

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

In re

HRHI Wind-down, LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 25-10674 (TMH)

Jointly Administered

Re: D.I. 361

**ORDER (I) AUTHORIZING THE SALE OF EMPLOYEE RETENTION
CREDITS FREE AND CLEAR OF ALL ENCUMBRANCES; (II) APPROVING
THE DEBTORS' ENTRY INTO THE RISK PARTICIPATION AGREEMENT;
AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the debtors and debtors in possession (the “Debtors”) in the above-captioned cases, for entry of an order, pursuant to sections 105(a) and 363 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 2002-1 and 6004-1 of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), (i) authorizing the sale (the “Sale”) of a 100% participation interest (the “ERC Transferred Interest”) in the Debtors’ employee retention credits (the “ERCs”), (ii) approving the Debtors’ entry into the RPA, and (iii) granting related relief, all as more fully set forth in the Motion; and this Court having found it has jurisdiction over the relief requested in the Motion under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and this being a core proceeding under 28 U.S.C. § 157(b); and venue being proper under 28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of the Motion having been given under the circumstances; and it appearing that the relief requested by

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal EIN, are as follows: HRHI Wind-down, LLC (7913); DPM Wind-down, L.L.C. (1830); HRHP Wind-down, LLC (9937); and SPC Wind-down, LLC (7899). The Debtors’ mailing address is 200 W. Madison Street, Suite 1000, Chicago, IL 60606.

² Capitalized terms not defined herein are defined in the Motion.

this Motion is in the best interests of the Debtors, their estates, and their creditors and other parties in interest; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Sale Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The legal and factual bases set forth in the Motion and the Sale Hearing establish just and sufficient cause to grant the relief set forth herein.

B. On August 7, 2025, the Debtors and 1861 Acquisition LLC (the “Purchaser”) entered into that certain Risk Participation Agreement (such agreement, together with all schedules and exhibits attached thereto, the “RPA” attached as **Exhibit B** to the Motion and the transactions contemplated therein, collectively, the “Sale Transactions”).

C. **Jurisdiction and Venue.** This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

D. **Statutory Predicates.** The statutory predicates for the relief sought in the Motion are sections 105 and 363 of title 11 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 9014, and Local Rules 2002-1, 6004-1, and 9013-1.

E. **Final Order.** This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rule 6004(h), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable

by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Order, and expressly directs entry of judgment as set forth herein.

F. **Notice.** Notice of the Motion, the time and place of the Sale Hearing and the time for filing objections to the Motion (the “Sale Notice”) was reasonably calculated to provide all interested parties with timely and proper notice of the Sale and the Sale Hearing.

G. As evidenced by the certificates of service previously filed with the Court, proper, timely, adequate, and sufficient notice of the Motion, Sale Hearing, Sale and Sale Transactions contemplated thereby, has been provided, sections 363 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 9007, and no other or further notice of the Motion or the Sale Hearing is or shall be required. The disclosures made by the Debtors concerning the Motion and the Sale Hearing were good, complete, and adequate.

H. **Corporate Authority.** Subject to the entry of this Order, the Debtors (i) have the requisite corporate power and authority to execute, deliver, and perform their obligations under the RPA and all other documents contemplated thereby, and have taken all requisite corporate or other organizational action and formalities necessary to authorize and approve the execution, delivery and performance of their obligations under the RPA and to consummate the Sale, including as required by its organizational documents, and upon execution thereof, the RPA and the related documents were or will be duly executed and delivered by the Debtors and enforceable against the Debtors in accordance with their terms and, assuming due authorization, execution and delivery thereof by the other parties thereto, constituted or will constitute a valid and binding obligation of the Debtors. No government, regulatory, or other consents other than those expressly provided for in the RPA were required for the execution, delivery and performance by the Debtors of the RPA or the consummation of the Sale contemplated thereby.

I. The RPA was negotiated in good faith and at arm's-length. The Purchaser participated in good faith in these chapter 11 cases. The consideration to be paid by the Purchaser under the RPA was negotiated at arm's-length and constitutes fair, adequate, and reasonable consideration for the ERCs. The terms and conditions set forth in the RPA are fair and reasonable under these circumstances and were not entered into for the purpose of, nor do they have the effect of, hindering, delaying, or defrauding the Debtors or their creditors under any applicable laws.

J. **Free and Clear.** The ERC Transferred Interest is property of the Debtors' estates and title thereto is vested in the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code. Subject to section 363(f) of the Bankruptcy Code, the transfer of the ERC Transferred Interest to the Purchaser, in accordance with the RPA will be, as of the Effective Date, a legal, valid, and effective transfer of the ERC Transferred Interest, which transfer vests or will vest the Purchaser with all right, title, and interest of the Debtors to receive any and all payments, proceeds or distributions of any kind from the United States Internal Revenue Service (the "IRS") in respect of the ERCs free and clear of all Encumbrances. The Purchaser would not have entered into the RPA and would not consummate the Sale contemplated thereby if the Sale to the Purchaser was not free and clear of all Encumbrances.

K. **Sale in Best Interests of the Debtors' Estate; Consideration.** Good and sufficient reasons for authorizing the Debtors' entry into the RPA and approval of the Sale to be consummated in connection therewith have been articulated, and the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest. The Debtors have demonstrated both (a) good, sufficient and sound business purposes and justifications and (b) compelling circumstances for the Sale other than in the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code, outside of a plan of reorganization, in that,

among other things, the immediate consummation of the Sale to the Purchaser is necessary and appropriate to maximize the value of the Debtors' estates.

L. The total consideration provided by the Purchaser for the ERC Transferred Interest as reflected in the RPA is the highest and otherwise best offer received by, and available to, the Debtors for the ERCs. The offer of the Purchaser, upon the terms and conditions set forth in the RPA, including the total consideration to be realized by the Debtors thereunder, (i) is the highest and best offer received by the Debtors after an appropriate marketing process, and (ii) is in the best interests of the Debtors, their creditors, their estates, and other parties in interest. Taking into consideration all relevant factors and circumstances, no other entity has submitted a higher or otherwise better offer to purchase the ERCs or ERC Transferred Interest from the Debtors, and the Sale is the best alternative for the Debtors.

M. **The Good Faith of Purchaser and Sellers.** The Purchaser is purchasing the ERC Transferred Interest, in accordance with the RPA, in good faith and is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and is therefore entitled to all of the protections afforded by such provision, and otherwise has proceeded in good faith in all respects in connection with the Debtors' chapter 11 cases. As demonstrated by (i) evidence proffered or adduced at the Sale Hearing and (ii) the representations of counsel made on the record at the Sale Hearing, appropriate marketing efforts were conducted and, among other things: (a) the Purchaser in no way coerced the chapter 11 filing by the Debtors; and (b) all payments to be made by the Purchaser in connection with the Sale have been disclosed. Based on the record in these cases and at the Sale Hearing on this Motion, neither the Debtors, nor the Purchaser has engaged in any conduct that would cause or permit the RPA to be avoided under Bankruptcy Code section 363(n).

P. **No Successor.** The Purchaser is not, and shall not be considered or deemed, as result of any action taken in connection with the Sale transaction, to be a successor in interest of the Debtors or their estates for any purpose, including but not limited to under any federal, state, or local statute or common law, or revenue, pension, ERISA, tax, labor, employment, environmental, escheat or unclaimed property laws, or other law, rule, or regulation (including without limitation filing requirements under any such laws, rules or regulations), or under any products liability law or doctrine with respect to the Debtors' liability under such law, rule, or regulation or doctrine or common law, or under any product warranty liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine. Except for the transfer of the ERC Transferred Interest to the Purchaser, the Sale Transaction will not subject the Purchaser to any liability whatsoever with respect to the operation of the Debtors' business before the Effective Date or by reason of such transfer under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based, in whole or in part, directly or indirectly, on any theory of law or equity.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED as set forth herein, and the proposed Sale of the ERC Transferred Interest to the Purchaser upon the terms and conditions set forth in the RPA is hereby approved in all respects. For the avoidance of doubt, and as stated in the RPA, the 1861 Acquisition Purchase Price shall be \$6,116,962.23.

2. Any objections or reservation of rights filed or asserted in response to the Motion and the relief granted herein, to the extent not resolved as set forth herein or on the record at the Sale Hearing, are hereby overruled on the merits in their entirety with prejudice.

3. Pursuant to sections 105 and 363(f) of the Bankruptcy Code, the sale of the ERC Transferred Interest to the Purchaser shall be free and clear of any and all Encumbrances, which Encumbrances, if any, shall attach to the proceeds of the Sale, with the same validity, extent, and priority, and subject to the same defenses (including, without limitation, any defenses under chapter 5 of the Bankruptcy Code), as had attached to such asset immediately prior to the sale.

4. Pursuant to sections 363(b) and 363(f) of the Bankruptcy Code, the Debtors are hereby authorized without the need of further approval from this Court to (a) execute any additional instruments or documents that may be reasonably necessary or appropriate to implement the RPA, *provided* that such additional documents do not materially change the RPA's terms adversely as to the Debtors' estates; (b) consummate the Sale in accordance with the terms and conditions of the RPA and the instruments to the RPA contemplated thereby; and (c) execute and deliver, perform under, consummate, implement, and close fully the transactions contemplated by the RPA, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the RPA and the Sale.

5. This Order and terms and provisions of the RPA shall be binding in all respects upon the Debtors, their estates, all creditors of, and holders of equity interests in, the Debtors, any holders of Encumbrances in, against, or on all or any portion of the ERCs (whether known or unknown), and the Purchaser and all successors and assigns of the Purchaser. This Order and the RPA shall inure to the benefit of the Debtors, their estates and creditors, the Purchaser, and the respective successors and assigns of each of the foregoing. The RPA shall not be subject to rejection or avoidance by the Debtors, their estates, their creditors, their equity holders, or any trustee, examiner, or receiver.

6. On the Effective Date, each of the Debtors' creditors is authorized to execute such documents and take all other actions as may be reasonably necessary to release its Encumbrances or other interests in the ERCs, if any, as such Encumbrances may have been recorded or may otherwise exist.

7. If any person or entity which has filed statements or other documents or agreements evidencing Encumbrances on, against, or in, all or any portion of the ERCs shall not have delivered to the Debtors in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary for the purpose of documenting the release of all Encumbrances of any kind or other interests which the person or entity has or may assert with respect to all or any portion of the ERCs, the Debtors are hereby authorized, and the Purchaser is hereby authorized, to execute and file such statements, instruments, releases, and other documents on behalf of such person or entity with respect to the ERCs.

8. Except as expressly set forth in the RPA, the Purchaser shall not have any liability or other obligation of the Debtors arising under or related to the ERCs or otherwise.

9. **Successor Liability.** Except as expressly permitted by this Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax and regulatory authorities, parties to executory contracts, customers, lenders, trade and other creditors, holding or asserting any claim of any kind or nature with respect to, arising under or out of, in connection with, or in any way relating to, the Debtors, any asset sold pursuant to this Order, the operation of the Debtors' business, shall be, and hereby are forever barred, estopped and permanently enjoined from asserting such claim against the Purchaser, its successors and assigns, or the ERC Transferred Interest. Without limiting the generality of the

foregoing, the Purchaser shall not be liable for any liability against any Debtor, or any of its predecessors or affiliates, and the Purchaser shall have no successor or vicarious liability of any kind or character whatsoever related to the Debtors or the ERC Transferred Interest. The Purchaser would not have acquired the ERC Transferred Interest but for the foregoing protections against potential claims based upon “successor liability” theories.

10. **Failure to Specify Provisions.** The failure specifically to include any particular provisions of the RPA in this Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the RPA be authorized and approved in its entirety; *provided, however*, that this Order shall govern if there is any inconsistency between the RPA (including all ancillary documents executed in connection therewith) and this Order. Likewise, all of the provisions of this Order are non-severable and mutually dependent. To the extent that this Order is inconsistent with any prior order or pleading with respect to the Motion, the terms of this Order shall control.

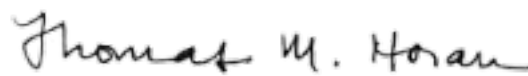
11. **Non-Material Modifications.** The RPA and any related agreements, documents, or other instruments may be modified, amended, or supplemented by the parties thereto, in writing signed by such parties, and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment, or supplement does not have a material adverse effect on the Debtors’ estates.

12. **No Stay of Order.** Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d), this Order shall be effective and enforceable immediately upon its entry. Time is of the essence in closing the transactions referenced herein, and the Debtors and the Purchaser are hereby authorized to close the Sale as soon as practicable.

13. In the event the Debtors do not close on the RPA, the Debtors may file a notice on the docket stating their intention to proceed with a sale of the ERCs or ERC Transferred Interest to another bidder. The notice shall contain a proposed form of order and a draft of the purchase agreement. The notice shall list an appropriate objection deadline and in the event no objections are received, the Debtors will file the proposed order under certification of counsel and shall be authorized to close on the sale with the back-up bidder.

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

Dated: August 25th, 2025
Wilmington, Delaware



THOMAS M. HORAN
UNITED STATES BANKRUPTCY JUDGE