No. 16-10527 (MFW) (Bankr. D. Del. Mar. 23, 2021) [Docket No. 4833] (same); *In re RM Wind-Down Holdco LLC*, No. 18-11795 (MFW) (Bankr. D. Del. Feb. 18, 2020) [Docket No. 721] (same); *In re The Bon-Ton Stores, Inc.*, No. 18-10248 (MFW) (Bankr. D. Del. Feb. 1, 2019) [Docket No. 1488] (same); *In re EO Liquidating, LLC*, No. 17-10243 (LSS) (Bankr. D. Del. Aug. 31, 2017) [Docket No. 735] (giving continued effect to orders entered throughout the pendency of the chapter 11 cases); *In re Sunco Liquidation, Inc.*, No. 17-10561 (KG) (Bankr. D. Del. Nov. 6, 2017) [Docket No. 865] (same).

49. Given the circumstances and posture of the Chapter 11 Cases, the Debtors submit that ample cause exists to allow all prior orders, releases, stipulations, settlements, rulings, and judgments entered by the Court in connection with the Chapter 11 Cases to be given continued effect, notwithstanding the requested dismissal. The relief requested is necessary to protect the Debtors and preserve the authority the Debtors had to act pursuant to the various orders entered by this Court. For the avoidance of doubt, the Motion does not seek approval of any new or additional releases and merely seeks to confirm that prior releases approved by this Court in connection with these Chapter 11 Cases shall survive dismissal.

III. DEBTORS' AUTHORITY TO ABANDON OR DESTROY CERTAIN BOOKS AND RECORDS

50. Section 554(a) of the Bankruptcy Code and Bankruptcy Rule 6007 authorize a debtor in possession, upon notice and a hearing, to abandon estate property that is of little value to the estate or is otherwise burdensome to maintain. 11 U.S.C.A. § 554(a) (“After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.”).

51. Here, the Debtors request that the Court authorize, but not direct, the Debtors to abandon or destroy the Books and Records pursuant to sections 105(a) and 554 of the Bankruptcy Code and Bankruptcy Rule 6007, and to make all payments necessary to effect such destruction or abandonment. As previously discussed, the Debtors have sold substantially all of their assets and have largely wound down their affairs. The Books and Records that the Debtors continue to possess will be of no value to the Debtors after dismissal of these Chapter 11 Cases, wind-down of the Debtors' estates, and the dissolution of the Debtor entities.

52. The Debtors submit that they should not incur any additional costs associated with maintaining and storing the Books and Records that have no value to their estates, and they should

be authorized, but not directed, to abandon or destroy, as applicable, the Books and Records or authorize a designee to do the same under the terms set forth herein.

53. The Debtors request that the Dismissal Order: (a) authorize, but not direct, the Debtors to destroy, abandon, or otherwise dispose of any Books and Records, or authorize a designee to do so; and (b) authorize, but not direct, the Debtors to make all payments necessary to effectuate such destruction, abandonment, or other disposition, provided however, that any hard copy documents containing personally identifiable information must be shredded and any electronic documents containing personally identifiable information must be destroyed.

54. Courts in this jurisdiction have authorized the destruction and abandonment of certain records in similar circumstances. *See, e.g., In re RM Wind-Down Holdco LLC*, No. 18-11795 (MFW) (Bankr. D. Del. Apr. 30, 2019) [Docket No. 635] (authorizing debtors to abandon and destroy books and records remaining in their possession); *In re EO Liquidating, LLC*, No. 17-10243 (LSS) (Bankr. D. Del. Aug. 31, 2017) [Docket No. 735] (same).

IV. THE COURT SHOULD AUTHORIZE DISSOLUTION OF THE DEBTORS

55. Because the Debtors will have sold substantially all of their assets and ceased operations, the Court is empowered by sections 105 and 363(b)(1) of the Bankruptcy Code and its general equitable powers to authorize the dissolution of the Debtors. *See, e.g., Weir v. JMACK*, No. 3263- CC, 2008 WL 4379592 at *2 (Del. Ch. Sept. 14, 2008) (granting dissolution of corporation by court order and stating that “[i]t is well settled that this Court, as a court of equity, has the power to order the dissolution” of a corporation). Further, courts in this jurisdiction have previously authorized the dissolution of debtors by court order in connection with the dismissal of a chapter 11 case. *See, e.g., In re iPic-Gold Class Entertainment, LLC*, No. 19-11739 (LSS) (Bankr. D. Del. Sep. 30, 2020) [Docket No. 785]; *In re EO Liquidating, LLC*, No. 17-10243 (LSS) (Bankr. D. Del. Aug. 31, 2017) [Docket No. 735]; *In re CP Holdings LLC*, No. 21-10950 (LSS)

(Bankr. D. Del. Mar. 10, 2022) [Docket No. 233]; *In re TSAWD Holdings, Inc.*, No. 16-10527 (MFW) (Bankr. D. Del. Mar. 23, 2021) [Docket No. 4833]; *In re The Bon-Ton Stores, Inc.*, No. 18-10248 (MFW) (Bankr. D. Del. Feb. 1, 2019) [Docket No. 1436]; *In re RM Wind-Down Holdco LLC*, No. 18-11795 (MFW) (Bankr. D. Del. Feb. 18, 2020) [Docket No. 721].

56. Here, the Debtors respectfully submit that it is appropriate and necessary for the Court to authorize the dissolution of the Debtors. The Debtors have no further business to conduct or other purpose to remain active corporate entities, and absent their prompt dissolution, the Debtors may incur additional taxes and statutory fees owing to their continued corporate existence. Accordingly, the Debtors submit that it is in the best interests of the Debtors' estates for the Debtors to be dissolved with the dismissal of the Chapter 11 Cases.

V. THE LIMITED EXCULPATION PROVISIONS IN THE DISMISSAL ORDER ARE APPROPRIATE AND SHOULD BE APPROVED

57. The limited exculpation sought by the Debtors in the Dismissal Order is appropriate because it is fair, necessary, and supported by the factual record and applies to parties that played significant roles in these Chapter 11 Cases. *See, e.g., In re Great Atlantic & Pacific Tea Co., Inc., et al.*, No. 15-23007 (RDD) 2021 WL 5863393, at *12 (Bankr. S.D.N.Y. May 13, 2021) (approving exculpation of the debtors, creditors' committee and secured lender, among others, in dismissal order). The Debtors, the directors, managers, officers, and employees of the Debtors who served during any portion of these Chapter 11 Cases and the Debtors' professionals retained in these Chapter 11 Cases (collectively, the "Exculpated Parties") worked diligently throughout the Chapter 11 Cases to consummate the successful sale of the Debtors' assets and accomplish an efficient and value-maximizing wind-down of the Debtors' estates. In consideration of those efforts, the Debtors seek limited exculpation for the Exculpated Parties.

58. The exculpation provisions included in the Dismissal Order will protect the Exculpated Parties from liability for any actions taken (or omitted to be taken) in good faith, relating to or in connection with these Chapter 11 Cases, including the formulation and implementation of this Motion and the Dismissal Order. Courts have approved similar relief in the past. *See, e.g., The RP Co. Liquidating, LLC*, Case No. 23-10774 [Docket No. 700] (Bankr. D. Del. 2024); *In re CP Holdings LLC*, No. 21-10950 (LSS) (Bankr. D. Del. Mar. 10, 2022) [Docket No. 233]; *In re Destination Maternity Corp., et al.*, No. 19-12256 (BLS) (Bankr. D. Del. Dec. 29, 2021) [Docket No. 1229] (approving release provision in dismissal order that relieved estate fiduciaries of liability related to actions taken in good faith in connection with the chapter 11 proceedings); *In re Great Atlantic & Pacific Tea Co., Inc., et al.*, 2021 WL 5863393, at *12 (approving exculpation of the debtors, creditors' committee, and secured lender, among others, in dismissal order); *In re Real Industry, Inc., et al.*, No. 17-12464 (KJC) (Bankr. D. Del. Dec. 18, 2018) [Docket No. 1165] (approving exculpation of estate fiduciaries in dismissal order); *In re City Sports, Inc.*, No. 15-12054 (KG) (Bankr. D. Del. Mar. 4, 2016) [Docket No. 647] (approving broad release provision); *In re Coach Am Grp. Holdings Corp.*, No. 12-10010 (KG) (Bankr. D. Del. May 31, 2013) [Docket No. 1568] (approving consensual releases and broad exculpation). Further, the proposed exculpation provisions expressly exclude liability for any acts of fraud, gross negligence, or willful misconduct on the part of the Exculpated Parties. The Debtors, therefore, submit that the limited exculpation provisions in the Dismissal Order are narrowly tailored and appropriate, and request that they be approved.

VI. THE COURT SHOULD ESTABLISH A PROCEDURE TO APPROVE PROFESSIONAL FEES AND EXPENSES

59. As noted above, on March 20, 2025, the Court entered the Interim Compensation Order approving procedures governing applications for and payments of fees and expenses

requested by Professionals. In connection with the wind down of the Debtors' estates and dismissal of these Chapter 11 Cases pursuant to this Motion and notwithstanding any provisions to the contrary in the Interim Compensation Order, the Debtors additionally request that the Court (a) schedule a final omnibus fee hearing (the "Final Fee Hearing") on August 5, 2025 at 2:00 p.m. (prevailing Eastern Time), (b) require all Professionals retained in these Chapter 11 Cases to file final requests for payment of all Professional Fees and Expenses incurred during these Chapter 11 Cases (collectively, the "Final Fee Applications") not later than June 27, 2025, and (c) require that any objections to the Final Fee Applications be filed and served on counsel for the Debtors and such applicable Professional by 4:00 p.m. (prevailing Eastern Time) on July 18, 2025.

60. Courts in this jurisdiction have granted similar relief in the context of dismissals. *See, e.g., In re Destination Maternity Corporation*, No. 19-12256 (BLS) [Docket No. 1185] (Bankr. D. Del. Nov. 22, 2021); *In re Forever 21, Inc.*, No. 19-12122 (MFW) [Docket No. 2118] (Bankr. D. Del. Oct. 4, 2021); *In re The Bon-Ton Stores, Inc.*, No. 18-10248 (MFW) (Bankr. D. Del. Feb. 1, 2019) [Docket No. 1436]; *In re RM Wind-Down Holdco LLC*, No. 18-11795 (MFW) (Bankr. D. Del. 11795) [Docket No. 635]; *In re In re Quantum Foods, LLC*, No. 14-10318 (KJC) (Bankr. D. Del. Apr. 6, 2018) [Docket No. 1798]; *In re Sunco Liquidation, Inc.*, No. 17-10561 (KG) (Bankr. D. Del. Aug. 18, 2017) [Docket No. 706]; *In re Old Towing Co.*, No. 17-10249 (LSS) (Bankr. D. Del. May 30, 2017) [Docket No. 381]; *In re TAH Windown, Inc.*, No. 16-11599 (MFW) (Bankr. D. Del. Jan. 13, 2017) [Docket No. 408].

VII. DEBTORS' AUTHORITY TO TERMINATE ENGAGEMENT OF CLAIMS AGENT

61. In connection with the dismissal of the Chapter 11 Cases, the Debtors request the claims and noticing services provided by the Claims Agent pursuant to the Verita Retention Order be terminated. Upon termination of the Claims Agent's services, and except as otherwise provided

in the Local Rules, the Debtors request that the Claims Agent shall have no further obligations under the Verita Retention Order to the Debtors or to any other party in interest with respect to the Claims Agent's services.

62. Pursuant to Local Rule 2002-1(e)(ix), within fourteen (14) days of entry of the Dismissal Order, the Claims Agent shall (a) forward to the Clerk of the Court an electronic version of all imaged claims, (b) upload the creditor mailing list into CM/ECF, and (c) docket a final claims register.

63. Courts in this jurisdiction have previously authorized the termination of Claims Agents in connection with the dismissal of a chapter 11 case. *See, e.g., In re iPic-Gold Class Entertainment, LLC*, No. 19-11739 (LSS) (Bankr. D. Del. Sep. 30, 2020) [Docket No. 785]; *In re Response Genetics, Inc.*, No. 15-11663 (LSS) (Bankr. D. Del. Apr. 18, 2016) [Docket No. 401]; *In re EO Liquidating, LLC*, No. 17-10243 (LSS) (Bankr. D. Del. Aug. 31, 2017) [Docket No. 735].

NOTICE

64. Notice of this Motion has been given to: (a) the U.S. Trustee; (b) all known creditors in the Chapter 11 Cases; (c) the Office of the United State Attorney for the District of Delaware; (d) the attorneys general for all the states in which the Debtors conducted business; (e) the Internal Revenue Service; (f) counsel to the Purchaser and Prepetition Lender; (g) all known professionals retained in these Chapter 11 Cases; and (h) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"). The Debtors respectfully submit that no other or further notice is required.

NO PRIOR REQUEST

65. No previous request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, for the foregoing reasons, the Debtors respectfully request that this Court enter the Professional Fee Order and the Dismissal Order, substantially in the forms attached hereto, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: May 14, 2025
Wilmington, Delaware

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Counsel to the Debtors and Debtors in Possession

EXHIBIT A

Proposed Professional Fee Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:

Dynamic Aerostructures LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 25-10292 (LSS)

(Jointly Administered)

Related Docket No. ____

**INITIAL ORDER (I) APPROVING THE DISMISSAL OF THE CHAPTER 11 CASES,
(II) ESTABLISHING PROCEDURES FOR PAYMENT OF FINAL FEE
APPLICATIONS, AND (III) GRANTING RELATED RELIEF**

Upon the Debtors' motion (the "Motion")² pursuant to sections 105(a), 305(a), and 1112(b) of the Bankruptcy Code for the entry of an order, among other things, (a) approving the dismissal of these Chapter 11 Cases, (b) establishing procedures for payment of final fee applications, and (c) granting related relief; and this Court having reviewed the Motion and having conducted a hearing on the Motion, at which time the Debtors and all parties in interest were given an opportunity to be heard; and it appearing that sufficient notice of the Motion has been given to parties in interest; and the Court having found that (a) it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (b) notice of the Motion and the opportunity for a hearing thereon was adequate and sufficient under the circumstances and no other or further notice need be given, (c) the legal and factual bases set forth in the Motion constitute just cause for the relief granted herein, and (d) the relief requested

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors' service address is 27756 Avenue Mentry, Valencia, California 91355.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

in the Motion is in the best interests of the Debtors' estates and creditors; and after due deliberation thereon and sufficient cause appearing therefor, it is

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is hereby GRANTED as set forth herein.
2. The Debtors are authorized to establish a Wind-Down Reserve in the amount of \$650,000 to fund any reasonable costs, expenses, and fees (including attorneys' fees) necessary to wind down the Debtors and the estates after the dismissal of these Chapter 11 Cases and dissolve the Debtor entities. To the extent any funds remain in the Wind-Down Reserve after paying the wind-down obligations, the Debtors will promptly remit such funds to the Prepetition Lender to be applied against the Debtors' obligations under the Prepetition Credit Facility.
3. Notwithstanding any provisions of the Interim Compensation Order to the contrary, all Professionals that have not obtained entry of a final order approving their fees shall file final fee applications for Professional Fees and Expenses by June 27, 2025. Any objections to the Final Fee Applications shall be filed and served on counsel for the Debtors and the Professional submitting the application to which an objection is being filed by no later than July 18, 2025 at 4:00 p.m. (prevailing Eastern Time). The Court will hold a hearing, if necessary, on August 5, 2025 at 2:00 p.m. (prevailing Eastern Time) to resolve any objections or disputes related to Final Fee Applications.
4. After Final Fee Applications have been heard, allowed Professional Fees and Expenses have been paid, U.S. Trustee fees have been paid, and the Wind-Down Reserve has been established, the Debtors shall file a certification of counsel (the "Certification") requesting entry of the Dismissal Order. Among other things, the Certification should verify that (a) all U.S. Trustee fees have been paid in full, (b) all Professional Fees and Expenses incurred in these

Chapter 11 Cases have been approved on a final basis and paid in full, and (c) the Wind-Down Reserve has been established.

5. The Debtors are only required to serve the Certification and this Order on the U.S. Trustee, counsel to the Prepetition Lender, and those parties requesting notice pursuant to Bankruptcy Rule 2002, and no further notice regarding the dismissal of the Chapter 11 Cases shall be required. The Debtors' creditors and parties in interest have received reasonable notice of the proposed dismissal through notice of the hearing on the Motion.

6. To the extent any funds remain with the Debtors (other than funds in the Professional Fee Reserve) after (a) payment in full of all U.S. Trustee fees, all fees and expenses of the Claims Agent, and any other administrative expense claims in these Chapter 11 Cases (other than Professional Fees and Expenses), (b) funding the Wind-Down Reserve, and (c) making any other payments set forth in this Order, the Debtors are hereby authorized to remit such funds to the Prepetition Lender to be applied against the Debtors' obligations under the Prepetition Credit Facility.

7. To the extent any funds remain in the Professional Fee Reserve after payment in full of all allowed Professional Fees and Expenses, the Debtors are hereby authorized to use such funds to (a) first, fund any deficiency in the Wind-Down Reserve, and (b) second, remit any remaining funds to the Prepetition Lender to be applied against the Debtors' obligations under the Prepetition Credit Facility.

8. To the extent applicable, Bankruptcy Rules 6004(h) and 6006(d) are waived and this Order shall be effective and enforceable immediately upon entry.

9. The Debtors are authorized to take any and all actions necessary to effectuate the relief granted pursuant to this Order.

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

EXHIBIT B

Proposed Dismissal Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:

Dynamic Aerostructures LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 25-10292 (LSS)

(Jointly Administered)

Related Docket No. ____

**ORDER GRANTING THE DEBTORS' MOTION FOR ENTRY OF AN ORDER
(I) DISMISSING THE CHAPTER 11 CASES, (II) AUTHORIZING THE DEBTORS TO
ABANDON OR DESTROY CERTAIN BOOKS AND RECORDS, (III) AUTHORIZING
THE DEBTORS TO DISSOLVE, (IV) EXCULPATING CERTAIN PARTIES FROM
LIABILITY IN CONNECTION WITH THE CHAPTER 11 CASES, (V) TERMINATING
ENGAGEMENT OF CLAIMS AGENT, AND (VI) GRANTING RELATED RELIEF**

Upon the Debtors' motion (the "Motion")² pursuant to sections 105(a), 305(a), and 1112(b) of the Bankruptcy Code for the entry of an order (this "Order"): (a) dismissing the Chapter 11 Cases; (b) authorizing, but not directing, the Debtors or their designee to abandon or destroy the Debtors' remaining books and records not taken by the Purchaser, subject to the terms herein; (c) authorizing the Debtors to dissolve; (d) exculpating certain parties from liability in connection with the Chapter 11 Cases; (e) terminating the services of Kurtzman Carson Consultants, LLC DBA Verita Global (the "Claims Agent") in the Chapter 11 Cases; and (f) granting related relief; and this Court having reviewed the Motion and having conducted a hearing on the Motion, at which time the Debtors and all parties in interest were given an opportunity to be heard; and it appearing that sufficient notice of the Motion has been given to parties in interest; and the Court having found that (a) it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors' service address is 27756 Avenue Mentry, Valencia, California 91355.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

and this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (b) notice of the Motion and the opportunity for a hearing thereon was adequate and sufficient under the circumstances and no other or further notice need be given, (c) the legal and factual bases set forth in the Motion constitute just cause for the relief granted herein, and (d) the relief requested in the Motion is in the best interests of the Debtors' estates and creditors; and after due deliberation thereon and sufficient cause appearing therefor, it is

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is hereby GRANTED as set forth herein.
2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the merits and denied with prejudice.
3. Pursuant to sections 105(a), 305(a), and 1112(b) of the Bankruptcy Code, each of the Chapter 11 Cases are hereby dismissed effective as of the date of entry of this Order.
4. The Debtors shall file and serve on the U.S. Trustee any remaining monthly operating reports and pay any quarterly fees due and owing pursuant to 28 U.S.C. § 1930(a)(6) in the Chapter 11 Cases within 30 days of the entry of this Order. Entry of this Order is without prejudice to the rights of the U.S. Trustee to reopen the Chapter 11 Cases to seek appropriate relief in the event of an unresolved dispute over the payment of fees pursuant to 28 U.S.C. § 1930(a)(6).
5. Notwithstanding anything to the contrary, including, without limitation, section 349 of the Bankruptcy Code, all prior orders, releases, stipulations, settlements, rulings, orders and judgments of this Court made during the course of the Chapter 11 Cases, including, without limitation, the Sale Order and the DIP Orders, shall remain final and in full force and effect, shall be unaffected by the dismissal of the Chapter 11 Cases, and are specifically preserved for all preclusive purposes, including, without limitation, collateral estoppel and *res judicata*.

6. The Clerk of the Court shall enter this Order individually on each of the dockets of the Chapter 11 Cases and thereafter each docket shall be marked as “Closed.”

7. Entry of this Order is without prejudice to (a) the rights of the Debtors or any other party in interest to seek to reopen the Chapter 11 Cases for cause pursuant to section 350(b) of the Bankruptcy Code, and (b) the right of the Debtors or any other parties in interest to dispute, object to or resolve all claims that were filed against the Debtors in the Chapter 11 Cases.

8. Pursuant to sections 105(a) and 554 of the Bankruptcy Code and Bankruptcy Rule 6007, the Debtors are authorized, but not directed, to abandon or destroy, or cause to be abandoned or destroyed, any and all Books and Records not taken by the Purchaser that remain with the Debtors’ estates as of the date of entry of this Order; provided, however, that any hard copy documents containing personally identifiable information must be shredded and any electronic documents containing personally identifiable information must be destroyed.

9. Upon entry of this Order, the Claims Agent, as the Debtors’ claims and noticing agent, is relieved of its responsibilities as the Debtors’ claims and noticing agent in these Chapter 11 Cases; provided, however, that the Claims Agent shall provide the services described in this paragraph. Pursuant to Local Rule 2002-1(e)(ix), within fourteen (14) days of entry of this Order, the Claims Agent shall (a) forward to the Clerk of the Court an electric version of all imaged claims, (b) upload the creditor mailing list into CM/ECF, and (c) docket a combined final claims register in the lead case. Should the Claims Agent receive any mail regarding the Chapter 11 Cases after entry of this Order, the Claims Agent shall collect and forward such mail monthly, to the Debtors; provided, however, that the Claims Agent is authorized to destroy any undeliverable mail, correspondence, or other documents that it has in its possession related to the Debtors, other than the mail referenced in this paragraph. The above services to be rendered by Verita shall be a

charge to the estates and Verita shall be compensated in accordance with the terms of its Engagement Agreement.

10. As soon as reasonably practicable after entry of this Order, without the need for further action on the part of this Court and without the need for further corporate action or action of the board of directors of the Debtors, the Debtors shall be authorized to dissolve pursuant to applicable state law, and the Debtors shall not be required to pay any taxes or fees to cause such dissolution. Any officer or other authorized representative of the Debtors is authorized to execute and file on behalf of the Debtors all applicable tax returns or other documents necessary and proper to effectuate and consummate the dissolution of the Debtors in accordance with applicable law.

11. From and after the date of entry of this Order, the Debtors, the directors, managers, officers and employees of the Debtors who served during any portion of the Chapter 11 Cases, and the Debtors' professionals retained in these Chapter 11 Cases (each an "Exculpated Party"), shall be exculpated from any liability for any act taken or omitted to be taken in good faith from the Petition Date through the date of entry of this Order in connection with or related to the Chapter 11 Cases, including but not limited to, the implementation of this Order (other than an act in contravention of this Order), except for any claim or cause of action arising from the fraud, gross negligence, or willful misconduct of such Exculpated Party.

12. Notwithstanding the applicability of any Bankruptcy Rules to the contrary, the terms and conditions of this Order shall be effective and enforceable immediately upon entry of this Order.

13. The Debtors are authorized and empowered to execute and deliver such documents, and to take and perform any and all actions necessary to implement and effectuate the relief granted pursuant to this Order.

14. The Court shall retain jurisdiction with respect to any matters, claims, rights, or disputes arising from or relating to the implementation of any order of this Court entered in the Chapter 11 Cases.

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

In re:

Dynamic Aerostructures LLC, *et al.*,
Debtors.¹

Chapter 11

Case No. 25-10292 (LSS)

(Jointly Administered)

Hearing Date: June 10, 2025 at 2:00 p.m. (ET)

Obj. Deadline: June 3, 2025 at 4:00 p.m. (ET)

**NOTICE OF DEBTORS' MOTION FOR ENTRY OF ORDERS (I) ESTABLISHING
PROCEDURES FOR PAYMENT OF FINAL FEE APPLICATIONS, (II) DISMISSING
THE CHAPTER 11 CASES, (III) AUTHORIZING THE DEBTORS TO ABANDON OR
DESTROY CERTAIN BOOKS AND RECORDS, (IV) AUTHORIZING THE DEBTORS
TO DISSOLVE, (V) EXCULPATING CERTAIN PARTIES FROM LIABILITY IN
CONNECTION WITH THE CHAPTER 11 CASES, (VI) TERMINATING
ENGAGEMENT OF CLAIMS AGENT, AND (VII) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on May 14, 2025, the above-captioned debtors and debtors-in-possession (the “**Debtors**”) filed the attached *Debtors’ Motion for Entry of Orders (I) Establishing Procedures for Payment of Final Fee Applications, (II) Dismissing the Chapter 11 Cases, (III) Authorizing the Debtors to Abandon or Destroy Certain Books and Records, (IV) Authorizing the Debtors to Dissolve, (V) Exculpating Certain Parties from Liability in Connection with the Chapter 11 Cases, (VI) Terminating Engagement of Claims Agent, and (VII) Granting Related Relief* (the “**Motion**”) with the United States Bankruptcy Court for the District of Delaware (the “**Court**”).

PLEASE TAKE FURTHER NOTICE that responses, if any, to the relief requested by the Motion, must be filed on or before **June 3, 2025, at 4:00 p.m. (ET)** (the “**Objection Deadline**”) with the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that at the same time, you must serve a copy of the response on: (i) co-counsel to the Debtors, Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036 (Attn: Gregg M. Galardi; email: gregg.galardi@ropesgray.com) and Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com) and Chipman Brown Cicero & Cole LLP, 501 5th Ave., 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com); (ii) counsel for the Prepetition Lender, Troutman Pepper Locke LLP, 350 S. Grand Ave., Suite 3400, Los Angeles, CA 90071 (Attn: David Kupetz; email: david.kupetz@troutman.com) and Troutman Pepper Locke

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors’ service address is 27756 Avenue Mentry, Valencia, California 91355.

LLP, 1313 N. Market Street, Suite 1000, Wilmington, DE 19801 (Attn: Tori L. Remington; email: tori.remington@troutman.com); and (iii) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lock Box 35, Wilmington, DE 19801 (Attn: Rosa Sierra-Fox; email: Rosa.Sierra-Fox@usdoj.gov), so as to be received on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE that a hearing on the relief requested by the Motion will be held on **June 10, 2025, at 2:00 p.m. (ET)** before the Honorable Laurie Selber Silverstein, in the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 6th Floor, Courtroom 2, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS TO THE RELIEF REQUESTED BY THE MOTION ARE TIMELY FILED, SERVED, AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: May 14, 2025
Wilmington, Delaware

CHIPMAN BROWN CICERO & COLE, LLP

/s/ Mark L. Desgrosseilliers

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