IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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| In Re:<br><br>YARDBIRD GROUP LLC, *et al.*,<br><br>*Debtors*.[1] | Chapter 11<br><br>Case No.: 26-11479 (BLS)<br>Docket Nos. 91, 119 and 176<br>(Jointly Administered) |

# BP/CRF 901 NEW YORK AVENUE LLC'S LIMITED SALE OBJECTION AND LIMITED CONTRACT OBJECTION

BP/CRF 901 New York Avenue LLC ("BP/CRF 901"), by undersigned counsel, files these Limited Objections pursuant to the Order Approving Bidding Procedures and other relief (ECF #91) as modified by an amended filing (ECF #176).[2] As grounds for its Limited Objections, BP/CRF 901 states as follows:

## PROCEDURAL FACTS

1. On September 21, 2026 (the "Petition Date"), Yardbird Group LLC (the "Debtor") filed a voluntary petition for relief under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number include: Yardbird Group LLC (7139); Southern Operations, LLC (5384); Yardbird Beverly Hills, LLC (9735); Yardbird DFW, LLC (2545); Yardbird DC, LLC (2651); Yardbird Chicago, LLC (6273); Yardbird Denver LLC (8819), YB Las Vegas, LLC (4071), Yardbird DFW Management LLC (8949), Yardbird DFW Concession LLC (1952), and The Bird Singapore LLC (8264). The location of the Debtors' service address in these chapter 11 cases is 3355 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

[2] The full title of the amended Order is "Amended and Superseding Order (A) Approving Bidding Procedures for the Sale of Substantially All of Debtors' Assets, (B) Designating the Stalking Horse Bidder, (C) Scheduling An Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, (E) Scheduling A Sale Hearing and Approving the Form and Manner of Notice Thereof, and (F) Granting Related Relief."



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## THE SALE MOTION

2. On September 21, 2026, the Debtor filed a Motion for Entry of Orders (I)(A) Approving Bidding Procedures for the Sale of Substantially All of Debtors' Assets, (B) Designating the Stalking Horse Bidder, (C) Scheduling An Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, (E) Scheduling A Sale Hearing and Approving the Form and Manner of Notice Thereof, and (F) Granting Related Relief; and (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (B) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief (the "Sale Motion") (ECF #14).

3. The Sale Motion disclosed that there was a Stalking Horse bid purchaser, but also contemplated that the Debtors "seek the Court's approval of the Bidding Procedures pursuant to which the Debtors will seek overbids for all or a subset of their Assets." Sale Motion at 3, ¶ 3.

4. The relief requested in Sale Motion was eventually approved in an Order Approving Bidding Procedures (ECF ## 91 and 171). The amended Sale Order set a deadline of October 29, 2026 at 4:00 pm for the filing of any Sale Objections, Cure Objections, and Contract Objections, as those terms are defined in the amended Sale Order. ECF # 171 at 6.

5. On October 15, 2026, the Debtors filed a Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts ad Unexpired Leases in Conneciton With Sale of Substantially All Assets ("Assigned Contract Notice"). Schedule 1 to the Assigned Contract Notice lists BP/CRF 901 as a Counter Party to a potentially assumed lease. ECF #119-1, No. 5 (fifth row down from the top of Schedule 1).

## FACTS REGARDING BP/CRF 901

6. BP/CRF 901 leases space to the Debtor pursuant to a Lease dated April 24, 2019 (the "Original Lease") on the first floor ("Premises") of the building located at 901 New York Avenue, N.W., Washington, D.C. signed by Yardbird DC, LLC ("Yardbird DC").

7. The Original Lease was modified by a Lease Modification Agreement dated August 5, 2020, a Second Lease Modification Agreement dated April 5, 2021, a First Amendment to Lease dated May 12, 2021, a Second Amendment to Lease dated May 6, 2022, a Third Amendment to Lease dated April 21, 2023, and a Fourth Amendment to Lease dated June 20, 2024. For convenience, the Original Lease, Modifications, and Amendments may be referred to together as the "DC Lease."

8. Since the date the Petition was filed, Yardbird DC has continued its operations in the Premises. Yardbird DC also made an October 2026 rent payment to BP/CRF 901 after the Debtors' petitions were filed.

9. The DC Lease contains provisions that allow BP/CRF 901 to recover late charges and interest from Yardbird DC. DC Lease at page 67, Section 19.6 (allowing for interest and a five percent late fee on past due amounts).

10. The DC Lease also contains multiple provisions that allow BP/CRF 901 to recover its attorney's fees from Yardbird DC. DC Lease at page 64, Section 19.2 and at page 67, Section 19.8.

11. The DC Lease also contains a provision requiring Yardbird DC to reimburse BP/CRF 901 "for all reasonable third-party costs incurred by [BP/CRF 901] in connection with any request by [Yardbird DC] to assign this Lease or its interest therein, not in excess of Two

Thousand Five Hundred and 00/100 Dollars ($2,500.00) per request (whether or not [BP/CRF 901's] consent thereto is granted)." DC Lease at page 37, Section 7.5(f).

12. The DC Lease is guaranteed by way of a Guaranty signed by Yardbird Gorup, LLC, a co-Debtor.

13. To date no financial documents or other evidence of adequate assurance of future performance (of any kind) have been provided to BP/CRF 901 by the Stalking Horse Bidder or by any other Qualified Bidder, nor has any such material been provided as to any proposed replacement guarantor for the DC Lease. The terms of any proposed replacement guaranty have also not been negotiated.

## THE LIMITED CONTRACT AND SALE OBJECTIONS [3]

14. Schedule 1 of the Assigned Contract Notice listed "$0.00" as the amount required to cure pre-petition arrears under the DC Lease.

15. While it is true that rent payments due under the DC Lease are current, BP/CRF has incurred legal expenses as a result of the filing of the petition. Those legal expenses are unliquidated and have not yet been invoiced to BP/CRF. There are also pass-through amounts for Operating Expenses and Real Estate taxes for 2026 that will not be reconciled until sometime in 2027.

## ALL DEFAULTS, INCLUDING BOTH PRE-PETITION CLAIMS AND POST-PETITION OBLIGATIONS, MUST BE CURED IN ORDER TO ASSUME THE DC LEASE WITH BP/CRF 901

16. Section 365(b)(1)(A) and (B) of the Bankruptcy Code provides, in pertinent part, as follows:

[3] These objections include a Cure Objection and an Assignment/Assumption Objection, which together the Sale Order defines as a "Contact Objection", and a Sale Objection.

> If there has been a default in an executory contract or unexpired lease of the debtor, *the trustee may not assume such contract or lease unless,* at the time of assumption of such contract or lease, the trustee—
>
> (A) *cures, or provides adequate assurance that the trustee will promptly cure, such default. . .*
>
> (B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, *for any actual pecuniary loss to such party resulting from such default;*

11 U.S. Code §365(b)(1)(A) and (B) (italic emphasis added).

17. Section 365(b)(1) includes compensation to landlords for sums incurred for attorneys' fees and expenses. *See In re: Tech Hifi, Inc.*, 49 B.R. 876 (Bankr. D. Mass. 1985) (reasonable attorneys' fees required to be paid in order to assume lease); *see also In re: F&N Acquisition Corp.*, 152 B.R. 304 (W.D. Wash. 1993); *In re: Westworld Community Healthcare, Inc.*, 95 B.R. 730 (C.D. Cal. 1989); *In re: Ryan's Subs, Inc.*, 25 Bankr. Ct. Dec. 649 (W.D. Md. 1994); and *In re: Child World, Inc.*, 161 B.R. 349 (S.D.N.Y. 1993) (Section 365(b)(1)(B) allows for recovery of attorneys' fees if based upon the language of the lease).

18. As part of any assumption and assignment of the DC Lease, BP/CRF 901 should be reimbursed for other amounts due under the DC Lease, including the post-petition amounts due under the Lease, and all of BP/CRF 901's actual pecuniary losses.

19. BP/CRF 901 should be reimbursed for the additional costs that it has incurred with regard to Yardbird LLC's bankruptcy case, and the potential assumption and assignment of the DC Lease in connection with the proposed sale. Those losses include the attorneys' fees and costs that BP/CRF 901 incurred post-petition.

20. BP/CRF 901's post-petition attorneys' fees and expenses are currently unliquidated. The invoice for October 2026 legal services expenses has not yet been issued to

BP/CRF 901. BP/CRF 901 also cannot be certain whether and when the DC Lease will be assumed and assigned and by whom.

21. The final cure amount at the time of sale should include all of BP/CRF 901's attorneys' fees and other losses to which it is entitled under the DC Lease.

## OTHER RELATED OBJECTIONS

22. BP/CRF 901 generally does not object to the proposed sale, nor to the proposed assignment and assumption of the DC Lease, assuming that adequate assurance of performance is provided by the successful purchaser and any replacement guarantor. But there are pass through amounts for Operating Expenses and Real Estate taxes for 2026 that will not be reconciled until sometime in 2027. Any order approving the assumption and assignment of the DC Lease must provide that the assumption and assignment is pursuant to the terms of the DC Lease, and that the proposed assignee will continue to be responsible for all pass through payment obligations, even though such expenses may not be billed until after the sale is approved.

23. The DC Lease further provides that Yardbird DC must indemnify and hold BP/CRF 901 harmless with respect to claims that may not become known until after the assumption and assignment of the DC Lease occurs (*e.g.*, personal injury claims and damage to the leased premises). *See, e.g.,* DC Lease at page 13, Section 13.(d), page 21, Section 14.2, and page 22, Section 15.3. Any order approving the assumption and assignment of the DC Lease must provide that the assumption and assignment is pursuant to the terms of the DC Lease, and that the proposed assignee will continue to be responsible for all such indemnification obligations, regardless of when they arose.

24. The DC Lease further provides that "Tenant shall require any assignee to provide indemnities (which may be contained within the assignment and assumption of lease) similar to

those set forth for Tenant in Section 13.1 of this Lease to Landlord in a form reasonably acceptable to Landlord." DC Lease at page 35, Section 7.1(d). As a result, any order approving the assumption and assignment of the DC Lease should require the successful purchaser to sign BP/CRF 901's form of assignment, which can be provided upon request.

## JOINDER

25. In addition to the foregoing, BP/CRF 901 joins in the objections filed by the Debtors' other landlords to the extent that such objections are consistent with the objections of BP/CRF 901 and the relief requested by BP/CRF 901 in these Limited Objections.

## RESERVATION OF RIGHTS

26. BP/CRF 901 expressly reserves its right to supplement, modify, or amend this Limited Objection and make such other and further objections to the proposed sale and related transactions, including any assumption and assignment of the DC Lease. Nothing set forth herein shall constitute a waiver, discharge, or disallowance of any rights, claims, causes of actions, or defenses that BP/CRF 901 has asserted or may assert against Yardbird DC.

WHEREFORE, the Court should enter an Order:

A. Requiring, as a condition to the assumption and/or assignment of the DC Lease, that any assignee (ii) pay to BP/CRF 901 all amounts owed under the DC Lease through the effective date of assumption of the Lease and (ii) use BP/CRF 901's form of assignment;

B. Holding that Yardbird DC be required to escrow a reasonable amount to account for the additional costs that BP/CRF 901 may incur with respect to both (i) vetting the adequate assurance materials of any other successful bidder; and (ii) reviewing and approving any assignment document for any successful bidder;

C. Requiring the successful purchaser to (i) be bound by the indemnification provisions of the DC Lease and (ii) to be responsible for payment of 2026 pass-through expenses that have not yet been reconciled; and

D. Granting such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

Dated: October 29, 2026

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