

**KLESTADT WINTERS JURELLER  
SOUTHARD & STEVENS, LLP**  
200 West 41<sup>st</sup> Street, 17<sup>th</sup> Floor  
New York, NY 10036  
Telephone: (212) 972-3000  
Facsimile: (212) 972-2245  
Tracy L. Klestadt  
John E. Jureller, Jr.  
Lauren C. Kiss  
Stephanie R. Sweeney

**Hearing Date: November 26, 2024 @ 10:00  
a.m. (ET)**  
**Objection Deadline: November 19, 2024 @  
4:00 p.m. (ET)**

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

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|                                   |   |
|-----------------------------------|---|
| -----X                            |   |
| In re                             | : |
|                                   | : |
| WEISS MULTI-STRATEGY ADVISERS     | : |
| LLC, <i>et al.</i> , <sup>1</sup> | : |
|                                   | : |
| Debtors.                          | : |
| -----X                            |   |

Chapter 11  
Case No. 24-10743 (MG)  
(Jointly Administered)

**NOTICE OF FILING OF PARTIAL UNREDACTED SALE MOTION, DECLARATION,  
AND TRADE CONFIRM RELATED TO PROPOSED SALE OF CERTAIN RIGHTS,  
CLAIMS AND CAUSES OF ACTION RELATED TO THE PORTUGUESE BONDS**

**PLEASE TAKE NOTICE** that, in connection with the Debtors’ Motion for Entry of an Order, pursuant to sections 105(a), 363(b), 541(a)(1), and 1108 of Title 11 of the United States Code (“Bankruptcy Code”) and Rules 2002, 6004 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 5004-1 of the Local Rules (the “Local Bankruptcy Rules”) for the United States Bankruptcy Court for the Southern District of New York (“Bankruptcy Court”) and the Amended Guidelines for the Conduct of Asset Sales promulgated by General Order M-383 of the Bankruptcy Court (the “Sale Guidelines”), authorizing the Debtors to effectuate the sale and assignment of certain rights, claims and cause of action related

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Weiss Multi-Strategy Advisers LLC (7518); GWA, LLC (7079); OGI Associates LLC (4493); Weiss Special Operations LLC (7626); and Weiss Multi-Strategy Funds LLC (8004). The location of Debtor Weiss Multi-Strategy Advisers LLC’s former principal place of business is 320 Park Avenue, 20<sup>th</sup> Floor, New York, New York 10022 and the Debtors’ service address in these Chapter 11 Cases is P.O. Box 2857, Meriden, Connecticut 06450.

to the Bonds<sup>2</sup> pursuant to terms of the Trade Confirm (the “Sale Motion”), and pursuant to the terms of the *Order Granting Debtors’ Ex Parte Motion for Entry of an Order Authorizing Debtors to Redact in Filed Documents and File under Seal Certain Information Related to the Sale of Portuguese Bonds* (“Sealing Order”) [ECF No. 253]; and upon request of and agreement with the Office of the United States Trustee, and upon consent of the Buyers and the Debtors as required under the Sealing Order, the Debtors shall file an unredacted version of the Sale Motion, PROVIDED THAT, the Sealing Order shall remain in full force and effect with respect to the redaction and sealing of the name and/or identity of the Buyer / Final Buyer under the Trade Confirm, and such information shall not be disclosed and shall be and remain redacted and filed under seal, including in any future pleadings or orders filed with respect to the Sale Motion.

The unredacted version of the Sale Motion is attached hereto as **Exhibit A**.

The unredacted version of the Reply is attached hereto as **Exhibit B**.

---

<sup>2</sup> Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion.

Dated: New York, New York  
November 23, 2024

**KLESTADT WINTERS JURELLER  
SOUTHARD & STEVENS, LLP**

By: /s/John E. Jureller, Jr.

Tracy L. Klestadt  
John E. Jureller, Jr.  
Lauren C. Kiss  
Stephanie R. Sweeney  
200 West 41<sup>st</sup> Street, 17<sup>th</sup> Floor  
New York, NY 10036  
Tel: (212) 972-3000  
Fax: (212) 972-2245  
Email: tklestadt@klestadt.com  
jjureller@klestadt.com  
lkiss@klestadt.com  
ssweeney@klestadt.com

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

**KLESTADT WINTERS JURELLER**

**SOUTHARD & STEVENS, LLP**

200 West 41<sup>st</sup> Street, 17<sup>th</sup> Floor

New York, NY 10036

Telephone: (212) 972-3000

Facsimile: (212) 972-2245

Tracy L. Klestadt

John E. Jureller, Jr.

Lauren C. Kiss

Stephanie R. Sweeney

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

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|                                   |   |
|-----------------------------------|---|
| -----X                            |   |
| In re                             | : |
|                                   | : |
| WEISS MULTI-STRATEGY ADVISERS     | : |
| LLC, <i>et al.</i> , <sup>1</sup> | : |
|                                   | : |
| Debtors.                          | : |
| -----X                            |   |

Chapter 11  
Case No. 24-10743 (MG)  
(Jointly Administered)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER, PURSUANT TO  
BANKRUPTCY CODE SECTIONS 105(a), 363(B), 541(a)(1), AND 1108,  
AND BANKRUPTCY RULES 2002, 6004 AND 9006 AUTHORIZING  
THE PRIVATE SALE OF CERTAIN RIGHTS, CLAIMS AND CAUSES  
OF ACTION RELATED TO THE PORTUGUESE BONDS**

Weiss Multi-Strategy Advisers LLC and its affiliated debtors (collectively, the "Debtors"), as debtors and debtors in possession in the above-referenced chapter 11 cases (the "Chapter 11 Cases"), hereby submit, by and through their undersigned counsel, this motion (the "Motion") for entry of an order, pursuant to sections 105(a), 363(b), 541(a)(1), and 1108 of Title 11 of the United States Code ("Bankruptcy Code") and Rules 2002, 6004 and 9006 of the Federal Rules of

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Weiss Multi-Strategy Advisers LLC (7518); GWA, LLC (7079); OGI Associates LLC (4493); Weiss Special Operations LLC (7626); and Weiss Multi-Strategy Funds LLC (8004). The location of Debtor Weiss Multi-Strategy Advisers LLC's principal place of business was formerly 320 Park Avenue, 20<sup>th</sup> Floor, New York, New York 10022 and the Debtors' service address in these Chapter 11 Cases is P.O. Box 2857, Meriden, Connecticut 06450.

Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 5004-1 of the Local Rules (the “Local Bankruptcy Rules”) for the United States Bankruptcy Court for the Southern District of New York (“Bankruptcy Court”) and the Amended Guidelines for the Conduct of Asset Sales promulgated by General Order M-383 of the Bankruptcy Court (the “Sale Guidelines”), authorizing the Debtors to effectuate the sale and assignment of certain rights, claims and cause of action related to the Bonds identified on Annex 1 of the Trade Confirm (collectively, the “**Bonds**”) pursuant to terms of the “Upstream Trade Terms” (the “Trade Confirm”), attached to the Archer Decl. (defined below) as **Exhibit B**(the “Transaction”), and state as follows.

In support of the Motion, the Debtors submit the Declaration of Pierce Archer, Chief Operating Officer of the Debtors, dated October [25], 2024 (“Archer Decl.”, attached hereto as **Exhibit A**). A copy of the proposed Order approving the Motion is attached to the Archer Decl. as **Exhibit A**.

### **PRELIMINARY STATEMENT**

The Motion seeks authority for the private sale of the Bonds. The Bonds are a significant asset of the Debtors’ estates. By way of background, there was a public market in the Bonds about nine years ago, until the Bank of Portugal retransferred €2.2 billion of Bonds between Portuguese banks in a purported restructuring, which imposed significant losses to investors in those Bonds, including the Debtors. Litigation by various aggrieved bondholders throughout the world commenced to challenge the lawfulness of this transfer, including by the Debtors, and the public market in the Bonds was essentially extinguished. There has not been an active market in the Bonds for many years. On the rare occasion that they do trade, they do so in private transactions in which the circumstances relating to the trade are not known and the pricing is confidential and not available to market participants. As a result, the last disclosed trading price of the Bonds is

several years old, and is known in the industry as a “stale price”. Accordingly, one cannot sell the Bonds on an exchange or to the public. One must find a buyer who is familiar with the Bonds, has local Portuguese lawyers who understand the pending litigation, and are willing to take the risks of the litigation in foreign courts relating to the Bonds, the outcome of which is very uncertain. Notwithstanding, the Bonds have value because there is an expected recovery value of 31.7% of their face value, even if the litigation is unsuccessful. This value is expected but has not yet been accepted under Portuguese law and, even if accepted, the timing of receipt of such recovery remains uncertain. If the litigation is successful, the recovery could be as high as multiples of that, although the litigation process in Portugal has been a very lengthy process to date.

The Debtors, after extensive marketing of these complex financial products, have reached an agreement for the sale of their holdings of the Bonds including all rights, claims and causes of action associated therewith. Based upon their analysis, and taking into consideration the significant uncertainties involving the Bonds including the valuation or pricing, the different legal positions of the various Bond holdings, the costs of the pending litigation, the timing of the resolution of the ongoing litigation in Portugal (and any appeal), and the probability of success, the Debtors believe that the proposed terms in the Trade Confirm represent reasonably equivalent value for the Bonds and the Transaction is in the best interest of the Debtors and their estates. The Transaction, which is proposed as a private sale due to the prior marketing and limited available potential bidders, will provide much needed liquidity to the Debtors, eliminate the significant risks and carrying costs associated with the Bonds, and provide the basis for the development of a plan of liquidation moving forward.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. The statutory predicates for the relief requested herein is Bankruptcy Rule 9019.

## **BACKGROUND FACTS**

### **I. Procedural Background:**

3. On April 29, 2024 (the “Petition Date”), Weiss Multi-Strategy Advisers LLC (“WMSA”), GWA, LLC (“GWA”), OGI Associates LLC (“OGI”), and Weiss Special Operations LLC (“WSO”) commenced with this Court voluntary cases under chapter 11 of the Bankruptcy Code. Weiss Multi-Strategy Funds LLC (“WMSF”) filed its chapter 11 petition on June 19, 2024.

4. The Debtors continue to operate their businesses as debtors and debtors-in-possession.

5. To date, no trustee has been appointed for the Debtors or their estates.

6. The factual background regarding the Debtors, including their business operations, their capital and debt structure, and the events leading to the filing of these cases, is set forth in detail in the *Rule 1007-2 Declaration of Pierce Archer* (“First Day Declaration”), filed on April 30, 2024 [ECF No. 6].

### **II. The Bonds:**

7. Novo Banco, S.A. (“Novo Banco”) was created in August of 2014 out of the failure of one of Portugal’s largest banks, Banco Espírito Santo, S.A. (in liquidation) (“BES”). Novo Banco was established to take over those parts of BES that were considered viable, while BES kept the non-viable parts of the business. Certain of the assets transferred to Novo Banco included fifty-two (52) outstanding series of senior notes.

8. On December 29, 2015, Banco de Portugal (“BdP”) retransferred €2.2b of bonds (5 of the 52 outstanding series of senior notes) (the “Retransferred Notes”) from Novo Banco back to BES, imposing significant losses to investors in those bonds. These Retransferred Notes were all governed by Portuguese law and virtually entirely owned by foreign investors, while almost all of the remaining series of senior notes were governed by English law, thereby avoiding litigation outside of Portugal.

9. The Bonds are all Retransferred Notes and are identified under ISIN Numbers PTBEQKM0019 and PTBENJOM0015. Debtors purchased the Bonds in the secondary market prior to the termination thereof. The Debtors and their affiliates hold Bonds with an approximate principal value of EUR41,000,000. OGI holds certain of the Bonds (the “OGI Bonds”) with a total principal value of approximately EUR25,000,000, as shown in Annex 1 to the Trade Confirm. WMSP (defined below), a non-Debtor affiliate, hold certain of the Bonds (the “WMSP Bonds”) with a total principal value of approximately EUR16,000,000 which will be included in the Transaction, as shown in Annex 1 to the Trade Confirm.

10. Various investors are pursuing legal action against BdP, arguing that BdP’s retransfer decision was unlawful. OGI has filed litigation claims in Portugal on account of the OGI Bonds. WMSP, together with other investors, filed a Section 1782 request to obtain discovery in the United States in connection with the ongoing litigation in Portugal.

11. It is currently expected that the litigation in Portugal will continue for at least three (3) more years, with a first instance decision on the underlying litigation expected in 12-18 months, and an expected appellate process to the courts of the European Union expected to take between 12-18 months thereafter – but this could take significantly longer.

12. There is no current market data available for determining the value of any of the Retransferred Notes (including the Bonds). As noted above, while there was a public market in the Retransferred Notes prior to the Transfer Date (i.e. December 29, 2015), thereafter, there has been no active market for the last several years. On the rare occasion that they do trade, they do so in private transactions in which the circumstances relating to the trade are not known and the pricing is confidential and not available to market participants. The last disclosed trading prices are now stale prices.

13. Several other factors complicate the analysis of the market value of the Retransferred Notes. First, there remains a question as to the timing of any potential recovery, and thus a risk for a recovery at all. Under Portuguese law, the Retransferred Notes are expected to have an estimated recovery amount in the best-case scenario (the “Estimated Recovery Amount”) of 31.7 % of accepted unsecured ordinary claims of the relevant bondholder, even if no aspect of the Portuguese litigation is successful. Nonetheless, it is unclear if and when this recovery would be payable, post-conclusion of the Portuguese litigation or otherwise. At this time, the timing and amount of any recovery is highly uncertain and as such valuation is speculative at best.

14. Second, the Bonds held by the Debtors are of two different types: those that are participating in the Portuguese litigation (the “Litigation Bonds”), and those that are not directly participating in the litigation (the “Unfiled Bonds”). Both the Litigation Bonds and the Unfiled Bonds are expected to be entitled to the Estimated Recovery Amount regardless of whether they are participating in the litigation. In the event that the Portuguese litigation is successful, though, it may be the case that the holders of the Litigation Bonds would receive an upside on any additional recovery in excess of the Estimated Recovery Amount (the “Excess Recovery”) to ensure that bondholders are left no worse off than they would have been had the partition between

Novo Banco and BES never happened. However, it is not clear how the Portuguese courts will treat the Unfiled Bonds with respect to the Excess Recovery. They may permit the Unfiled Bonds to file a litigation claim after the fact, which would entitle them to the Excess Recovery, or they may prohibit this recovery – including on the basis that such claims are time barred. Additionally, it is not clear how interest and/or penalties would be assessed, if at all.

15. As a result, the value of the Bonds is extremely uncertain and the proceeds that the Debtors would receive for them and the timing for receipt of such proceeds either (i) if sold prior to the outcome of the litigation in Portugal governing these notes, or, alternatively (ii) upon the outcome of such litigation, is unknown.

16. As listed on OGI's Schedule of Assets (Schedule A/B, Part 4, Line 16.1) [Dkt. No. 74], the value of Bonds held by OGI as marked in its books and records for several years including as of the Initial Petition Date (as defined in the Motion) was approximately \$5,331,332.<sup>2</sup> This amount takes into account the last publicly available trade data, which is several years old.

17. The sale of the Bonds prior to the resolution of the Portuguese litigation will necessarily need to take into account the time value of money and the perception in the market regarding the uncertainty of pending litigation, thus providing a recovery less than the Estimated Recovery Amount. For example, if OGI elected to retain its positions until the conclusion of the pending litigation, if the litigation is unsuccessful, OGI expects to recover approximately \$8.495 million, representing the floor Estimated Recovery Amount. In the event such litigation is successful, OGI stands to potentially recover more. Nevertheless, as discussed more fully in the

---

<sup>2</sup>As noted above herein, certain of the Retransferred Bonds are held by Weiss Multi-Strategies Partners LLC ("WMSP"), a non-debtor affiliate to which WMSA serves as registered investment advisor. The value of Retransferred Bonds held by WMSP, as marked in the Debtors' books and records for several years including as of the Initial Petition Date, was derived in the same manner as the value of the Debtors' own positions and was approximately \$3.5 million.

Archer Decl., it is the Debtors' business judgment that the Bonds should be sold at this time in order to provide the Debtors with the necessary liquidity on a timely basis in order to facilitate their orderly winddown. The Debtors do not have the financial wherewithal to accomplish their winddown while waiting for the incremental value that waiting for the Estimated Recovery Amount would provide.

18. The Debtors' valuation and timing of liquidating the Bonds is central to the Debtors' continued administration of their estates, the structure of any plan of liquidation, and the receipt of distributions, if any, by the creditors thereunder. However, while acting in the best interests of their bankruptcy estates, the Debtors also have fiduciary duties to act in the best interests of their advisory clients, including WMSP, which requires providing for the orderly liquidation of their assets.

19. All of these considerations were taken into account in the Debtors exercising their business judgment to sell the Bonds in the Transaction.

### **III. Marketing of the Portuguese Bonds:**

20. As noted above, the Bonds are sophisticated financial products, made even more complex by the 10 year old litigation in Portugal and the different positions of certain of the Bonds as either Litigation Bonds or Unfiled Bonds and differing views on the potential rights and recourse arising therefrom. As a result, the market for the sale of these Bonds and associated rights, claims and causes of action is limited.

21. Even before the Bankruptcy Cases were filed, the Debtors were taking affirmative actions with respect to the Portugal Bonds. Because of the nature of the asset, the Debtors spent considerable time and resources to determine the potential values of the Bonds under the numerous scenarios, the timing for realizing such value, the market for the Bonds and associated rights,

claims and causes of action, and the logistics for any sale, transfer and/or assignment of the Bonds and the associated rights, claims and causes of action.

22. In fact, the Debtors had provided their ongoing analysis on the Bonds and valuation thereof to the representatives of the Jefferies Parties in at least Fall 2023.

23. Commencing pre-petition and continuing after the filing of the Bankruptcy Cases, the Debtors, working with experienced distressed debt brokers, initiated a marketing process to gauge potential interest and establish pricing and valuation of the Bonds. The process involved contacting potential purchasers both in the U.S. and foreign jurisdictions, as well as taking calls from prospective purchasers, brokers, consultants and other representatives of market participants. This process involved experienced brokers contacting potential purchasers. For example, Park Walk Europe LLP, a broker based in London and Austin, Texas specializing in foreign bonds, bank loans, claims and special situations for European investors, contacted at least 19 bondholders involved in the Portuguese litigation, as well as other potential buyers that it thought would be a good profile fit. Debtors' counsel in Portugal, Andre Judice Gloria, contacted counsel for large bondholder groups – PLMJ and CMS – who reached out to their clients regarding interest in the purchase of the Bonds.

24. Since initiating the marketing in April 2024, the Debtors have held substantive discussions with at least eight (8) interested counterparties. These counterparties were derived from hedge funds, brokers, and investors, including current or former holders of Litigation Bonds and Unfiled Bonds.

25. The Debtors note the following substantive discussions with the interested counterparties -

- a. Counterparty #1: Type: Hedge Fund  
4/19/2024 Discussions re Bonds, Claims, Litigation

*Outcome: No Bid*

b. Counterparty #2: Type: Hedge Fund

6/17/2024 Received call from interest party; Discussions re Bonds, Claims, Litigation

6/27/2024 Translated diligence sent for review

*Outcome: No Bid*

c. Counterparty #3: Type: Counsel to Bondholders

5/21/2024 Call with counsel for large creditor group holding similar bonds; Introduced to potential counterparty.

*Outcome: No Bid*

d. Counterparty #4: Type: Counsel to Bondholders

5/21/2024 Call with counsel for another large creditor group holding similar bonds.

*Outcome: No Bid*

e. Counterparty #5: Type: Hedge Fund

5/30/2024 Discussion re Bonds, Claims, Litigation.

7/11/2024 Due Diligence

8/14/2024 Offer

*Outcome: Bid – Avg. price 17.25%, representing a bid of 21.25% for Litigation Bonds and 11.50% for Unfiled Bonds.*

f. Counterparty #6: Type: Hedge Fund, possible Joint Investor

6/23/2024 Initial contact re potential purchase

7/1/2024 Discussions re Bonds, Claims, Litigation and Pricing

7/31/2024 Further discussions re size and price expectations

8/8/2024 Further discussions, along with another European investment firm joining call as potential partner

8/9/2024 Bid for part of holdings, only 25% for Litigation Bond, zero bid for Unfiled Bonds

*Outcome: Bid – Part of holdings, only 25% for Litigation Bonds*

g. Counterparty #7: Type: Hedge Fund

9/6/2024 Discussion re Bonds, Claims, Litigation and Pricing

*Outcome: No Bid*

h. Counterparty #8: Type: Broker/Investor

8/27/2024 Discussion re Bonds, Claims, Litigation and Pricing

*Outcome: No Bid*

- i. Counterparty #9: Type: Broker/Investor  
10/1/2024 Initial Discussions  
10/22/2024 Bid – 19.32% for all held Bonds  
**Outcome: Bid – approx. 19.32% for all Bonds - Current Proposed Purchaser**

26. The Debtors believe that they have exhausted all likely potential sale counterparties for these Transaction. The Buyer (and the Final Buyer) are not affiliated with the Debtors in any way and no officer, director, manager, or other insider of the Debtors holds any interest in or is otherwise related to the Buyer (or the Final Buyer).

27. The Debtors believe that, due to the nature of the asset, a private sale is in the best interests of the Debtors and their estates. The Debtors do not believe that is likely that any further potential purchasers would submit a higher and better bid if there was a formal auction or public sale process, and as such the public auction will only cause unnecessary expense and delay to the process at this point.

#### **IV. Key Terms of Proposed Transaction:**

28. By way of summary, the Trade Confirm provides for the following<sup>3</sup>:

**Purchased Assets.** The Bonds originally issued by BES and identified on Annex 1 [of the Trade Confirm] (collectively, the “Bonds”), together with all rights, claims and cause of action of each Seller ancillary or related thereto, whether against BES, Novo Banco, S.A., Portuguese Resolution Fund (*Fundo de Resolução*), Bank of Portugal, the Portuguese State, any other authority or any other person including without limitation:

(i) Liquidation Claims: all liquidation claims of each Seller filed by it (or any predecessor-in-title) in the insolvency proceedings of Banco Espírito Santo, S.A. (“BES”) before the 1<sup>st</sup> Judge of Lisbon Commercial Section of the Lisbon District Court (the “Court of Lisbon”), under proceeding no. 18588/16.2T8LSB (the “Insolvency Proceedings”), including, without limitation, the accepted Liquidation Claims (*Comuns*) identified in Annex 1;

(ii) NCWO compensation: all rights and claims arising from the Liquidation Claims,

---

<sup>3</sup> For the purposes of this Motion, and for ease of reference, a summary of the Trade Confirm’s terms is set forth below. This summary does not alter, amend or supplement the terms set forth in the Trade Confirm. To the extent there is any express or implied conflict between the terms of the Trade Confirm and the description contained herein, the terms of the Trade Confirm controls.

the Bonds and/or the Bank of Portugal's resolution measures for compensation payable by the Portuguese Resolution Fund (*Fundo de Resolução*) under the 'no-creditor-worse-off' principle (as referred to in articles 34(1)(g), 73(a) and 75 of the Bank Recovery and Resolution Directive 2014/59/EU and corresponding Portuguese Legislation); and

(iii) Portuguese Litigation Claims: all rights, causes of action, challenges, administrative liability actions and litigation claims in the Portuguese civil or administrative courts against the Bank of Portugal, Novo Banco S.A., the Portuguese State or any other authority or person relating to the Bonds, Bank of Portugal's r-transfer decision on 29 December 2015 and /or breaches of Portuguese and EU law in the implementation of the BRRD.

**Asset Purchase Price:** EUR7,859,383.96, calculated on the basis of a purchase price of 19.32366183% applied to the amount recognized as *Communs* in the Liquidation Proceedings in respect of the Liquidation Claims and Bonds held by each Seller (as set out in the Annex 1).

**Settlement Date.** As soon as reasonably practicable, provided that:

...

(iv) Cash settlement of the Aggregate Purchase Price shall be paid by Buyer to Seller within two (2) business days on the date on which Final Buyer receives a declaration or other satisfactory written confirmation from the Insolvency Officer of BES (acting as registrar in accordance with articles 61(c) and 64 of the Portuguese Securities Code), stating that the Final Buyer has been fully recognized in the Insolvency Officer's registry as the holder of all Bonds pursuant to the direct transfer of such Bonds from each Seller to the Final Buyer. For the avoidance of doubt, cash settlement of the Purchase Price will not be delayed until the actual substitution of Final Buyer in the Portuguese courts.

**Other Trade Terms.**

(xiv) In the event that (x) the Sellers fail to seek US Bankruptcy Court approval of the transactions contemplated herein as a private sale (with the purchase price filed under seal) within 5 business days of the date of these Trade Terms, (y) the US Bankruptcy Court requires a "stalking horse" or other competitive bidding procedure to be conducted by any Seller with respect to any portion of the Purchased Assets and, without the prior written consent of the Buyer, the provisions of the order entered by the Bankruptcy Court approving the "stalking horse" or other bidding procedures do not approve any portion of the Bid Protection Requirements, or (z) the entry by the US Bankruptcy Court of a Sale Order (in form and substance reasonably acceptable to the Final Buyer) approving the sale of the Purchased Assets to the Buyer contemplated hereby has not occurred within 60 days of the date of these Trade Terms for any reason, then, in case (x), (y), or (z), the Buyer shall be entitled to give written notice to the Sellers that it terminates its continued

participation in this Trade upon which no further duty, obligation, liability, owed or due, by the Buyer to the Sellers shall exist, with all such duties, liabilities and obligations being extinguished in full, except with respect to the confidentiality of the transaction set out in Condition 25(a) of the LMA Standard Terms and Conditions for Par and Distressed Trades Transactions (Bank Debt/Claims) (“Terms and Conditions”).

29. The Debtors believe that, in their business judgment and after extensive marketing of the Bonds, the terms of the Transaction are fair and equitable, and in the best interest of the Debtors and their estates and do not believe that a public auction will produce any more competitive bids.<sup>4</sup>

### **RELIEF REQUESTED**

30. By this Motion, the Debtors seek entry of an order authorizing the Debtors to effectuate the sale and assignment of certain rights, claims and cause of action related to the Bonds pursuant to terms of the respective Trade Confirm.

### **BASIS FOR RELIEF**

#### **A. The Transaction is within the Debtors’ Sound Business Judgment.**

31. Bankruptcy Code section 105(a) provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of the title.” 11 U.S.C. § 105(a). While the Debtors submit that Court approval may not be required in order for the Debtors to effectuate the sale of the Bonds, i.e. it is the entry into Trade Confirm for a stake in financial products which are in the ordinary course of the Debtors’ business, the Debtors believe that Court approval is in the best interest of the Debtors’ estates due to the facts and circumstances surrounding the sale of the Bonds, the potential for upside, albeit with unknown delay to the

---

<sup>4</sup> As noted above, the Debtors believe that approval of the proposed Transaction will avoid the additional cost and delay of an additional bidding an auction process and will yield a greater net recovery for the Bonds to the Debtors estates. In the event that the Court nevertheless requires the Debtors to complete an auction process, the Buyer (on behalf of the Final Buyer) has agreed under the Trade Confirm to serve as a “stalking horse” for a limited period of time and subject to certain conditions.

Bankruptcy Cases, if such Bonds were held, and the fact that the Bonds are arguably the most valuable asset of the Debtors' estates. The Debtors submit that the Court may grant such relief pursuant to Section 105(a) using the same principles and standards that the Court would use to approve a transaction outside of the ordinary course of a debtor's business under Bankruptcy Code Section 363(b).

32. Bankruptcy Code section 363(b)(1) provides, in relevant part, that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). The use, sale, or lease of property of the estate, other than in the ordinary course of business, is authorized when there is an "articulated business justification" for the action to be taken. *See Fulton State Bank v. Schipper (In re Schipper)*, 933 F.2d 513, 515 (7<sup>th</sup> Cir. 1991) (citation omitted); *accord Comm. Of Equity Sec. Holders v. Lionel Corp. In re Lionel Corp.*, 722 F.2d 1063, 1070-71 (2d Cir. 1983). When a valid business justification exists, the law vests the debtor's decision to use property out of the ordinary course of business with a strong presumption that "in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interest of the company." *Official Comm. Of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res. Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (citation omitted).

33. Here, the Debtors have a clear business justification for the sale of the Bonds, which sale will provide necessary liquidity to the Debtors to pay the administrative costs for the continuation and conclusion of these Chapter 11 Cases. While it appears that the Bonds hold significant potential value for the estates due to the litigation claims current pending in Portugal, the timing, potential value, and prospects of the ongoing litigation remain unclear. At current

time, the Debtors understand that the timing of the potential resolution of the Portuguese litigation is at least 3 years away and could be significantly longer.

34. Further, the Debtors need the liquidity to advance these cases and allow for the continued administration of these Bankruptcy Cases. It is the Debtors' business judgment that the Bonds should be sold at this time in order to provide the Debtors with the necessary liquidity on a timely basis in order to facilitate their orderly winddown. The Debtors do not have the financial wherewithal to accomplish their winddown while waiting for the incremental value that waiting for the Estimated Recovery Amount would provide.

35. The Debtors are uniquely experienced, based upon their years-long involvement in the Portuguese litigation, to competently and proficiently engage in arms-length negotiations of the Trade Confirm and the Transaction. Based upon this experience, as well as the extensive marketing and negotiations involving potential purchasers, the Debtors believe that this Transaction is in the best interest of the Debtors' estates and their creditors. Accordingly, it is a valid exercise of the Debtors' business judgment to seek the relief requested by this Motion.

**B. A Private Sale of the Bonds is Warranted under the Circumstances.**

36. Moreover, Bankruptcy Rule 6004(f)(1) explicitly permits a debtor to enter into transactions outside the ordinary course of business through private sales. It is believed that the Transaction provide the best opportunity to maximize the sale price for the Bonds. Furthermore, the Debtors believe that an auction is not warranted on account of the costs and time to conduct an auction process as compared to the value, in part because the Debtors, after extensive, tailored marketing, believe that there are no other or better bids to be obtained. *See In re China Fishery Grp, Ltd.*, Case No. 16-11895 (JLG) (Bankr. S.D.N.Y. Nov. 15, 2016) ("The Debtors decision to

sell the Golf Club Membership through a private sale as set forth in the Motion falls within the Debtors' exercise of sound and reasonable business judgment");

37. Courts in this District have previously approved private sales in accordance with the Sales Guidelines where the benefit of the private sale out-weigh the delay and expense of conducting a public auction. *See In re China Fishery Grp, Ltd.*, Case No. 16-11895 (JLG) (Bankr. S.D.N.Y. Nov. 15, 2016); *In re SunEdison, Inc.*, Case No. 16-10992 (SMB) (Bankr. S.D.N.Y. Sept. 20, 2016); *In re Hawker Beechcraft, Inc.*, 2013 WL 144907 (Bankr. SDNY Jan. 9, 2012) (authorizing private sale under Rule 6004(f)(1) where public auction would require estate to incur substantial additional costs but would result in no additional value to the estate); *In re Dewey & LeBoeuf LLP*, Case No. 12-12321 (MG) (Bankr. S.D.N.Y. Nov. 1, 2012) (finding good business reason to sell assets pursuant to private sale including where public sale would be more costly.); *see also In re 160 Royal Palm, LLC*, 600 B.R. 119 (S.D. FL. 2019)(upholding Debtors' decision to sell at private sale); *In re Wieboldt Stores, Inc.*, 92 B.R. 309, 312 (N.D. Ill. 1988) ("Section 363(b) is not limited to sales involving competitive bidding. Bankruptcy Rule 6004, which sets forth procedures for Section 363(b) transfers, expressly provides for private sales."); *Palermo v. Pritam Realty, Inc. (In re Pritam Realty, Inc.)*, 233 B.R. 619, 621-24 (D.P.R. 1999) (upholding bankruptcy court order approving private sale by debtor).

38. The Debtors have already sought higher and better offers, and no such offers were forthcoming. The costs and delay of a public auction would likely not result in a higher and better offer. In fact, a public auction could result in the opposite as the proposed Buyer has an "out" in the Trade Confirm which allow it to terminate the transaction in event of a public sale process in the event of certain circumstances.

**C. The Purchase Price Constitutes Reasonably Equivalent Value for the Bonds.**

39. A debtor receives reasonably equivalent consideration when “the debtor’s net worth has been preserved” following a transfer of the assets. *Harrison v. N.J. Cmty. Bank (In re Jessup & Lamont, Inc.)*, 507 B.R. 452, 471-72 (Bankr. S.D.N.Y. 2014); *see also Mellon Bank N.A. v. Matro Commc’ns, Inc.*, 945 F.2d 635, 647 (3d Cir. 1991) (“the touchstone is whether the transaction conferred reasonable commercial value on the debtor reasonably equivalent to the realizable commercial value of the assets transferred.”) A finding of reasonably equivalent value does not require an exact equivalent exchange of consideration, but the benefits that a debtor receives from the transfer should approximate its costs. *See Jessup & Lamont*, 507 B.R. at 472 (“[I]f [the] value [received] approximates the value of what the debtor transferred, there will be reasonably equivalent value”). Further, transactions between a debtor and a third-party on an arms-length basis are presumptively for reasonably equivalent value. *See Mishkin v. Ensminger (In re Adler Coleman Clearing Corp.)*, 247 B.R. 51, 109 (Bankr. S.D.N.Y. 1999) (“[W]hen there is an arms-length transaction by parties that have equal knowledge, a court should not substitute its own view of a fair market price.” (citing *Cooper v. Ashley Commc’ns, Inc. (In re Morris Commc’ns NC Inc.)*, 914 F.2d 458, 465, 474-75 (4<sup>th</sup> Cir. 1990)).

40. Here, the Transaction constitutes an arms-length transaction with an unaffiliated party. Forth in the Archer Decl., the Debtors believe that the Purchase Price is reasonably equivalent value for the Bonds when taking into consideration the prior marketing process, the facts and circumstances of the Bonds, including timing and prospects of the litigation in Portugal, the complex nature of the underlying bonds and pending litigation, and the limited market for such sophisticated financial products which are essentially claims and causes of actions at this point.

**WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(h)**

41. The Debtors also request that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that “[a]n order authorizing the use, sale or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As described above the relief that the Debtors seek in this Motion is necessary to preserve value for the Debtors estate. Accordingly, the Debtors respectfully request that the Court waive the 14 day stay imposed by Bankruptcy Rule 6004(h). The immediate transfer of the Bonds is important for, among other things, providing liquidity to the estate to continue to administer these estates in the Bankruptcy Cases.

**NOTICE**

42. Notice of this Motion will be given to the parties set forth in Bankruptcy Rule 2002. The Debtors submit that such notice constitutes good and sufficient notice and that no other or further notice need be given. Contemporaneously herewith, the Debtors are filing a motion seeking to shorten time with respect to the hearing on the Motion.

**NO PRIOR REQUEST**

43. No previous application for the relief requested herein has been made to this or any other court.

**WHEREFORE**, the Debtors respectfully requests that this Court enter an order granting the relief requested in the Motion, together with such other and further relief as the Court determines to be just and proper.

Dated: New York, New York  
October 29, 2024

KLESTADT WINTERS JURELLER  
SOUTHARD & STEVENS, LLP

By: /s/John E. Jureller, Jr.

Tracy L. Klestadt  
John E. Jureller, Jr.  
Lauren C. Kiss  
Stephanie R. Sweeney  
200 West 41<sup>st</sup> Street, 17th Floor  
New York, NY 10036  
(212) 972-3000

*Attorneys for Debtors and Debtors-in-Possession*

**KLESTADT WINTERS JURELLER**

**SOUTHARD & STEVENS, LLP**

200 West 41<sup>st</sup> Street, 17<sup>th</sup> Floor

New York, NY 10036

Telephone: (212) 972-3000

Facsimile: (212) 972-2245

Tracy L. Klestadt

John E. Jureller, Jr.

Lauren C. Kiss

Stephanie R. Sweeney

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

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|                                   |   |
|-----------------------------------|---|
| -----X                            |   |
| In re                             | : |
|                                   | : |
|                                   | : |
| WEISS MULTI-STRATEGY ADVISERS     | : |
| LLC, <i>et al.</i> , <sup>1</sup> | : |
|                                   | : |
|                                   | : |
| Debtors.                          | : |
| -----X                            |   |

Chapter 11  
Case No. 24-10743 (MG)  
(Jointly Administered)

**DECLARATION OF PIERCE ARCHER IN SUPPORT OF DEBTORS' MOTION FOR  
ENTRY OF AN ORDER, PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a),  
363(B), 541(a)(1), AND 1108, AND BANKRUPTCY RULES 2002, 6004 AND 9006  
AUTHORIZING THE PRIVATE SALE OF CERTAIN RIGHTS, CLAIMS AND  
CAUSES OF ACTION RELATED TO THE PORTUGUESE BONDS**

PIERCE ARCHER, being duly sworn, declares and states, under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am a Senior Vice President and the Chief Operating Officer of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"). I have been employed by the Debtors since 2006 and have been Chief Operating Officer since 2019.

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Weiss Multi-Strategy Advisers LLC (7518); GWA, LLC (7079); OGI Associates LLC (4493); Weiss Special Operations LLC (7626); and Weiss Multi-Strategy Funds LLC (8004). The location of Debtor Weiss Multi-Strategy Advisers LLC's principal place of business was formerly 320 Park Avenue, 20<sup>th</sup> Floor, New York, New York 10022 and the Debtors' service address in these Chapter 11 Cases is P.O. Box 2857, Meriden, Connecticut 06450.

2. I am one of the officers with responsibility for managing the Debtors' business and financial affairs and I am familiar with, and responsible for, the Debtors' day-to-day operations.

3. I am also familiar with the Debtors' books and records, which I personally know are made and maintained in the ordinary course of business.

4. I submit this declaration (the "Declaration") in support of the Debtors' motion (the "Motion") for entry of an order, pursuant to sections 105(a), 363(b), 541(a)(1), and 1108 of Title 11 of the United States Code ("Bankruptcy Code") and Rules 2002, 6004 and 9006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), Rule 5004-1 of the Local Rules (the "Local Bankruptcy Rules") for the United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court") and the Amended Guidelines for the Conduct of Asset Sales promulgated by General Order M-383 of the Bankruptcy Court (the "Sale Guidelines"), authorizing the Debtors to effectuate the sale and assignment of certain rights, claims and cause of action related to the Bonds (defined later herein) pursuant to terms of the "Upstream Trade Terms" (the "Trade Confirm"), attached hereto as **Exhibit B**) (the "Transaction").

5. Except as otherwise indicated herein, the facts set forth in this Declaration are based on my personal knowledge, my review of relevant documents, information provided to me by the Debtors' management, employees or professionals, or my opinion based upon my experience, knowledge, and information concerning the Debtors' operations and the industry in which they operate. I am authorized to submit this Declaration on the Debtors' behalf. If called upon to testify, I would testify competently to the facts set forth in this Declaration.

6. On this basis, I have personal knowledge of the facts stated herein or knowledge based on the business records that are made and maintained in the ordinary course of the Debtors' businesses, the information supplied to me by (a) the other directors and officers of the Debtors;

(b) my colleagues who report directly to me; or (c) the Debtors' general bankruptcy counsel and other legal and professional advisors retained by the Debtors in the ordinary course of business.

## **BACKGROUND**

### **I. The Bonds:**

1. Novo Banco, S.A. ("Novo Banco") was created in August of 2014 out of the failure of one of Portugal's largest banks, Banco Espírito Santo, S.A. (in liquidation) ("BES"). Novo Banco was established to take over those parts of BES that were considered viable, while BES kept the non-viable parts of the business. Certain of the assets transferred to Novo Banco included fifty-two (52) outstanding series of senior notes.

2. On December 29, 2015, Banco de Portugal ("BdP") retransferred €2.2b of bonds (5 of the 52 outstanding series of senior notes) (the "Retransferred Notes") from Novo Banco back to BES, imposing significant losses to investors in those bonds. These Retransferred Notes were all governed by Portuguese law and virtually entirely owned by foreign investors, while almost all of the remaining series of senior notes were governed by English law, thereby avoiding litigation outside of Portugal.

3. The Bonds are all Retransferred Notes and are identified under ISIN Numbers PTBEQKM0019 and PTBENJOM0015. Debtors purchased the Bonds in the secondary market prior to the termination thereof. The Debtors and their affiliates hold Bonds with an approximate principal value of EUR41,000,000. OGI holds certain of the Bonds (the "OGI Bonds") with a total principal value of approximately EUR25,000,000, as shown in Annex 1 to the Trade Confirm. WMSP (defined below), a non-Debtor affiliate, hold certain of the Bonds (the "WMSP Bonds") with a total principal value of approximately EUR16,000,000 which will be included in the Transaction, as shown in Annex 1 to the Trade Confirm.

4. Various investors are pursuing legal action against BdP, arguing that BdP's retransfer decision was unlawful. OGI has filed litigation claims in Portugal on account of the OGI Bonds. WMSP, together with other investors, filed a Section 1782 request to obtain discovery in the United States in connection with the ongoing litigation in Portugal.

5. It is currently expected that the litigation in Portugal will continue for at least three (3) more years, with a first instance decision on the underlying litigation expected in 12-18 months, and an expected appellate process to the courts of the European Union expected to take between 12-18 months thereafter – but this could take significantly longer.

6. There is no current market data available for determining the value of any of the Retransferred Notes (including the Bonds). While there was a public market in the Retransferred Notes prior to the Transfer Date (i.e. December 29, 2015), thereafter, there has been no active market for the last several years. On the rare occasion that they do trade, they do so in private transactions in which the circumstances relating to the trade are not known and the pricing is confidential and not available to market participants. The last disclosed trading prices are now stale prices.

7. Several other factors complicate the analysis of the market value of the Retransferred Notes. First, there remains a question as to the timing of any potential recovery, and thus a risk for a recovery at all. Under Portuguese law, the Retransferred Notes are expected to have an estimated recovery amount in the best-case scenario (the "Estimated Recovery Amount") of 31.7 % of accepted unsecured ordinary claims of the relevant bondholder, even if no aspect of the Portuguese litigation is successful. Nonetheless, it is unclear if and when this recovery would be payable, post-conclusion of the Portuguese litigation or otherwise. At this time, the timing and amount of any recovery is highly uncertain and as such valuation is speculative at best.

8. Second, the Bonds held by the Debtors are of two different types: those that are participating in the Portuguese litigation (the “Litigation Bonds”), and those that are not directly participating in the litigation (the “Unfiled Bonds”). Both the Litigation Bonds and the Unfiled Bonds are expected to be entitled to the Estimated Recovery Amount regardless of whether they are participating in the litigation. In the event that the Portuguese litigation is successful, though, it may be the case that the holders of the Litigation Bonds would receive an upside on any additional recovery in excess of the Estimated Recovery Amount (the “Excess Recovery”) to ensure that bondholders are left no worse off than they would have been had the partition between Novo Banco and BES never happened. However, it is not clear how the Portuguese courts will treat the Unfiled Bonds with respect to the Excess Recovery. They may permit the Unfiled Bonds to file a litigation claim after the fact, which would entitle them to the Excess Recovery, or they may prohibit this recovery – including on the basis that such claims are time barred. Additionally, it is not clear how interest and/or penalties would be assessed, if at all.

9. As a result, the value of the Bonds is extremely uncertain and the proceeds that the Debtors would receive for them and the timing for receipt of such proceeds either (i) if sold prior to the outcome of the litigation in Portugal governing these notes, or, alternatively (ii) upon the outcome of such litigation, is unknown.

10. As listed on OGI’s Schedule of Assets (Schedule A/B, Part 4, Line 16.1) [Dkt. No. 74], the value of Bonds held by OGI as marked in its books and records for several years including as of the Initial Petition Date (as defined in the Motion) was approximately \$5,331,332.<sup>2</sup> This amount takes into account the last publicly available trade data, which is several years old.

---

<sup>2</sup>As noted above herein, certain of the Retransferred Bonds are held by Weiss Multi-Strategies Partners LLC (“WMSP”), a non-debtor affiliate to which WMSA serves as registered investment advisor. The value of Retransferred

11. The sale of the Bonds prior to the resolution of the Portuguese litigation will necessarily need to take into account the time value of money and the perception in the market regarding the uncertainty of pending litigation, thus providing a recovery less than the Estimated Recovery Amount. For example, if OGI elected to retain its positions until the conclusion of the pending litigation, if the litigation is unsuccessful, OGI expects to recover approximately \$8.495 million, representing the floor Estimated Recovery Amount. In the event such litigation is successful, OGI stands to potentially recover more. Nevertheless, as discussed more fully in the Archer Decl., it is the Debtors' business judgment that the Bonds should be sold at this time in order to provide the Debtors with the necessary liquidity on a timely basis in order to facilitate their orderly winddown. The Debtors do not have the financial wherewithal to accomplish their winddown while waiting for the incremental value that waiting for the Estimated Recovery Amount would provide.

12. The Debtors' valuation and timing of liquidating the Bonds is central to the Debtors' continued administration of their estates, the structure of any plan of liquidation, and the receipt of distributions, if any, by the creditors thereunder. However, while acting in the best interests of their bankruptcy estates, the Debtors also have fiduciary duties to act in the best interests of their advisory clients, including WMSP, which requires providing for the orderly liquidation of their assets.

13. All of these considerations were taken into account in the Debtors exercising their business judgment to sell the Bonds in the Transaction.

## **II. Marketing of the Portuguese Bonds:**

---

Bonds held by WMSP, as marked in the Debtors' books and records for several years including as of the Initial Petition Date, was derived in the same manner as the value of the Debtors' own positions and was approximately \$3.5 million.

14. As noted above, the Bonds are sophisticated financial products, made even more complex by the 10 year old litigation in Portugal and the different positions of certain of the Bonds as either Litigation Bonds or Unfiled Bonds and differing views on the potential rights and recourse arising therefrom. As a result, the market for the sale of these Bonds and associated rights, claims and causes of action is limited.

15. Even before the Bankruptcy Cases were filed, the Debtors were taking affirmative actions with respect to the Portugal Bonds. Because of the nature of the asset, the Debtors spent considerable time and resources to determine the potential values of the Bonds under the numerous scenarios, the timing for realizing such value, the market for the Bonds and associated rights, claims and causes of action, and the logistics for any sale, transfer and/or assignment of the Bonds and the associated rights, claims and causes of action.

16. In fact, the Debtors had provided their ongoing analysis on the Bonds and valuation thereof to the representatives of the Jefferies Parties in at least Fall 2023.

17. Commencing pre-petition and continuing after the filing of the Bankruptcy Cases, the Debtors, working with experienced distressed debt brokers, initiated a marketing process to gauge potential interest and establish pricing and valuation of the Bonds. The process involved contacting potential purchasers both in the U.S. and foreign jurisdictions, as well as taking calls from prospective purchasers, brokers, consultants and other representatives of market participants. This process involved experienced brokers contacting potential purchasers. For example, Park Walk Europe LLP, a broker based in London and Austin, Texas specializing in foreign bonds, bank loans, claims and special situations for European investors, contacted at least 19 bondholders involved in the Portuguese litigation, as well as other potential buyers that it thought would be a good profile fit. Debtors' counsel in Portugal, Andre Judice Gloria, contacted counsel for large

bondholder groups – PLMJ and CMS – who reached out to their clients regarding interest in the purchase of the Bonds.

18. Since initiating the marketing in April 2024, the Debtors have held substantive discussions with at least eight (8) interested counterparties. These counterparties were derived from hedge funds, brokers, and investors, including current or former holders of Litigation Bonds and Unfiled Bonds.

19. The Debtors note the following substantive discussions with the interested counterparties -

- a. Counterparty #1: Type: Hedge Fund  
4/19/2024 Discussions re Bonds, Claims, Litigation  
Outcome: No Bid
- b. Counterparty #2: Type: Hedge Fund  
6/17/2024 Received call from interest party; Discussions re Bonds, Claims, Litigation  
6/27/2024 Translated diligence sent for review  
Outcome: No Bid
- c. Counterparty #3: Type: Counsel to Bondholders  
5/21/2024 Call with counsel for large creditor group holding similar bonds;  
Introduced to potential counterparty.  
Outcome: No Bid
- d. Counterparty #4: Type: Counsel to Bondholders  
5/21/2024 Call with counsel for another large creditor group holding similar bonds.  
Outcome: No Bid
- e. Counterparty #5: Type: Hedge Fund  
5/30/2024 Discussion re Bonds, Claims, Litigation.  
7/11/2024 Due Diligence  
8/14/2024 Offer  
Outcome: Bid – Avg. price 17.25%, representing a bid of 21.25% for Litigation Bonds and 11.50% for Unfiled Bonds.
- f. Counterparty #6: Type: Hedge Fund, possible Joint Investor  
6/23/2024 Initial contact re potential purchase  
7/1/2024 Discussions re Bonds, Claims, Litigation and Pricing

7/31/2024 Further discussions re size and price expectations

8/8/2024 Further discussions, along with another European investment firm  
joining call as potential partner

8/9/2024 Bid for part of holdings, only 25% for Litigation Bond, zero bid for  
Unfiled Bonds

*Outcome: Bid – Part of holdings, only 25% for Litigation Bonds*

g. Counterparty #7: Type: Hedge Fund

9/6/2024 Discussion re Bonds, Claims, Litigation and Pricing

*Outcome: No Bid*

h. Counterparty #8: Type: Broker/Investor

8/27/2024 Discussion re Bonds, Claims, Litigation and Pricing

*Outcome: No Bid*

i. Counterparty #9: Type: Broker/Investor

10/1/2024 Initial Discussions

10/22/2024 Bid – 19.32% for all held Bonds

***Outcome: Bid – approx. 19.32% for all Bonds - Current Proposed Purchaser***

20. The Debtors believe that they have exhausted all likely potential sale counterparties for these Transaction. The Buyer (and the Final Buyer are not affiliated with the Debtors in any way and no officer, director, manager, or other insider of the Debtors holds any interest in or is otherwise related to the Buyer (or the Final Buyer).

21. The Debtors believe that, due to the nature of the asset, a private sale is in the best interests of the Debtors and their estates. The Debtors do not believe that is likely that any further potential purchasers would submit a higher and better bid if there was a formal auction or public sale process, and as such the public auction will only cause unnecessary expense and delay to the process at this point.

### **III. Key Terms of Proposed Transaction:**

22. By way of summary, the Trade Confirm provides for the following<sup>3</sup>:

---

<sup>3</sup> For the purposes of this Motion, and for ease of reference, a summary of the Trade Confirm's terms is set forth below. This summary does not alter, amend or supplement the terms set forth in the Trade Confirm. To the extent there is any express or implied conflict between the terms of the Trade Confirm and the description contained herein, the terms of the Trade Confirm controls.

**Purchased Assets.** The Bonds originally issued by BES and identified on Annex 1 [of the Trade Confirm] (collectively, the “Bonds”), together with all rights, claims and cause of action of each Seller ancillary or related thereto, whether against BES, Novo Banco, S.A., Portuguese Resolution Fund (*Fundo de Resolução*), Bank of Portugal, the Portuguese State, any other authority or any other person including without limitation:

(i) Liquidation Claims: all liquidation claims of each Seller filed by it (or any predecessor-in-title) in the insolvency proceedings of Banco Espírito Santo, S.A. (“BES”) before the 1<sup>st</sup> Judge of Lisbon Commercial Section of the Lisbon District Court (the “Court of Lisbon”), under proceeding no. 18588/16.2T8LSB (the “Insolvency Proceedings”), including, without limitation, the accepted Liquidation Claims (*Comuns*) identified in Annex 1;

(ii) NCWO compensation: all rights and claims arising from the Liquidation Claims, the Bonds and/or the Bank of Portugal’s resolution measures for compensation payable by the Portuguese Resolution Fund (*Fundo de Resolução*) under the ‘no-creditor-worse-off’ principle (as referred to in articles 34(1)(g), 73(a) and 75 of the Bank Recovery and Resolution Directive 2014/59/EU and corresponding Portuguese Legislation); and

(iii) Portuguese Litigation Claims: all rights, causes of action, challenges, administrative liability actions and litigation claims in the Portuguese civil or administrative courts against the Bank of Portugal, Novo Banco S.A., the Portuguese State or any other authority or person relating to the Bonds, Bank of Portugal’s r-transfer decision on 29 December 2015 and /or breaches of Portuguese and EU law in the implementation of the BRRD.

**Asset Purchase Price:** EUR7,859,383.96, calculated on the basis of a purchase price of 19.32366183% applied to the amount recognized as *Communs* in the Liquidation Proceedings in respect of the Liquidation Claims and Bonds held by each Seller (as set out in the Annex 1).

**Settlement Date.** As soon as reasonably practicable, provided that:

...

(iv) Cash settlement of the Aggregate Purchase Price shall be paid by Buyer to Seller within two (2) business days on the date on which Final Buyer receives a declaration or other satisfactory written confirmation from the Insolvency Officer of BES (acting as registrar in accordance with articles 61(c) and 64 of the Portuguese Securities Code), stating that the Final Buyer has been fully recognized in the Insolvency Officer’s registry as the holder of all Bonds pursuant to the direct transfer of such Bonds from each Seller to the Final Buyer. For the avoidance of doubt, cash settlement of the Purchase Price will not be delayed until the actual substitution of Final Buyer in the Portuguese courts.

**Other Trade Terms.**

(xiv) In the event that (x) the Sellers fail to seek US Bankruptcy Court approval of the transactions contemplated herein as a private sale (with the purchase price filed under seal) within 5 business days of the date of these Trade Terms, (y) the US Bankruptcy Court requires a “stalking horse” or other competitive bidding procedure to be conducted by any Seller with respect to any portion of the Purchased Assets and, without the prior written consent of the Buyer, the provisions of the order entered by the Bankruptcy Court approving the “stalking horse” or other bidding procedures do not approve any portion of the Bid Protection Requirements, or (z) the entry by the US Bankruptcy Court of a Sale Order (in form and substance reasonably acceptable to the Final Buyer) approving the sale of the Purchased Assets to the Buyer contemplated hereby has not occurred within 60 days of the date of these Trade Terms for any reason, then, in case (x), (y), or (z), the Buyer shall be entitled to give written notice to the Sellers that it terminates its continued participation in this Trade upon which no further duty, obligation, liability, owed or due, by the Buyer to the Sellers shall exist, with all such duties, liabilities and obligations being extinguished in full, except with respect to the confidentiality of the transaction set out in Condition 25(a) of the LMA Standard Terms and Conditions for Par and Distressed Trades Transactions (Bank Debt/Claims)(“Terms and Conditions”).

23. The Debtors believe that, in their business judgment, the terms of the Transaction, which were negotiated in an arms-length transaction with a third party with no affiliation with the Debtors, are fair and equitable, and in the best interest of the Debtors and their estates and do not believe that a public auction will produce any more competitive bids.<sup>4</sup>

24. Based upon the extensive marketing of the Transaction and the Debtors’ knowledge and experience with the underlying Bonds and related litigation since at least 2015, the Debtors do not believe that a public auction will produce any more competitive bids and that all bidding is exhausted.

25. Based upon this experience, as well as the extensive marketing and negotiations involving potential purchasers, the Debtors believe that this Transaction is in the best interest of

---

<sup>4</sup> As noted above, the Debtors believe that approval of the proposed Transaction will avoid the additional cost and delay of an additional bidding an auction process and will yield a greater net recovery for the Bonds to the Debtors estates. In the event that the Court nevertheless requires the Debtors to complete an auction process, the Buyer (on behalf of the Final Buyer) has agreed under the Trade Confirm to serve as a “stalking horse” for a limited period of time and subject to certain conditions.

the Debtors' estates and their creditors. Accordingly, the Debtors believe that it is a valid exercise of their business judgment to seek the relief requested by this Motion.

I declare under penalty of perjury that, to the best of my knowledge and after reasonable inquiry, the foregoing is true and correct.

Dated: October 29, 2024

/s/ Pierce Archer

Pierce Archer  
Senior Vice President and  
Chief Operating Officer

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|                                   |   |                        |
|-----------------------------------|---|------------------------|
| -----X                            |   |                        |
| In re                             | : |                        |
|                                   | : | Chapter 11             |
| WEISS MULTI-STRATEGY ADVISERS     | : |                        |
| LLC, <i>et al.</i> , <sup>1</sup> | : | Case No. 24-10743 (MG) |
|                                   | : |                        |
| Debtors.                          | : | (Jointly Administered) |
| -----X                            |   |                        |

**ORDER, PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a), 363(B),  
541(a)(1), AND 1108, AND BANKRUPTCY RULES 2002, 6004 AND 9006,  
AUTHORIZING THE PRIVATE SALE OF CERTAIN RIGHTS, CLAIMS  
AND CAUSES OF ACTION RELATED TO THE PORTUGUESE BONDS**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) in the above-referenced Chapter 11 cases (the “Chapter 11 Cases”) for entry of an order, pursuant to sections 105(a), 363, 541(a)(1), and 1108 of Title 11 of the United States Code (“Bankruptcy Code”) and Rules 2002, 6004 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 5004-1 of the Local Rules (the “Local Bankruptcy Rules”) for the United States Bankruptcy Court for the Southern District of New York (“Bankruptcy Court”) and the Amended Guidelines for the Conduct of Asset Sales promulgated by General Order M-383 of the Bankruptcy Court (the “Sale Guidelines”), authorizing the Debtors to effectuate the sale and assignment of certain rights, claims and cause of action related to the Bonds pursuant to terms of the Trade Confirm; and due and proper notice of the Motion having been given and it appearing that no other or further notice of the Motion is required; and the Court

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Weiss Multi-Strategy Advisers LLC (7518) (Case No. 24-10743); GWA, LLC (7079) (Case No. 24-10744); OGI Associates LLC (4493) (Case No. 24-10745); Weiss Special Operations LLC (7626) (Case No. 24-10746); and Weiss Multi-Strategy Funds LLC (8004) (Case No. 24-11075) (subject to pending request for joint administration). The location of Debtor Weiss Multi-Strategy Advisers LLC’s principal place of business is 320 Park Avenue, 20<sup>th</sup> Floor, New York, New York 10022, and the Debtors’ service address in these Chapter 11 Cases is P.O. Box 2857, Meriden, Connecticut 06450.

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

having found that 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 Southern District of New York, entered February 1, 2012; and this being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue of these Chapter 11 Cases is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and upon the hearing held on the Motion; and no objections to the relief requested in the Motion having been received, or any such objections having been withdrawn or overruled; 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 this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; 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 Trade Confirm and all terms and conditions therein to effectuate the Transaction are hereby approved in their entirety.
3. The consideration provided by the Buyer under the Trade Confirm for the purchase of the Bonds provides fair consideration and reasonably equivalent value to the Debtors. The Transaction represents the best opportunity to maximize and realize value for the Debtors for the Bonds.
4. Approval of the Motion and the Trade Confirm and the consummation of the Transaction contemplated thereby are in the best interests of the Debtors, their creditors and other parties in interest.

5. The transfer of the Bonds to the Buyer will be, upon payment of the Purchase Price and consummation of the Transaction, a legal, valid, and effective transfer of the Bonds, which transfer vests or will vest the Buyer with all right, title, and interest of the Debtors to the Bonds free and clear of any interest in such property of any entity, including, without limitation: (a) all liens and encumbrances relating to, accruing, or arising at any time prior to the consummation of the Transaction and (b) all debts arising under, relating to, or in connection with any act of the Debtors or any claims (as defined in section 101(5) of the Bankruptcy Code), liabilities (including successor or successor-in-interest liability), obligations, demands, guarantees, options in favor of third parties, rights, contractual commitments, restrictions, interests, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of these chapter 11 cases, and whether imposed by agreement, understanding, law, equity, or otherwise.

6. As demonstrated by the representations of counsel and other evidence proffered or adduced at the Sale Hearing, the Debtors and their advisors marketed the Bonds to secure the highest and best offer for the Bonds. The terms of the Trade Confirm are fair and reasonable, and reflect the Debtors' exercise of prudent business judgment.

7. The Buyer is not an "insider" of the Debtors, as that term is defined in the Bankruptcy Code. No officer, director, manager, or other insider of the Debtors holds any interest in or is otherwise related to the Buyer.

8. The Buyer is purchasing the Bonds and has entered into the Trade Confirm in good faith and is a good faith buyer within the meaning of section 363(m) of the Bankruptcy Code, and is therefore entitled to the full protection of that provision, and otherwise has proceeded in good faith in all respects in connection with this proceeding

9. Neither the Debtors nor the Buyer has engaged in any conduct that would cause or permit the Transaction contemplated by the Trade Confirm to be avoided under section 363(n) of the Bankruptcy Code. The Debtors and the Buyer were represented by their own respective counsel and other advisors during such arm's length negotiations in connection with the Trade Confirm and the Transaction.

10. The conditions of section 363(f) of the Bankruptcy Code have been satisfied in full; therefore, the Debtors may sell the Bonds free and clear of any Interests in the Bonds.

11. Subject to the terms of the Trade Confirm and any related agreements, the Trade Confirm may be waived, modified, amended, or supplemented by agreement of the Seller and the Buyer without further action or order of the Court; provided, however, that any such waiver, modification, amendment, or supplement is not material and substantially conforms to, and effectuates, the Trade Confirm and any related agreements.

12. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby lifted with respect to the Buyer to the extent necessary, without further order of the Court, to allow the Buyer and the Debtors to deliver any notice provided for in the Trade Confirm and allow the Buyer and the Debtors to take any and all actions permitted under the Trade Confirm in accordance with the terms and conditions thereof.

13. This Order shall inure to the benefit of the Buyer, the Debtors, and their respective successors and assigns, including but not limited to any chapter 11 or chapter 7 trustee that may be appointed in the Debtors' cases, and shall be binding upon any trustee, party, entity, or fiduciary that may be appointed in connection with this case or any other or further case involving the Debtors, whether under chapter 7 or chapter 11 of the Bankruptcy Code.

14. Notice of the Motion as provided therein provided timely, good and sufficient notice of such Motion and the Sale Hearing and the requirements of Bankruptcy Rule 6004(a) and the Local Bankruptcy Rules were satisfied by such notice. A fair and reasonable opportunity to object or be heard with respect to the Motion and the relief requested therein has been afforded to all interested persons or entities.

15. The disclosures made by the Debtors concerning the Motion, the Trade Confirm, the Sale Hearing, and the Transaction with the Buyer were good, complete, and adequate.

16. All objections to the Sale Motion or the relief requested therein that have not been adjourned, withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the merits and denied with prejudice.

17. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

18. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

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

New York, New York

Dated: \_\_\_\_\_, 2024

---

HONORABLE MARTIN GLENN  
CHIEF UNITED STATES BANKRUPTCY JUDGE

**UPSTREAM TRADE TERMS – Weiss and Park Walk**

**Trade Date:** 2<sup>nd</sup> October 2024

**Date of these Trade Terms:** 11<sup>th</sup> October 2024

**Buyer:** Park Walk Europe LLP

**Final Buyer:** As nominated by the Buyer in writing to the Seller

**Seller:** Weiss Multi Strategy Partners LLC (“WMSP”)

OGI Associates LLC (in Chapter 11 proceedings) (“OGI”)

**Purchased Assets:** The Bonds originally issued by BES and identified in Annex 1 hereto (collectively, the “Bonds”), together with all rights, claims and causes of action of each Seller ancillary or related thereto, whether against BES, Novo Banco, S.A, Portuguese Resolution Fund (*Fundo de Resolução*), Bank of Portugal, the Portuguese State, any other authority or any other person including without limitation:

- (i) **Liquidation Claims:** all liquidation claims of each Seller filed by it (or any predecessor-in-title) in the insolvency proceedings of Banco Espírito Santo, S.A. (“BES”) before the 1st Judge of Lisbon Commercial Section of the Lisbon District Court (the “Court of Lisbon”), under proceeding no. 18588/16.2T8LSB (the “Insolvency Proceedings”), including, without limitation, the accepted Liquidation Claims (*Comuns*) identified in Annex 1 hereto;
- (ii) **NCWO compensation:** all rights and claims arising from the Liquidation Claims, the Bonds and/or the Bank of Portugal’s resolution measures for compensation payable by the Portuguese Resolution Fund (*Fundo de Resolução*) under the ‘no-creditor-worse-off’ principle (as referred to in articles 34(1)(g), 73(a) and 75 of the Bank Recovery and Resolution Directive 2014/59/EU and corresponding Portuguese legislation); and
- (iii) **Portuguese Litigation Claims:** all rights, causes of action, challenges, administrative liability actions and litigation claims in the Portuguese civil or administrative courts against the Bank of Portugal, Novo Banco S.A., the Portuguese State or any other authority or person relating to the Bonds, the Bank of Portugal’s re-transfer decision on 29 December 2015 and/or breaches of Portuguese and EU law in the implementation of the BRRD.

**Aggregate Purchase Price:** EUR7,859,383.96, calculated on the basis of a purchase rate of 19.32366183% applied to the amount recognized as *Comuns* in the Liquidation Proceedings in respect of the Liquidation Claims and Bonds held by each Seller (as set out in Annex 1 hereto).

**Settlement Date:** As soon as reasonably practicable, provided that:

- (i) Settlement of the transaction contemplated herein shall be subject to entry of an order approving such transactions in form and substance reasonably acceptable to the Final Buyer (the “Sale Order”) by the United States Bankruptcy Court for the Southern District of New York (the “US Bankruptcy Court”) currently presiding over the chapter 11 cases of the Seller, OGI Associates LLC (such cases, the “Chapter 11 Cases”);
- (ii) Each Seller shall, acting in good faith, use its commercially reasonable efforts to obtain US Bankruptcy Court approval of the terms of the transaction contemplated herein by private sale as soon as reasonably practicable (and, in any event, shall file a motion (in form and substance reasonably acceptable to the Final Buyer) seeking such approval (with the purchase price of the

Purchased Assets redacted and filed under seal, unless the US Bankruptcy Court denies such redaction) within 5 business days of the date of these Trade Terms);

- (iii) Following US Bankruptcy Court approval, each Seller shall execute and deliver all notices and documents as the Buyer (or Final Buyer) considers necessary or desirable to assign the Purchased Assets directly from each Seller to the Final Buyer and to enable Final Buyer to substitute into all relevant court proceedings; and
- (iv) Cash settlement of the Aggregate Purchase Price shall be paid by Buyer to Seller within two (2) business days of the date on which Final Buyer receives a declaration or other satisfactory written confirmation from the Insolvency Officer of BES (acting as registrar in accordance with articles 61 (c) and 64 of the Portuguese Securities Code), stating that the Final Buyer has been fully recognized in the Insolvency Officer's registry as the holder of all Bonds pursuant to the direct transfer of such Bonds from each Seller to the Final Buyer. For the avoidance of doubt, cash settlement of the Purchase Price will not be delayed until the actual substitution of Final Buyer in the Portuguese courts.

**Form of Transfer:**

- (i) Assignment of the Bonds and Liquidation Claims, with such assignment and substitution taking place directly from each Seller to the Final Buyer (with all substitution notices and joint statements in a form to be mutually agreed) as soon as reasonably practicable; and
- (ii) Assignment of all Portuguese Litigation Claims filed by each Seller (or any predecessor-in title) (but only in respect of those considered necessary or desirable by the Buyer and Final Buyer), with such assignment and substitution taking place directly from each Seller to the Final Buyer (with all substitution notices and joint statements in a form to be mutually agreed) as soon as reasonably practicable.<sup>1</sup>

**Other Terms of Trade:**

- (i) Trades flat.
- (ii) Delayed Settlement Compensation does not apply to this transaction.
- (iii) All distributions arising from or in connection with the Purchased Assets shall be solely for Buyer's Account (or Final Buyer's account) on and from Trade Date.
- (iv) The transaction contemplated herein shall be subject to mutually agreeable standard settlement documents based on, and this transaction shall be subject to, the Standard Terms and Conditions for Par and Distressed Trade Transactions (Bank Debt/Claims) of the Loan Market Association ("LMA") as in effect on the Trade Date.
- (v) Each Seller shall assist with and take all steps considered necessary or desirable by Buyer or Final Buyer to (i) consummate the assignments and substitutions of Final Buyer in respect of the Liquidation Claims and Portuguese Litigation Claims and/or (ii) maximise and preserve the Portuguese Litigation Claims and/or Liquidation Claims (including making any claim filings, pleadings or other court documents considered necessary or desirable by Buyer or Final Buyer).
- (vi) OGI Associates LLC represents that it duly and validly acquired EUR 2,434,846.47 in aggregate admitted Liquidation Claims (*Comuns*) in respect of certain Bonds from those predecessors in title identified in Annex 1 hereto. OGI Associates LLC further agrees to procure that such predecessors in title will provide such assistance as considered necessary or desirable by Buyer or Final Buyer

---

<sup>1</sup> For the avoidance of doubt, the Form of Transfer specified in (i) and (ii) is "Legal Transfer" for the purposes of the LMA Standard Terms and Conditions for Par and Distressed Trade Transactions (Bank Debt/Claims).

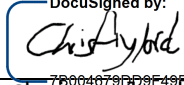
by providing documents in its possession or executing any additional document or instrument as may be reasonably required to consummate the assignments and substitutions of Final Buyer in respect of the Liquidation Claims and Portuguese Litigation Claims.

- (vii) Each Seller shall (and shall procure that each of their respective investment managers or general partners) agree and undertake to Buyer and Final Buyer not to effect a dissolution of such Seller prior to the completion of the transfer of all Bonds, Liquidation Claims and Portuguese Litigation Claims to Final Buyer (including the substitution in all court proceedings considered necessary or desirable by Buyer and Final Buyer).
  - (viii) OGI Associates LLC agrees and undertake to Buyer and Final Buyer to procure that each of its predecessors in title identified in Annex 1 hereto shall not effect a dissolution of itself prior to the completion of the transfer of all Bonds, Liquidation Claims and Portuguese Litigation Claims to Final Buyer (including the substitution in all court proceedings considered necessary or desirable by Buyer and Final Buyer).
  - (ix) Each Seller acknowledges and agrees that Final Buyer shall have the right (but not the obligation) to substitute into the Section 1782 proceedings to obtain discovery in the United States in connection with the Portuguese Litigation Claims.
  - (x) Neither Buyer nor Final Buyer shall be required to assume or be responsible for any liability, costs or expenses in respect of any of the Purchased Assets which result from, or may result from, the actions of any Seller or any of the Seller's predecessors in title.
  - (xi) Each Seller represents to Buyer that (i) no consent or approval of any person is or will be required for it to execute, deliver, and perform its or their obligations hereunder or contemplated herein and (ii) it has the power to enter into this agreement and execute, deliver, and perform its obligations hereunder, provided that the Buyer acknowledges that US Bankruptcy Court approval shall be required to consummate this transaction, as described above.
  - (xii) Buyer shall be entitled, on written demand, to receive a Break Fee of EUR 235,781.52 (being 3.00% of the Aggregate Purchase Price) from the Sellers (on a *pro rata* and several basis per Seller) in the event that:
    - a) at any time after Trade Date a Seller decides on its own volition (for any reason) to sell all or part of the Purchased Assets to another party; or
- the US Bankruptcy Court requires a "stalking horse" or other competitive bidding procedure to be conducted by any Seller with respect to any part of the Purchased Assets and the Buyer (or Final Buyer) is ultimately not the successful bidder in respect of all or any part of the Purchased Assets, provided that, for the avoidance of doubt, in the event that the US Bankruptcy Court does not approve the terms of this agreement at all, then no Break Fee shall be payable to Buyer.
- (xiii) With respect to any proposed competitive bidding or "stalking horse" procedures contained in or contemplated by any US Bankruptcy Court pleading regarding any portion of the Purchased Assets, the terms approved by the Bankruptcy Court shall include the following provisions (the "**Bid Protection Requirements**"):
    - a) the approval of the amount of the Break Fee as set forth herein and that the Sellers' obligation to pay the Break Fee shall be subject to administrative expense priority in the Chapter 11 Cases;

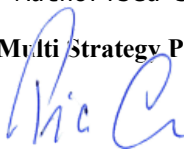
- b) the terms of the bidding procedures shall be subject to the Buyer's reasonable consent and shall allow the Buyer (for the benefit of the Final Buyer) a reasonable opportunity to overbid with respect to any competing overbid; and
- c) any overbid by any other person will be required to exceed an aggregate amount of EUR 8,598,131.06 (or 21.14% of the amount recognized as *Comuns* in the Liquidation Proceedings in respect of the Bonds held by the relevant Seller (or its direct predecessor in title, if applicable)).
- (xiv) In the event that (x) the Sellers fail to seek US Bankruptcy Court approval of the transactions contemplated herein as a private sale (with the purchase price filed under seal) within 5 business days of the date of these Trade Terms, (y) the US Bankruptcy Court requires a "stalking horse" or other competitive bidding procedure to be conducted by any Seller with respect to any portion of the Purchased Assets and, without the prior written consent of the Buyer, the provisions of the order entered by the Bankruptcy Court approving the "stalking horse" or other bidding procedures do not approve any portion of the Bid Protection Requirements, or (z) the entry by the US Bankruptcy Court of a Sale Order (in form and substance reasonably acceptable to the Final Buyer) approving the sale of the Purchased Assets to the Buyer contemplated hereby has not occurred within 60 days of the date of these Trade Terms for any reason, then, in each case (x), (y), or (z), the Buyer shall be entitled to give written notice to the Sellers that it terminates its continued participation in this Trade upon which no further duty, obligation, liability, owed or due, by the Buyer to the Sellers shall exist, with all such duties, liabilities and obligations being extinguished in full, except with respect to the confidentiality of the transaction set out in Condition 25(a) of the LMA Standard Terms and Conditions for Par and Distressed Trades Transactions (Bank Debt/Claims) ("**Terms and Conditions**").
- (xv) In the event that this transaction cannot be settled in accordance with the form of purchase contemplated in this trade confirmation, the Buyer shall have the right to terminate this transaction and no further duty, obligation, liability, owed or due, shall exist between the Buyer and the Sellers, with all such duties, liabilities and obligations being extinguished in full, except with respect to the confidentiality of the transaction set out in Condition 25(a) of the Terms and Conditions. Buyer and each Seller acknowledge and agree that Condition 6.2 of the Conditions of the Terms and Conditions shall not apply to this.
- (xvi) During the period from the Trade Date up to and including the Settlement Date, no Seller shall: (i) take any action; (ii) make, grant and exercise (or refrain from making, granting or exercising) all votes; or (iii) otherwise exercise (or refrain from exercising) all other rights and remedies with respect to the Purchased Assets without the prior written consent of the Buyer (or Final Buyer).

**Park Walk Europe LLP**

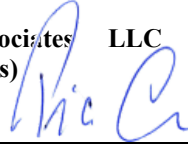
DocuSigned by:

By:   
Name: Chris Aylard  
Title: Authorised Signatory

**Weiss Multi Strategy Partners LLC**

By:   
Name: Pierce Archer  
Title: Chief Operating Officer

**OGI Associates LLC (in Chapter 11 proceedings)**

By:   
Name: Pierce Archer  
Title: Chief Operating Officer

**Annex 1**

| <b>Seller</b>                                                                                        | <b>Admitted Liquidation Claim (Comuns) (EUR)</b> | <b>Purchase Price as % of Admitted Liquidation Claim</b> | <b>EUR Purchase Price (admitted Liquidation Claim*19.32%)<sup>2</sup></b> | <b>Bonds held (EUR)</b> |               |
|------------------------------------------------------------------------------------------------------|--------------------------------------------------|----------------------------------------------------------|---------------------------------------------------------------------------|-------------------------|---------------|
| <b>Weiss Multi Strategy Partners LLC</b>                                                             | 16,285,241.74                                    | 19.32366183%                                             | 3,146,905.04                                                              | ISIN PTBEQKM0019        | 8,100,000.00  |
|                                                                                                      |                                                  |                                                          |                                                                           | ISIN PTBENJOM0015       | 7,900,000.00  |
| <b>OGI Associates LLC</b>                                                                            | 21,952,244.15                                    | 19.32366183%                                             | 4,241,977.42                                                              | ISIN PTBEQKM0019        | 11,700,000.00 |
|                                                                                                      |                                                  |                                                          |                                                                           | ISIN PTBENJOM0015       | 10,800,000    |
| <b>OGI Associates LLC</b> (acquired from Weiss Alpha Balanced Risk Fund LLC as Predecessor in Title) | 407,238.35                                       | 19.32366183%                                             | 78,693.36                                                                 | ISIN PTBEQKM0019        | 200,000.00    |
|                                                                                                      |                                                  |                                                          |                                                                           | ISIN PTBENJOM0015       | 200,000.00    |
| <b>OGI Associates LLC</b> (acquired from Weiss Insurance Partners (Cayman) as Predecessor in Title)  | 2,027,608.12                                     | 19.32366183%                                             | 391,808.14                                                                | ISIN PTBEQKM0019        | 1,200,000.00  |
|                                                                                                      |                                                  |                                                          |                                                                           | ISIN PTBENJOM0015       | 900,000.00    |
| <b>Total (EUR)</b>                                                                                   | <b>40,672,332.36</b>                             |                                                          | <b>7,859,383.96</b>                                                       |                         |               |

---

<sup>2</sup> Exact decimal place: 19.32366183%

**KLESTADT WINTERS JURELLER**

**SOUTHARD & STEVENS, LLP**

200 West 41<sup>st</sup> Street, 17<sup>th</sup> Floor

New York, NY 10036

Telephone: (212) 972-3000

Facsimile: (212) 972-2245

Tracy L. Klestadt

John E. Jureller, Jr.

Lauren C. Kiss

Stephanie R. Sweeney

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

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|                                   |   |
|-----------------------------------|---|
| -----X                            |   |
| In re                             | : |
|                                   | : |
|                                   | : |
| WEISS MULTI-STRATEGY ADVISERS     | : |
| LLC, <i>et al.</i> , <sup>1</sup> | : |
|                                   | : |
|                                   | : |
| Debtors.                          | : |
| -----X                            |   |

Chapter 11  
Case No. 24-10743 (MG)  
(Jointly Administered)

**DEBTORS' REPLY TO OBJECTION OF JEFFERIES STRATEGIC  
INVESTMENTS, LLC, LEUCADIA ASSET MANAGEMENT HOLDINGS LLC  
AND JEFFERIES LLC TO DEBTORS' MOTION FOR ENTRY OF AN ORDER,  
PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a), 363(B), 541(a)(1),  
AND 1108, AND BANKRUPTCY RULES 2002, 6004 AND 9006 AUTHORIZING  
THE PRIVATE SALE OF CERTAIN RIGHTS, CLAIMS AND CAUSES  
OF ACTION RELATED TO THE PORTUGUESE BONDS**

Weiss Multi-Strategy Advisers LLC and its affiliated debtors (collectively, the “Debtors”), as debtors and debtors in possession in the above-referenced chapter 11 cases (the “Chapter 11 Cases”), by and through their undersigned counsel, hereby submit their reply (“Reply”) to the objection (“Objection”) of Jefferies Strategic Investments, LLC, Leucadia Asset Management

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Weiss Multi-Strategy Advisers LLC (7518); GWA, LLC (7079); OGI Associates LLC (4493); Weiss Special Operations LLC (7626); and Weiss Multi-Strategy Funds LLC (8004). The location of Debtor Weiss Multi-Strategy Advisers LLC’s principal place of business was formerly 320 Park Avenue, 20<sup>th</sup> Floor, New York, New York 10022 and the Debtors’ service address in these Chapter 11 Cases is P.O. Box 2857, Meriden, Connecticut 06450.

Holdings LLC and Jefferies LLC (“Jefferies Entities”) to the Debtors’ motion (the “Motion”) for entry of an order, pursuant to sections 105(a), 363(b), 541(a)(1), and 1108 of Title 11 of the United States Code (“Bankruptcy Code”) and Rules 2002, 6004 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 5004-1 of the Local Rules (the “Local Bankruptcy Rules”) for the United States Bankruptcy Court for the Southern District of New York (“Bankruptcy Court”) and the Amended Guidelines for the Conduct of Asset Sales promulgated by General Order M-383 of the Bankruptcy Court (the “Sale Guidelines”), authorizing the Debtors to effectuate the sale and assignment of certain rights, claims and cause of action related to the Bonds<sup>2</sup> identified on Annex 1 of the Trade Confirm pursuant to terms of the Trade Confirm.

### **PRELIMINARY STATEMENT**

After an extensive marketing process outlined in the Motion, the Debtors entered into the Trade Confirm with the Buyer for the private sale of the Bonds. There is no active market for the Bonds, thus the Debtors cannot sell the Bonds on an exchange or to the public. Instead, it was necessary to find a buyer who is familiar with the Bonds, has local Portuguese lawyers who understand the pending litigation, and are willing to take the risks of the litigation in foreign courts relating to the Bonds, the outcome of which is very uncertain. Based upon their analysis, and taking into consideration the significant uncertainties involving the Bonds including the valuation or pricing, the different legal positions of the various Bond holdings, the costs of the pending litigation, the timing of the resolution of the ongoing litigation in Portugal (and any appeal), and the probability of success, the Debtors believe that the proposed terms in the Trade Confirm represent the highest or otherwise best offer they received for the Bonds and that the Transaction is in the best interest of the Debtors and their estates. The Transaction will provide much needed

---

<sup>2</sup> Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion.

liquidity to the Debtors, eliminate the significant risks and carrying costs associated with the Bonds, and provide the basis for the development of a plan of liquidation moving forward.

While the Transaction was negotiated as a private sale, the Debtors accounted for the possibility that the Court would require a public auction of the Bonds. The Trade Confirm specifically provides for agreed terms in the event a competitive bidding procedure is directed by the Court, including a Break Fee and Bid Protection Requirements to protect the interests of the Buyer.

By the Objection, the Jefferies Entities have suggested that they intend to make a bid for the Bonds. While surprised given the Jefferies Entities' prior lack of interest therein, the Debtors would be pleased to entertain any valid bid and to enjoy the benefits to their estates of a competitive bidding process. However, the Jefferies Entities' suggested offer to "credit bid" their secured claim is not a valid offer, much less a better offer, as the purported security interest upon which Jefferies relies is subject to avoidance as set forth in the Debtor's pending adversary proceeding; any security interest granted by OGI (the owner of the Bonds) was within the preference period and for no consideration, as OGI was not one of the Debtors previously obligated to the Jefferies Entities. Additionally, more than \$16 million of the Bonds are owned by the non-Debtor, Weiss Multi Strategy Partners LLC, against which Jefferies has no claim or security interest of any kind. Further, while the Jefferies Entities suggest offering a cash component sufficient to make a higher distribution to general unsecured creditors, they make no mention of cash for satisfaction of administrative claims. Unless the Jefferies Entities are willing to make an all-cash bid for the Bonds, conforming to the Bidding Protection Requirements of the Trade Confirm, any bid they would propose would be invalid and inferior to the current bid, and the Debtors therefore request that the Motion be granted in all respects.

### **ARGUMENT**

1. By their Objection, the Jefferies Entities purport to object to the Motion for three reasons: (a) the Debtors' failure to adequately explain why they decided not to conduct an auction for the Bonds; (b) the granting of the Motion would strip the Jefferies Entities of valuable collateral rights; and (c) because there is no auction or bidding procedures, the Motion proposes to sell the Bonds for amounts that will ultimately result in a creditor recovery that is less than what the Jefferies Entities are willing to provide for these same assets. *See* Objection, ¶¶3, 4, 7, 10. It is respectfully submitted that the reasons stated in the Objection are without merit.

2. First, the Motion specifically outlines the basis for the private sale. While the Debtors would be more than happy to conduct an auction for the Bonds subject to higher and better offers, the reality is that the Debtors have already exhausted their extensive marketing process and firmly believe, in their business judgment, that the Trade Confirm, and the proposed private sale, are in the best interests of the Debtors' estates.

3. As set out in the Motion, the Bonds are sophisticated financial products, made even more complex by the 10-year old litigation in Portugal and the different positions of certain of the Bonds as either Litigation Bonds or Unfiled Bonds and differing views on the potential rights and recourse arising therefrom. Notwithstanding that the market for the sale of these Bonds and associated rights, claims and causes of action is limited, the Debtors were taking affirmative actions with respect to the Bonds even before the Bankruptcy Cases were filed, including determining the potential values of the Bonds under numerous scenarios, considering the timing for realizing such value, evaluating the market for the Bonds and associated rights, claims and causes of action, and confirming the logistics for any sale, transfer and/or assignment of the Bonds.

4. The Debtors worked with experienced distressed debt brokers to initiate a marketing process to gauge potential interest and establish pricing and valuation of the Bonds. The Debtors contacted and spoke with potential purchasers, brokers, consultants and representatives of market participants both in the U.S. and foreign jurisdictions. Independent brokers contacted additional parties. Debtors' counsel in Portugal, Andre Judice Gloria, contacted counsel for large bondholder groups – PLMJ and CMS – who reached out to their clients regarding interest in the purchase of the Bonds. At the end of the day, the proposed Buyer provided the best offer for the Bonds.

5. Interestingly, the Jefferies Entities have known about the Debtors' analysis of the Bonds since at least Fall 2023 and were actually offered the Bonds in an effort to reduce their indebtedness. The Debtors understood that the Jefferies Entities had no interest in the Bonds and the associated transaction risks.

6. The reasons for the private sale were legitimate and adequately outlined in the Motion, including in compliance with the *Amended Guidelines for the Conduct of Asset Sales*.

7. Second, the Debtors have actively disputed the security interest claimed by the Jefferies Entities in these Bankruptcy Cases. The Jefferies Entities' purported security interest arises from the Amended Forbearance Agreement dated February 12, 2024, entered into under duress, within 90 days of the filing of the Bankruptcy Petitions. At all times prior to the Amended Forbearance Agreement, the Jefferies Entities were unsecured creditors of WMSA and GWA; neither OGI nor any of the other Debtors were obligors, and none of the Debtors had granted a security interest in any of their assets. As detailed more fully in their Second Amended Complaint in the Adversary Proceeding, the Debtors have asserted claims to avoid the security interest as,

*inter alia*, preferential transfers and constructively fraudulent transfers. See *GWA LLC et al. v. Jefferies Strategic Investments et al.*, Adv. Proc. No. 24-01350 (MG).

8. The decision of whether to deny credit bidding based on cause is within the discretion of the court, and “Courts have ... limited the right to credit bid when the validity of a creditor's lien is in dispute.” *In re Aéropostale, Inc.*, 555 B.R. 369, 415 (Bankr. S.D.N.Y. 2016). For instance, in the case of *In re Daufuskie Island Props., LLC*, 441 B.R. 60 (Bankr. S.C. 2010), the court held that a creditor was not entitled to credit bid when its mortgage was in dispute. Similarly, in *National Bank of Commerce of El Dorado v. McMullan (In re McMullan)*, 196 B.R. 818, 835 (Bankr. W.D. Ark. 1996), the court ruled that a secured creditor could not bid its claimed liens or security interests under 11 U.S.C. § 363(k) because the validity of its liens and security interests were unresolved.

9. With no valid undisputed security interest, the Jefferies Entities have no collateral in the assets of OGI. With no collateral, the Jefferies Entities have no “credit bid”. Thus, there is no offer to consider by the Debtors.

10. Even so, the proposed “credit bid” and proposed bid procedures outlined in the Objection are not in the best interests of the Debtors’ estates. Currently, the Debtors have an all-cash offer from the proposed Buyer under the Trade Confirm, which will provide payment on an expedited basis under the circumstances. The purchase, which has few conditions other than approval by the Bankruptcy Court and the transfer of the rights to the Bonds in the Portuguese litigation, will provide much needed liquidity to the Debtors’ estates, provide for payment of necessary administrative expenses, set a building block for an effective plan of liquidation in these Bankruptcy Cases, and eliminate costs, risks, and delays associated with the Bonds. The suggested “credit bid” by the Jefferies Entities, even if viable, still fails to account for these factors on which

the Debtors placed considerable value, in their business judgment, in proposing to consummate the sale under the Trade Confirm as in the best interests of the Debtor's estates.

11. Jefferies also lack any right to credit bid for the \$16 million aggregate principal amount of Bonds (about 40% of all Bonds subject to the sale) that are being sold by the non-Debtor, Weiss Multi Strategy Partners LLC, against which Jefferies holds no alleged claims or security interests of any kind. The combined sale of these Bonds along with those held by the Debtor, OGI Associates LLC, enhances the total value to be received by the Debtors' estates and there can be no certainty that the Purchaser would agree to buy only the non-Debtor Bonds without also including the \$25 million of Bonds held by Debtors.

12. Lastly, the Debtors submit that, in their business judgment, the proposed private sale under the Trade Confirm provides for the best result for the Debtors' estates. In fact, it is currently the highest offer on the table, despite extensive marketing of the Bonds. Right now, there is no other better bid for the Bonds. Nonetheless, subject to the Buyer's right to terminate its participation in the trade, the Trade Confirm does provide for agreed proposed terms with the Buyer if a competitive bidding process is directed by the Court.

13. The Trade Confirm provides for "Bid Protection Requirements" as follows:

*(xii) Buyer shall be entitled, on written demand, to receive a Break Fee of EUR235,781.52 (being 3.00% of the Aggregate Purchase Price) from the Sellers (on a pro rata and several basis per Seller) in the event that:*

*(a) At any time after Trade Date a Seller decides on its own volition (for any reason) to sell all or part of the Purchased Assets to another party; or*

*[b] the U.S. Bankruptcy Court requires a "stalking horse" or other competitive bidding procedure to be conducted by any Seller with respect to any part of the Purchased Assets and the Buyer (or Final Buyer) is ultimately not the successful bidder in respect of all or any part of the Purchased Assets, provided that, for the avoidance of doubt, in the event that the US Bankruptcy Court does*

*not approve the terms of this agreement at all, then no Break Fee shall be payable to the Buyer.*

*(xiii) With respect to any proposed competitive bidding or “stalking horse” procedures contained in or contemplated by any US Bankruptcy Court pleading regarding any portion of the Purchased Assets, the terms approved by the Bankruptcy Court shall include the following provisions (the “Bid Protection Requirements”):*

*(a) The approval of the amount of the Break Fee as set forth herein and that the Seller’s’ obligation to pay the Break Fee shall be subject to administrative expense priority in the Chapter 11 Cases;*

*(b) The terms of the bidding procedures shall be subject to the Buyer’s reasonable consent and shall allow Buyer (for the benefit of the Final Buyer) a reasonable opportunity to overbid with respect to any competing overbid; and*

*(c) Any overbid by any other person will be required to exceed an aggregate amount of EUR8,598,131.06 (or 21.14% of the amount recognized as Comuns in the Liquidation Proceedings in respect of the Bonds held by the relevant Seller (or its direct predecessor in title, if applicable).*

14. That being said, the initiation of a competitive bidding process, which does not conform to the Trade Confirm terms, creates the risk that the Buyer terminates the Trade Confirm, and thus retracts the significant offer on the table. Section xiv of the Trade Confirm provides that: *“In the event that ... (y) the US Bankruptcy Court requires a “stalking horse” or other competitive bidding procedure to be conducted by any Seller with respect to any portion of the Purchased Assets and, without the prior written consent of the Buyer, the provisions of the order entered by the Bankruptcy Court approving the “stalking horse” or other bidding procedures do not approve any portion of the Bid Protection Requirements, ... the Buyer shall be entitled to give written notice to the Sellers that it terminates its continued participation in the Trade upon which no further duty, obligation, liability, owed or due, by the Buyer to the Sellers shall exist, with all such duties, liabilities and obligations being extinguished in full, ...”.*

15. To the extent the Court determines that a public auction or competitive bidding process is appropriate, the Debtors would request that any bidding procedures related to same incorporate, and not be adverse to, the Bid Protection Requirements under the Trade Confirm.

### **CONCLUSION**

16. After exhausting their extensive marketing process, the Debtors believe, in their business judgment, that the Trade Confirm, and the proposed private sale, are in the best interests of the Debtors' estates.

17. The Jefferies Entities suggested "credit bid" is not deemed a legitimate offer by the Debtors, including for the fact that the Debtors do not believe the Jefferies Entities have any security interest in the Bonds (whether owned by Debtors or non-Debtors) and thus no collateral to make any such "credit bid." Any cash component offered by the Jefferies Entities is ostensibly unable to be used to satisfy the administrative claims against the estates that are required to be satisfied in accordance with the Bankruptcy Code. Timing and terms of any payment, which is not even addressed by the Jefferies Entities, is a significant consideration for the Debtors. As such, the Debtors, in their business judgment, believe that the proposed sale under the Trade Confirm is the highest and best offer received and is in the best interest of the Debtors estates. To the extent the Jefferies Entities wish to make an all-cash bid, subject to the Bid Protection Requirements under the Trade Confirm, the Debtors would be more than willing to entertain such a bid for the benefit of the Debtors' estates. To date, no such bid has been made.

18. It is respectfully requested that the Motion be granted in all respects.

Dated: New York, New York  
November 22, 2024

KLESTADT WINTERS JURELLER  
SOUTHARD & STEVENS, LLP

By: /s/John E. Jureller, Jr.

Tracy L. Klestadt

John E. Jureller, Jr.

Lauren C. Kiss

Stephanie R. Sweeney

200 West 41<sup>st</sup> Street, 17th Floor

New York, NY 10036

(212) 972-3000

*Attorneys for Debtors and Debtors-in-  
Possession*