

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

In re:

BRIGHTMARK PLASTICS RENEWAL
LLC, et al.,¹

Debtors.

Chapter 11

Case No. 25-10472 (LSS)

(Jointly Administered)

Hearing Date: May 9, 2025 at 10:00 a.m. (ET)

**Objection Deadline: May 2, 2025 at 4:00 p.m.
(ET)**

**MOTION OF UMB BANK, N.A., AS TRUSTEE AND COLLATERAL
AGENT, FOR ENTRY OF AN ORDER (I) DISMISSING THE CHAPTER 11
CASES FOR CAUSE PURSUANT TO 11 U.S.C. § 1112 OR (II) IN THE ALTERNATIVE,
GRANTING RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362**

UMB Bank, N.A., not in its individual capacity but solely in its capacity as trustee and collateral agent (the “Trustee”), hereby files this Motion (this “Motion”) for Entry of an Order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”) (I) Dismissing the Chapter 11 Cases for Cause Pursuant to 11 U.S.C. § 1112 or (II) In the Alternative, Granting Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362 and in support thereof states as follows:

PRELIMINARY STATEMENT

1. The Debtors stated unequivocally that they filed these Chapter 11 Cases for the “sole purpose of valuing the [Trustee’s] collateral.” More recently this past week through the Debtors’ 506(c) Motion, the Debtors assert that the bankruptcy process they unilaterally decided to pursue is actually for the sole benefit of the Trustee’s collateral, so that the collateral should be charged to pay for every single component of the junior DIP loan. This position is the latest pivot after the Debtors failed to mount any challenge to the Trustee’s liens and failed to procure a

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: Brightmark Plastics Renewal LLC (7907); Brightmark Plastics Renewal Indiana LLC (7118); and Brightmark Plastics Renewal Services LLC (3789). The Debtors’ headquarters are located at 1725 Montgomery¹ St, Floor 3, San Francisco, CA 94111.

priming DIP loan. What is consistent though, is that the Debtors continue to pursue the clear goal of the Insider Parent/DIP Lender to prevent any exercise of remedies by the Trustee and impair its (and no other party's) claim. In its latest iteration of the Insider Parent's strategy, the Debtors seek to preclude the Trustee from exercising its rights with respect to the collateral, including through a credit bid. Having failed to directly prime the Trustee's liens, the Debtors seek to do so indirectly using Section 506(c). The Debtors essentially threaten that if the Trustee successfully credit bids on its own collateral, the Trustee should pay the entire \$13 million junior DIP loan *in cash*.² The Debtors' 506(c) Motion creates another cloud over this sale process and puts it in jeopardy.

2. The Trustee never asked for these cases. It never imposed pressure on the Debtors to file these cases. And it sees no reason for the Debtors to be in chapter 11, especially if it is not going to result in a fair and open process.

3. It is time for the charade to end. From the start these Chapter 11 Cases have been run directly adversely to the Trustee's interests. The Trustee is the Debtors' sole meaningful creditor and has a blanket lien on the Debtors' sole meaningful asset. This is a quintessential two-party dispute that the Bankruptcy Code was not intended to be used to adjudicate. These Chapter 11 Cases were therefore not filed in good faith and must be dismissed. The fact that the Debtors assert that they can charge the Trustee for a process the Trustee never requested or consented to, designed and run solely to deprive the Trustee of its bargained-for collateral, is proof positive of that. The Trustee has been left with no choice but to file this Motion.

4. The effort to surcharge the collateral independently weighs in favor of the relief requested. Even taking the Debtors at their own word and believing that the cases are being run

² As set forth on the record in the hearing to consider the Final DIP Order, in response to the Trustee's concerns raised about expenditures under the DIP Loan such as non-contractual insider payments without historical precedent, capital expenditures inconsistent with prior practices, and unsubstantiated lien payments, the Debtors repeatedly told the Trustee that it has no say in the expenditures under the DIP Loan because it is an entirely junior facility.

for the sole benefit of the Trustee, this is plainly not a valid reorganizational purpose and thus dismissal is still required. The Trustee intends to oppose the effort to surcharge its collateral and show that the Debtors have not met and cannot meet that high burden. The Debtors' assertions that the Trustee benefitted from these cases are specious. However, if there is any truth to those assertions, then the cases should be dismissed for that reason alone.

5. In the alternative, if the Court is not prepared to dismiss the Chapter 11 Cases as required under Section 1112(b), then the Trustee is entitled to relief from the automatic stay under Section 362(d) in order to exercise its contractual and state law remedies with respect to its collateral. The Trustee is not and has never been adequately protected as required under Section 362, and the longer these Chapter 11 Cases persist the less protected the Trustee will become. To date, the Debtors have failed to prove they are providing adequate protection. They refuse to provide even the basic requested information about the purported adequate protection they claim to provide or the condition of its collateral. The Debtors may not use these Chapter 11 Cases to deprive the Trustee of any visibility into the status of its collateral and also prevent it from taking any remedies with respect to the same. Because that is exactly what the Debtors are doing, the Trustee is entitled to relief from the stay.

I. JURISDICTION

6. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012 (the "Amended Standing Order"). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

7. The statutory predicates for the relief sought herein are sections 105(a), 362, and 1112(b) of the Bankruptcy Code and Bankruptcy Rules 1017(a) and 4001.

II. RELEVANT BACKGROUND

A. The Indenture and Security Documents and Bond Collateral

8. UMB Bank, N.A., is the trustee and collateral agent for the tax exempt facility revenue bonds (the “Bonds”, and the holders of such Bonds, the “Bondholders”) issued in the original principal amount of \$185,000,000 under that certain Trust Indenture, dated as of March 1, 2019 (as amended or supplemented, including by the First Supplemental and Amendatory Trust Indenture, dated as of February 1, 2024, the “Indenture”), by and between the Indiana Finance Authority (the “Authority”) and the Trustee and made in connection with that certain Loan Agreement, dated as of March 1, 2019 (as the same may be amended or supplemented, the “Loan Agreement,” and together with the Indenture and each related or ancillary document entered into in connection therewith, the “Indenture and Security Documents”), by and between the Authority and Brightmark Plastics Renewal Indiana LLC, formerly known as RES Polyflow Indiana, LLC (the “Borrower”). In connection with the Bonds, the Borrower and the Authority entered into the Loan Agreement, pursuant to which the proceeds of the Bonds were loaned to the Borrower.

9. Pursuant to the Indenture, UMB was appointed Trustee with respect to the Bonds and, in its capacity as Collateral Agent, was assigned all of the Authority’s rights under the Indenture and Security Documents, including but not limited to the Indenture and Loan Agreement.

10. The Bonds are public Green Bonds issued to raise funds to enable the Borrower’s construction of a recycling center in Ashley, Indiana (the “Plant”). However, the Plant has never

functioned as intended and has never been more than approximately 5% operational at any given time.

11. The Bonds are secured by first priority liens in favor of the Trustee, as collateral agent, on substantially all of the Debtors' assets (collectively, the "Bond Collateral"). A more fulsome description of the Trustee's Bond Collateral and the Indenture and Security Documents is set forth in the Trustee's proof of claim (the "Proof of Claim"),³ a true and correct copy of which is attached hereto as **Exhibit B** and incorporated by reference as if fully set forth herein. Notably, the Bond Collateral includes (but is not limited to) the Plant and assignments of agreements and/or direct agreements for substantially all products and services necessary for the operation of the Plant. As noted below, the Debtors and the Insider Parent do not dispute the scope, validity, or priority of the Trustee's liens.

12. The Plant and its operations were previously funded by the Debtors' parent Brightmark LLC (the "Insider Parent"), with the Insider Parent allegedly funding over \$200,000,000 to the Debtors through equity contributions prior to February 2025. On or around March 5, 2025, the Insider Parent decided to pivot from providing equity financing to debt financing, and to that effect caused the Debtors to enter into a bridge loan (the "Bridge Loan") with Brightmark Plastics Ashley Holdco LLC (the "DIP Lender"), an affiliate of the Insider Parent, for up to \$6,500,000. The Bridge Loan is and has always been junior to the obligations under the Indenture and Security Documents.

B. The Notice of Default and Insider-Parent's Priming Attempt

³ Though the Trustee's Proof of Claim has been stamped and acknowledged as received by the Debtors' claims and noticing agent as of April 11, 2025, the Proof of Claim does not appear to be included on the noticing agent's electronic claims register. The Proof of Claim was actually submitted to the Debtors and the claims and noticing agent on April 4, 2025. The Debtors' claims and noticing agent's website was not (and apparently still is not) set up for filing electronic claims, meaning that the Trustee had to simultaneously e-mail the Proof of Claim and physically mail it to the claims and noticing agent.

13. On or around March 1, 2025, the Borrower failed to make payment of its Debt Service Requirement (as defined in the Indenture) on account of principal and interest then due on the Bonds, resulting in failure to pay principal and interest due on the Bonds on March 1, 2025.

14. On or around March 7, 2025, the Trustee sent the Borrower a Declaration and Notice of Default and Notice of Acceleration dated March 7, 2024 (the “Notice of Default”), advising the Borrower that as a result of its failure to make the Debt Service Requirement payment, the Trustee was declaring events of default under the Loan Agreement and the Indenture and accelerating all amounts due under the Loan Agreement and the Indenture.

15. Following the Notice of Default, the Debtors informed the Trustee (on March 8, a Saturday) that they would be filing bankruptcy petitions the following Monday and would be seeking approval of a priming DIP loan from the Insider Parent or an affiliate thereof.

16. The Debtors and the Insider Parent “requested” the Trustee consent to this insider priming DIP loan by threatening that a non-Debtor affiliate controlled by the Insider Parent would revoke a license for intellectual property the Debtors allegedly required to operate the Plant. The Debtors and Insider Parent threatened that given this risk to the value of the collateral if the license were revoked, the Trustee and Bondholders should consent to priming. No offer of settlement was communicated by the Debtors contemporaneously with their threats and unilateral demands.

17. The Trustee and Bondholders could not and would not consent to a priming loan under those circumstances, particularly given that (as outlined below) no tangible adequate protection exists for the Bond Collateral securing the Bondholders’ \$185 million loan. The Trustee sought information from the Debtors about their liquidity needs in order to consider providing alternative interim financing but was rebuffed by the Debtors. Despite originally attempting to rush the priming DIP agreement through on the basis of an alleged liquidity crisis, the Debtors

ultimately waited over another week before finally filing for chapter 11, again without informing the Trustee or the Bondholders that they were ever considering moving off of the priming stance.

C. The Chapter 11 Cases

18. On March 16, 2025 (the “Petition Date”), the Borrower together with Brightmark Plastics Renewal LLC and Brightmark Plastics Renewal Services LLC (collectively, the “Debtors”) each filed petitions for protection under chapter 11 of Title 11, United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), initiating the cases jointly administered under Case No. 25-10472 (the “Chapter 11 Cases”).

i. The DIP Motion and Bid Procedures Motion

19. On that same date, the Debtors filed their *Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Financing; (II) Granting Liens and Superpriority Administrative Expense Claims Subject to Certain Permitted Liens; (III) Granting Adequate Protection; (IV) Modifying the Automatic Stay; (V) Scheduling a Final Hearing; and (VI) Granting Related Relief* [Docket No. 26] (the “DIP Motion”).⁴ Unable to secure priming liens, the Debtor and the Insider Parent instead pivoted to a junior DIP facility, with a shortened timeline (9 weeks, versus the more typical 13 weeks that was originally proposed when the facility would prime the Trustee on the Bond Collateral) and a smaller loan (approximately \$13 million, versus the original proposal of approximately \$21 million) from the DIP Lender (the same entity that made the subordinated Bridge Loan to the Debtors less than two weeks before). The Trustee learned of these developments upon reading the DIP Motion.

⁴ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the DIP Motion.

20. The Debtors also filed their *Motion for Entry of Orders (I)(A) Approving Bidding Procedures for the Sale of Substantially All of the Debtors' Assets, (B) Authorizing the Debtors to Designate One or More Stalking Horse Bidders and to Provide Bid Protections, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, (E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof and (F) Granting Related Relief; and (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (B) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief* [Docket No. 22] (the “Bid Procedures Motion”), which sought to approve certain Bid Procedures (as defined therein) with respect to a sale of the Debtors' assets to be concluded on or before May 16, 2025, though the Debtors later changed this date to May 9, 2025—less than 60 days from the Petition Date to the date of proposed consummation.

ii. The Trustee's Initial Objections and the Proof of Claim

21. On March 18, 2025, the Trustee filed its *Combined Initial Response and Reservation of Rights to Debtors' First Day Pleadings* [Docket No. 31], which articulated the Trustee's preliminary concerns with respect to, among other things, the Critical Vendors Motion, the DIP Motion, and the Debtors' Cash Management Motion [Docket No. 16], which among other things sought permission to continue “Intercompany Transactions” (i.e. transactions with the Insider Parent) in the ordinary course of business.

22. The Trustee worked collaboratively with the Debtors to attempt to bridge certain of the Trustee's concerns while reserving others for determination at the hearing on the Final DIP Order. As a result, the Bankruptcy Court entered the Interim DIP Order [Docket No. 52] on March 21, 2025. Among other things, the Debtors committed to providing the Trustee (a) information

about the nature and extent of liens purportedly affecting the Bond Collateral and how paying them would constitute adequate protection, and (b) information concerning the amounts set forth in the DIP Budget and what the Debtors' liquidity needs were. The Debtors did not waive any 506(c) surcharge rights with respect to the Bond Collateral.

23. On April 1, 2025, the Trustee filed its (i) *Initial Objection, Request for Adjournment and Reservation of Rights to Debtors' Bidding Procedures Motion* [Docket No. 74], which, among other things, pointed out that the Debtors were attempting to prevent the Trustee from exercising its credit bidding rights under Section 363(k) by refusing to stipulate to or challenge the validity of the Trustee's liens prior to the contemplated auction. The Debtors and Insider Parent were simultaneously arguing that an accelerated timeline was necessary under the terms of the DIP facility but that the Debtors needed more time to investigate the Trustee's liens and claims.

24. The Court entered an Order [Docket No. 85] granting the Bid Procedures Motion on April 4, 2025. In response to the issues raised by the Trustee, the Court ordered the Trustee to file its Proof of Claim on or before April 4, 2025, which the Trustee did by e-mail and physical mail to the Debtors and the Debtors' claims and noticing agent. The Court ordered the Debtors to indicate any challenge to the Proof of Claim on or before April 14, 2025. The Debtors did not and have not raised any challenged to the Proof of Claim, including but not limited to any challenge to the validity or extent of the Trustee's liens in the Bond Collateral.

iii. The Final DIP Order and the 506(c) Motion

25. Following entry of the Interim DIP Order, the Debtors did not provide the Trustee with the information that they had committed to providing or any adequate protection. Accordingly, the Trustee filed its *Preliminary and Limited Objection and Reservation of Rights to Debtors' DIP Financing Motion* [Docket No. 90] on April 7, 2025, which argued that the Trustee's

interest in the Bond Collateral was not adequately protected because, among other things, the Debtors had not provided any information necessary to make such a determination about any alleged adequate protection. Moreover, because the DIP Lender's lien was junior to the Trustee's, the Debtors had taken the position that the Trustee was not entitled to any rights or input with respect to the DIP facility, ignoring the fact that the Chapter 11 Cases were filed without the Trustee's request or consent and were preventing the Trustee from exercising its contractual and state law rights with respect to the Bond Collateral — for which the Trustee was not being compensated. To date the Trustee has not been provided any payments or any other form of adequate protection in connection with the Bond Collateral.

26. On April 11, 2025, the Debtors filed their *Preliminary Motion for Entry of an Order Authorizing the Debtors to Surcharge Collateral of the Indenture Trustee Pursuant to 11 U.S.C. § 506(c)* [Docket No. 123] (the “506(c) Motion”). The 506(c) Motion seeks to surcharge the Trustee's Bond Collateral for each of the following categories of fees:

- (a) Property taxes;
- (b) Property insurance;
- (c) Investment banker fees and expenses (including any sale transaction fee, despite *being provided for in the DIP Budget*);
- (d) Debtors' counsel fees and expenses;
- (e) Debtors' CRO fees and expenses;
- (f) Debtors' claims and noticing agent fees and expenses;
- (g) Alleged HSE and maintenance costs, again despite being provided for in the DIP Budget (and allegedly being part of the purported adequate protection being provided to the Trustee, which the Trustee disputes);
- (h) Employee retention and incentive awards (despite the Debtors having neither sought nor been permitted to offer any such compensation);

- (i) Payroll and workers' compensation claims;
- (j) Storage costs; and
- (k) Utilities.

27. The Court held a hearing on final approval of the DIP Motion on April 14, 2025, during which the Debtors represented to the Court that they had consensually resolved the Trustee's objection. Counsel to the Trustee clarified that while it was no longer objecting to the DIP Motion, any order granting the DIP Motion on a final basis must be clear that it had no preclusive or determinative effect on the Debtors' 506(c) Motion. The Debtors agreed with this statement at the hearing, and the Court asked for a proposed form of order. Following the hearing, the Trustee proposed language to this effect. The Debtors' counsel denied that any such language was necessary, and also rejected that it had agreed to any representations about the effect any final DIP Order may have on the 506(c) Motion. Competing versions of proposed Final DIP Orders were filed with the Court on April 16, 2025. [Docket No. 133].

III. RELIEF REQUESTED

28. By this Motion, the Trustee requests entry of the Proposed Order (a) dismissing the Debtors' Chapter 11 Cases, or (b) in the alternative, granting the Trustee relief from the automatic stay with respect to the Prepetition Bond Collateral, and (c) granting such other relief as the Court may deem appropriate.

IV. BASIS FOR RELIEF

A. The Court Must Dismiss the Chapter 11 Cases for "Cause" Under § 1112(b)(4)

i. Legal Standard.

29. Pursuant to section 1112(b)(1) of the Bankruptcy Code, absent unusual circumstances, a court shall dismiss a bankruptcy case “for cause.” Section 1112(b)(1) states, in pertinent part:

on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

11 U.S.C. § 1112(b)(1). The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 changed the statutory language with respect to conversion and dismissal from permissive to mandatory.⁵ *See* H.R. Rep. 109-31 (I), 2005 U.S.C.C.A.N. 88, 94 (stating that the Act “mandate[s] that the court convert or dismiss a chapter 11 case, whichever is in the best interests of creditors and the estate, if the movant establishes cause, absent unusual circumstances.”); *see also In re Gateway Access Solutions, Inc.*, 374 B.R. 556 (Bankr. M.D. Pa. 2007) (stating that the amendments to section 1112 limit the court’s discretion to refuse to dismiss or convert a chapter 11 case upon a finding of cause); *accord In re TCR of Denver, LLC*, 338 B.R. 494, 498 (Bankr. D. Colo. 2006) (“Congress has purposefully limited the role of this Court in deciding issues of conversion or dismissal such that this Court has no choice, and no discretion in that it ‘shall’ dismiss or convert a case under Chapter 11 if the elements for ‘cause’ are shown under 11 U.S.C. § 1112(b)(4).”) (emphasis added).

⁵ Prior to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, a bankruptcy court had wide discretion to use its equitable powers to dispose of a debtor’s case but was not mandated to dismiss a case if cause were shown. H.R.Rep. No. 595, 95th Cong., 1st Sess. 405 (1977); S.Rep. No. 989, 95th Cong., 2d Sess. 117 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5787; *see also Small Business Admin. v. Preferred Door Co. (In re Preferred Door Co.)*, 990 F.2d 547, 549 (10th Cir. 1993) (a court has broad discretion to dismiss a bankruptcy case); *In re Sullivan Cent. Plaza I, Ltd.*, 935 F.2d 723, 728 (5th Cir. 1991) (determination of whether cause exists under § 1112(b) “rests in the sound discretion” of the bankruptcy court); *In re Koerner*, 800 F.2d 1358, 1367 & n. 7 (5th Cir. 1986) (bankruptcy court is afforded “wide discretion” under section 1112(b)).

30. The amendments to section 1112 thus limit the Court's discretion to refuse to dismiss or convert a chapter 11 case upon a finding of cause. *In re 3 Ram, Inc.*, 343 B.R. 113, 119 (Bankr. E.D.Pa. 2006) ("Under new § 1112 when cause is found, the court shall dismiss or convert unless special circumstances exist that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate."); *see also In re Broad Creek Edgewater, LP*, 371 B.R. 752, 759 (Bankr. D. S.C. 2007).

31. "A lack of good faith constitutes 'cause,' though it does not fall into one of the examples specifically listed in the statute." *In re LTL Management, LLC*, 64 F.4th 84, 100 (3d Cir. 2023). "The determination of good faith is a fact-intensive inquiry in which the court must examine the totality of facts and circumstances." *In re AIG Financial Products Corp.*, 651 B.R. 463, 473 (Bankr. D. Del. 2023) (citing *In re SGL Carbon Corp.*, 200 F.3d 154, 162 (3d Cir. 1999)).

To determine good faith, courts frequently look for evidence of the following factors:

- (a) single asset case;
- (b) few unsecured creditors;
- (c) no ongoing business or employees;
- (d) petition filed on eve of foreclosure;
- (e) two party dispute which could be resolved in pending state court action;
- (f) no cash or income;
- (g) no pressure from non-moving creditors;
- (h) previous bankruptcy petition;
- (i) prepetition conduct was improper;
- (j) no possibility of reorganization;
- (k) debtor formed immediately prepetition;

(l) debtor filed solely to create automatic stay; and

(m) subjective intent of the debtor.

In re Primestone Investment Partners, L.P., 272 B.R. 554, 557 (D. Del. 2002) (citations omitted).

“The focus of the inquiry is whether the petition sought to achieve objectives outside the legitimate scope of the bankruptcy laws . . . [and] no single factor is determinative of a lack of good faith in filing a petition.” *Id.* at 557–58 (finding that debtor filed petition in bad faith when it only had one meaningful asset which was subject to sole secured creditor’s lien and debtor “was adequately protected by its bargained for contractual rights under state law [such] that it would be inappropriate to arm [it] with the powers of chapter 11 to disadvantage its sole secured creditor”).

ii. “Cause” Exists Because the Chapter 11 Cases Were Not Filed in Good Faith.

a. *This Is a Two-Party Dispute*

32. The Court must dismiss these Chapter 11 Cases because they were not filed in good faith. Rather, the Chapter 11 Cases were filed for the sole purpose of “valuing the Trustee’s collateral,” and impairing the Trustee. There are no other significant creditors alleged to exist in these cases, other than arguably the insider DIP Lender (whose debt was incurred solely to avoid paying the amounts owed to the Trustee under the Bonds).⁶ There was insufficient interest to form a creditors’ committee. The only non-debtor parties who have filed notice of appearances in these cases are the Trustee and the DIP Lender. This is a quintessential two-party dispute between the Debtors and the Trustee and therefore must be dismissed.

33. “Courts routinely dismiss two-party disputes in chapter 11, characterizing them as having been filed in bad faith.” *See, e.g. In re Traxcell Technologies, LLC*, 657 B.R. 453, 461

⁶ It also appears that the Bridge Loan may have been used to pay trade creditors in full, meaning that the Trustee is the only party that the Debtors seek to impair through these Chapter 11 Cases.

(Bankr. W.D. Tex. 2024) (“[T]he characterization of a case as a two-party dispute is given greater weight relative to the other factors. The existence of a two-party dispute can be independent grounds for dismissing a case.”) (citations and quotations omitted). “If a debtor faces no threat from any of its other purported creditors, its financial problems are a two-party dispute suitable for resolution which supports a finding of bad faith.” *Matter of Obstetric and Gynecologic Associates of Iowa City and Coralville, P.C.*, 651 B.R. 1, 10 (Bankr. S.D. Iowa 2023) (quoting *In re State Street Houses, Inc.*, 305 B.R. 738, 742 (S.D. Fla. 2003).

b. Debtors Have No Cash or Income.

34. A number of the other *Primestone* factors are clearly satisfied here as well. For example, if not for the DIP loan, the Debtors would have no cash. The Debtors’ Plant has never worked as intended, at no time operating at more than 5% capacity to the extent it is capable of operating at all and producing the intended products. The Debtors were entirely dependent on equity financing from the Insider Parent in order to keep their operations afloat, and then needed to incur the Bridge Loan just to have liquidity to file these Chapter 11 Cases. It is clear that the Debtors do not and will not have any meaningful cash or income.

c. No Pressure from Other Creditors.

35. The Trustee is the Debtors’ sole meaningful creditor; indeed, no committee of unsecured creditors has even been appointed in these chapter 11 cases and there is no activity, much less pressure, from any creditor besides the Trustee. In fact, given that the Debtors sought and were granted authority to pay critical vendor claims, it is currently unclear whether any unsecured creditors actually even exist as of this time. In any event, it is undisputed that the Trustee is the only creditor who has taken any active role in these Chapter 11 Cases, with no other creditors even having entered a notice of appearance thus far.

d. *No Possibility of Successful Reorganization.*

36. There is no meaningful possibility of reorganization, as the Trustee is owed over \$170,000,000 secured by liens on all of the Debtors' assets, and by even the most generous valuation is grossly undersecured. There is no prospect of the sale generating anything close to the amount necessary to pay off the Trustee, and the Debtors will have nothing to reorganize around following the sale regardless. There is no plan or prospect of a plan. Indeed, the Debtors themselves have said that the "sole purpose" of these Chapter 11 Cases was to "value" the Trustee's Bond Collateral. No attempt is even being made at any reorganization because none is possible.

e. *Cases Filed Solely for Automatic Stay.*

37. The Debtors only own one meaningful asset—the Plant—which the Trustee has a blanket lien on, which the Debtors have not, and cannot, contest the validity of. The petition was filed very shortly after the Debtors failed to make the scheduled Debt Service Requirement payment to the Trustee. Chapter 11 cases filed on the eve of foreclosure are a hallmark of bad faith. *See, e.g., In re Myers*, 491 F.3d 120, 126 (3d Cir. 2007) (affirming dismissal because "suspicious timing of a bankruptcy petition is an appropriate factor for a court to consider in the bad faith analysis."). The fact that the Debtors filed these Chapter 11 Cases almost immediately after failing to make the regularly-scheduled Debt Service Requirement payment to their sole meaningful creditor who holds a lien on their sole meaningful asset strongly implies the presence of bad faith.

f. *Subjective Intent of the Debtors.*

38. Lastly, the subjective intent of the Debtors is clearly indicative of bad faith. The Debtors borrowed over \$5,000,000 from the DIP Lender through the Bridge Loan prepetition.⁷ Rather than use that money to pay the Debt Service Requirement to the Trustee, the Debtors apparently used it to prepare for filing the Chapter 11 Cases. At the time, the Debtors also informed the Trustee that their intent was to prime the Trustee's liens with a loan from the DIP Lender. The Debtors' original intent was clearly to use these Chapter 11 Cases as a means of extinguishing the Trustee's liens on the Bond Collateral and letting the DIP Lender and Insider Parent to take over, cutting out the Trustee from its investment.

39. When this failed, the Debtors instead pivoted to a new strategy: attempting to hold the Trustee's credit bid rights in limbo by slow-walking any purported investigation of its valid liens while rushing through a remarkably accelerated sale timeline (35 days from entry of an order approving the Bid Procedures Motion to the proposed sale hearing) on the basis that the DIP Lender was unwilling to fund the case any longer on a junior basis. When the Trustee raised this issue, the Court ordered the Debtors to complete their investigation and file any challenge by April 14. The Debtors did not file any challenge. Instead, they filed the 506(c) Motion, which alleges that *every single cost* of the Chapter 11 Cases is "for the benefit of the Trustee" and thus should be surcharged from any sale of the Trustee's Bond Collateral. This is a transparent attempt to prime the Trustee's liens and punish the Trustee for merely participating in these cases by threatening to require it to pay cash for the Debtors' bankruptcy costs.

40. Taken together, the Debtors' subjective intent is clear: these Chapter 11 Cases were filed for the sole purpose of impairing the Trustee's—and no other party's—claims. The Debtors

⁷ Both the Bridge Loan and the junior lien purportedly securing it are impermissible under the Indenture and Security Documents.

have not even attempted to pretend that these Chapter 11 Cases serve any valid reorganizational purpose, instead repeatedly stating that they are selling substantially all of their assets “for the sole purpose of valuing the [Trustee’s] collateral.”⁸ There is no plan of reorganization afterwards. There is no provision for payment or restructuring of the obligations owed to the Trustee. There are no other meaningful creditors whose claims needs to be administered. In short, there is no reason for these cases to be in chapter 11.

41. It is important to note again that the Trustee *did not* request that the Debtors file chapter 11, nor did the Trustee initiate any kind of foreclosure proceedings after sending the Notice of Default or threaten the Debtors. The Trustee in fact applied no pressure for a filing. Rather, the Debtors incurred the Bridge Loan and the DIP facility entirely of their own volition, and initiated these Chapter 11 Cases without the Trustee’s consent or request. None of the alleged costs in the 506(c) Motion “benefit” the Trustee because the Trustee could have done all of the same things that the Debtors chose to do, but outside of bankruptcy and at far less cost pursuant to the Indenture and Security Documents.

42. The Debtors made the unilateral decision to proceed otherwise, because they viewed bankruptcy as the best vehicle to deprive the Trustee of its Bond Collateral. This is not a valid reorganization purpose and is not good faith. Therefore, “cause” exists to dismiss these cases within the meaning of Section 1112(b). Moreover, even taking the Debtors at their word that the whole process is for the Trustee’s “sole benefit” (which the Trustee disputes) would not change this outcome. Chapter 11 cases are not filed in good faith when they are run for the sole benefit of a prepetition secured party. *See, e.g., In re 1121 Pier Village LLC*, 635 B.R. 127 (Bankr. E.D. Pa. 2022) (dismissing case because “the bankruptcy court does not serve as an expedited

⁸ The chilling effect this explicit statement has on third-party bidding is clear.

foreclosure court for the sole benefit of secured creditors”); *Matter of 3868-70 White Plains Road, Inc.*, 28 B.R. 515 (Bankr. S.D.N.Y. 1983) (dismissing case because under Section 1112(b) because only party who would benefit from it was prepetition secured party).

43. Accordingly, “cause” exists within the meaning of Section 1112(b) to dismiss the Chapter 11 Cases.

iii. The Court Should Dismiss Rather than Convert the Chapter 11 Cases

44. Section 1112(b) states that upon a showing of “cause,” the court must “convert a case under [chapter 11] to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate” The Court should dismiss the Chapter 11 Cases rather than convert them to cases under Chapter 7.

45. In this case, the Trustee has a valid and unchallenged first priority lien on substantially all of the Debtors’ assets, securing over \$170,000,000 in valid and outstanding obligations in connection with the Indenture and Security Documents. Behind the Trustee is the DIP Lender, who has approximately \$12 million in debt under the DIP facility and then another approximately \$5 million in obligations under the Bridge Loan. The Debtors’ professionals would come next with administrative claims, except that conversion to Chapter 7 would also add additional fees and costs in the form of Chapter 7 trustee fees and related professional costs. None of these amounts will be paid because the Bond Collateral is far less than is what is necessary to satisfy the Trustee’s obligations.

46. Therefore, no benefit whatsoever would result from converting the cases, and doing so would not be in the best interests of the Debtors or the estates. *See, e.g., 1121 Pier Village*, 635 B.R. at 141–42 (discussing factors and holding that dismissal better served interests to creditors where conversion would very likely only result in payments to secured creditor and unsecured

claims were negligible); *Matter of NuGelt, Inc.*, 142 B.R. 661 (Bankr. D. Del. 1992) (finding that dismissal, not conversion, was warranted when case was “essentially a two-party dispute” between debtor and prepetition secured lender and unsecureds were unquestionably out of the money and “the entire estate will go to the major secured creditor”).

B. In the Alternative, the Trustee Is Entitled to Relief from the Automatic Stay Because It Is Not Adequately Protected

47. In the alternative, if the Court does not dismiss the Chapter 11 Cases, then the Court should grant the Trustee relief from the automatic stay “for cause” so it can exercise its contractual and state law remedies with respect to its Bond Collateral.

i. Legal Standard.

48. Section 362(d)(1) provides, in pertinent part, that “[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay...for cause.” *See* 11 U.S.C. § 362(d)(1). Section 362(d)(1) does not define what “cause” means, except to include that it expressly does include “a lack of adequate protection of an interest in property of such party in interest.” 11 U.S.C. § 362(d)(1). The burden for showing adequate protection is on the debtor. *Matter of 1025 Associates, Inc.*, 106 B.R. 805, 810 (Bankr. D. Del. 1989).

49. A secured party’s rights in collateral are constitutionally protected interests, and the Bankruptcy Code mandates that a debtor provide adequate protection of these interests under Section 363. *See In re MolyCorp, Inc.*, 562 B.R. 67, 75 (Bankr. D. Del. 2017) (“A secured creditor’s interest in its collateral is a substantive property right created by non-bankruptcy law, which may not be substantially impaired when bankruptcy intervenes.”); *Louisville Joint Stock Land Bank v. Radford*, 295 U.S. 555, 589 (1935) (stating that “[t]he bankruptcy power, like the other great substantive powers of Congress, is subject to the Fifth Amendment”). The Bankruptcy

Code requires that, upon the request of a creditor with an interest in the property used, the court “***shall*** prohibit or condition” the debtor’s use of its property “as is necessary to provide adequate protection” of the creditors’ interests. 11 U.S.C. § 363(e) (emphasis added). Section 363(e) is not a discretionary provision, but rather requires the court to grant relief. *See U.S. v. Whiting Pools, Inc.*, 462 U.S. 198, 204 (1983) (“At the secured creditor’s insistence, the bankruptcy court must place such limits or conditions on the trustee’s power to sell, use, or lease property as are necessary to protect the creditor.”).

50. When determining adequate protection for a secured party’s interests, the secured party has the burden of proof only as to the “validity, priority, or extent of such interest.” 11 U.S.C. § 363(p)(2). Upon a *prima facie* showing of the validity of the secured lender’s liens, the burden shifts to the Debtors or the other entities seeking to use the secured parties’ collateral to show that they are adequately protected. *See, e.g., In re Radnor Holdings Corp.*, 363 B.R. 820, 846 (Bankr. D. Del. 2006) (“A claim’s presumptive validity is not altered unless an objection is supported by *substantial evidence*.”) (emphasis in original) (citations omitted); *In re Nine Point Energy Holdings, Inc.*, Case No. 21-10570, 2021 WL 2828916 at *10–11 (Bankr. D. Del. July 7, 2021) (secured party adequately demonstrated validity and extent of secured status which other parties were unable to rebut).

51. Upon a lack of showing by the debtor that the creditor is adequately protected, the court must lift the automatic stay under Section 362(d)(1) in order to allow such creditor to exercise its rights with respect to such collateral as it would be entitled to outside of bankruptcy. *See, e.g., Rocco v. J.P. Morgan Chase Bank*, 255 Fed App’x 638 (3d Cir. 2007) (bankruptcy court did not abuse discretion by lifting automatic stay when debtor failed to show existence of adequate protection).

ii. The Validity and Extent of the Trustee's Liens Are Not In Reasonable Dispute

52. Here, the Trustee submitted its Proof of Claim to the Debtors on April 4, 2025, which sufficiently presents its claim. *See* 11 U.S.C. § 502(a); Bankruptcy Rule 3001(f) (“A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.”); *Radnor*, 353 B.R. at 846 (“Once a secured creditor shows its properly filed financing statements, it has established a prima facie secured claim; and a secured creditor is not required to show that its security interests are not voidable in order to establish its secured status.”) (citing *Mellon Bank, N.A. v. Metro Commc’ns, Inc.*, 945 F.2d 635, 642 (3d Cir. 1991)).

53. The Court ordered the Debtors to initiate any challenge to the Trustee’s Proof of Claim on or before April 14, 2025. The Debtors did not file or communicate any challenge to the Proof of Claim. Accordingly, the Trustee has a secured claim against the Debtors of not less than \$179,144,416.67, secured by the Bond Collateral.

iii. The Trustee Is Entitled to Relief from Stay Because Its Interest In the Bond Collateral Is Not Adequately Protected

54. It is incumbent on the Debtors to provide the Trustee with adequate protection for their use of the Trustee’s collateral. The Debtors have failed to do so.

55. It is undisputed that no equity cushion exists with respect to the Bond Collateral, and the Debtors have made no showing to the contrary. *See, e.g., In re JER/Jameson Mezz Borrower II, LLC*, 461 B.R. 293, 304–06 (Bankr. D. Del. 2011) (even where *de minimis* equity cushion did exist, secured lender was not adequately protected because cash collections were not being used to pay secured creditor and administrative claims could not be paid from its collateral without its consent). It is also undisputed that the Debtors are not making regular cash payments

to the Trustee. What the Debtors have previously offered as adequate protection is illusory, not tangible.

a. *Paying Off Unsubstantiated Lien Claims Is Not Adequate Protection*

56. The Debtors have proposed that paying off certain alleged undisclosed vendor claims subject to liens held by “providers of repair and mechanic services for the Debtors’ [Plant] and equipment therein, as well as shippers and warehouse service providers,” (such liens, the “Vendor Claims”) constitutes adequate protection.

57. First, the Debtors’ offer to pay off the Vendor Claims in no way benefits the Trustee. The Debtors have indicated their “belief” that if left unpaid, the Vendor Claims would give rise to liens that prime the Trustee’s own liens in the Bond Collateral and thus by paying them off, the Trustee is being provided adequate protection. But they have provided no evidentiary or legal support for that assertion. The Trustee requested information from the Debtors about the nature and extent of the Vendor Claims, and the Debtors’ analysis thereof (including after the Trustee filed its objection to the Final DIP Order), and has still received nothing. The Debtors therefore failed to carry their burden.

b. *The Cash Receipts Are Not Adequate Protection*

58. The Debtors have also argued that the Trustee is adequately protected because its cash collateral will “through the collection of receipts . . . increase from approximately \$914,000 to over \$1.85 million.” These receipts (the “Cash Receipts”) are likewise not adequate protection. The Bond Collateral extends to nearly all of the Debtors’ assets, including general intangibles and accounts.

59. Looking at the DIP Budget, the Cash Receipts actually consist of “A/R Collections” and “Insurance Refunds,” to be paid in installments between March 31 and May 11. *See* DIP

Budget (A/R Collections and Insurance Refund). Both prepetition accounts receivable and insurance refunds constitute general intangibles and/or accounts *already subject to the Trustee's liens and constituting Bond Collateral*. The Debtors confirmed expressly to the Trustee's financial advisor that the Cash Receipts do not consist of new operating receipts but rather prepetition receivables collateral on which the Trustee already has a lien.

60. The Debtors therefore have no unencumbered cash that they could have used to provide periodic payments to the Trustee, nor do they have any operating receipts that they propose to use for such purpose. Rather, the Cash Receipts consist of funds that the Trustee already has an existing lien on. Offering the Cash Receipts as adequate protection is simply attempting to pay the Trustee with its own coin, and thus is plainly not any adequate protection.

61. In short, the Debtors are required to provide the Trustee with adequate protection, which they have not done. The Trustee's valid and perfected (and unchallenged) interests in the Bond Collateral are constantly being eroded by, among other things, the continued imposition of the automatic stay. Accordingly, cause exists within the meaning of Section 362(d) to grant the Trustee relief from the automatic stay with respect to the Bond Collateral, so the Trustee may exercise its bargained-for contractual and state law rights under the Indenture and Security Documents.

CONCLUSION

WHEREFORE, the Trustee respectfully requests that the Court enter an order, substantially in the form attached hereto as Exhibit A, (i) dismissing the Chapter 11 Cases for "cause" under Section 1112(b), or (ii) in the alternative, granting the Trustee relief from the automatic stay under Section 362(d) with respect to the Bond Collateral, and (iii) granting such other and further relief as the Court deems proper.

April 18, 2025
Wilmington, Delaware

WOMBLE BOND DICKINSON (US) LLP

/s/ Matthew P. Ward

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Counsel for UMB Bank, as Trustee

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

In re:

BRIGHTMARK PLASTICS RENEWAL
LLC, et al.,¹

Debtors.

Chapter 11

Case No. 25-10472 (LSS)

(Jointly Administered)

Hearing Date: May 9, 2025 at 10:00 a.m. (ET)

Objection Deadline: May 2, 2025 at 4:00 p.m. (ET)

**NOTICE OF MOTION OF UMB BANK, N.A., AS TRUSTEE AND COLLATERAL
AGENT, FOR ENTRY OF AN ORDER (I) DISMISSING THE CHAPTER 11
CASES FOR CAUSE PURSUANT TO 11 U.S.C. § 1112 OR (II) IN THE ALTERNATIVE,
GRANTING RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362**

PLEASE TAKE NOTICE that on April 18, 2025, UMB Bank, N.A., not in its individual capacity but solely in its capacity as trustee and collateral agent (the “Trustee”), by and through its undersigned counsel, filed the *Motion of UMB Bank, N.A., as Trustee and Collateral Agent, for Entry of an Order (I) Dismissing the Chapter 11 Cases for Cause Pursuant to 11 U.S.C. § 1112 or (II) in the Alternative, Granting Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801 (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that responses or objections, if any, to the Motion must be filed with the Bankruptcy Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **May 2, 2025 at 4:00 p.m. (EST)**, and served upon the undersigned counsel.

PLEASE TAKE FURTHER NOTICE that a hearing to consider the Motion will be held

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: Brightmark Plastics Renewal LLC (7907); Brightmark Plastics Renewal Indiana LLC (7118); and Brightmark Plastics Renewal Services LLC (3789). The Debtors’ headquarters are located at 1725 Montgomery 1 St, Floor 3, San Francisco, CA 94111.

on **May 9, 2025 at 10:00 a.m. (EST)** before the Honorable Laurie S. Silverstein, United States Bankruptcy Judge for the District of Delaware, at the Bankruptcy Court, 824 North Market Street, 6th Floor, Courtroom 2, Wilmington, Delaware 19801.

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

April 18, 2025
Wilmington, Delaware

WOMBLE BOND DICKINSON (US) LLP

/s/ Matthew P. Ward

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Counsel for UMB Bank, as Trustee

EXHIBIT A

PROPOSED ORDER

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

In re:

BRIGHTMARK PLASTICS RENEWAL
LLC, et al.,¹

Debtors.

Chapter 11

Case No. 25-10472 (LSS)

(Jointly Administered)

**[PROPOSED] ORDER GRANTING MOTION OF
UMB BANK, N.A., AS TRUSTEE AND COLLATERAL AGENT, FOR
ENTRY OF AN ORDER (I) DISMISSING THE CHAPTER 11 CASES FOR
CAUSE PURSUANT TO 11 U.S.C. § 1112 OR (II) IN THE ALTERNATIVE,
GRANTING RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362**

Upon consideration of the motion (the “Motion”)² of UMB Bank, N.A., not in its individual capacity but solely in its capacity as trustee and collateral agent (the “Trustee”), for entry of an Order, *(I) Dismissing the Chapter 11 Cases for Cause Pursuant to 11 U.S.C. § 1112 or (II) In the Alternative, Granting Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362*; and the Court having jurisdiction over the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that due and adequate notice of the Motion has been given and that no other or further notice need be given; and it appearing that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it further appearing that the requested relief is reasonable, proper and in the best interests of the Debtors and their estates; and after due deliberation and sufficient cause appearing therefor; it is

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: Brightmark Plastics Renewal LLC (7907); Brightmark Plastics Renewal Indiana LLC (7118); and Brightmark Plastics Renewal Services LLC (3789). The Debtors’ headquarters are located at 1725 Montgomery1 St, Floor 3, San Francisco, CA 94111.

² All capitalized terms not defined herein shall have the meaning ascribed to them in the Motion.

hereby

ORDERED that the Motion is granted; and it is further

ORDERED that the Chapter 11 Cases are hereby **DISMISSED** for cause pursuant to Section 1112(b) of the Bankruptcy Code; and it is further

[**ORDERED** that the Trustee is hereby granted relief from the automatic stay under Section 362(d) of the Bankruptcy Code with respect to the Bond Collateral, and the Trustee may exercise all of its contractual, legal, and/or equitable rights and powers with respect to the Bond Collateral and/or the Debtors in connection therewith; and it is further]

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: Wilmington, Delaware
_____, 2025

THE HON. LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

PROOF OF CLAIM

COPY

Fill in this information to identify the case:

Debtor 1 Brightmark Plastics Renewal Indiana LLC, f/k/a RES Polyflow Indiana LLCDebtor 2
(Spouse, if filing)United States Bankruptcy Court for the: _____ District of DelawareCase Number 25-10473-LSS**FILED**

APR 11 2025

By Omni Agent Solutions, Claims Agent
For U.S. Bankruptcy Court
District of Delaware

Official Form 410

Proof of Claim

12/24

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>UMB Bank, N.A., as trustee and collateral agent</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	☒ No ☐ Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>UMB Bank, N.A., as trustee and collateral agent</u> Name _____ See Attached Rider Number _____ Street _____ See Attached Rider City _____ State _____ ZIP Code _____ Contact phone _____ Contact email _____	Where should payments to the creditor be sent? (if different) <u>See Attached Rider</u> Name _____ See Attached Rider Number _____ Street _____ See Attached Rider City _____ State _____ ZIP Code _____ Contact phone _____ Contact email _____
Uniform claim identifier (if you use one): _____		
4. Does this claim amend one already filed?	☒ No ☐ Yes. Claim number on court claims registry (if known) _____	
		Filed on _____ MM / DD / YYYY
5. Do you know if anyone else has filed a proof of claim for this claim?	☒ No ☐ Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ See Attached Rider Does this amount include interest or other charges?
☐ No
☒ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.
See Attached Rider

9. Is all or part of the claim secured? ☐ No
☒ Yes. The claim is secured by a lien on property.
Nature of property:
☒ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☒ Other. Describe: See Attached Rider
Basis for perfection: See Attached Rider
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ See Attached Rider
Amount of the claim that is secured: \$ See Attached Rider
Amount of the claim that is unsecured: \$ See Attached Rider (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ See Attached Rider
Annual Interest Rate (when case was filed) _____ %
☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ No

☒ Yes. Check one:

Amount entitled to priority

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ _____

☐ Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☒ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ See Attached Rider

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(3) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☒ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/04/2025
MM / DD / YYYY

Michael G. Slade
Signature

Print the name of the person who is completing and signing this claim:

Name	Michael G. Slade		
	First name	Middle name	Last name
Title	Senior Vice President		
Company	UMB Bank, N.A.		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	120 South Sixth Street, Suite 1400		
	Number	Street	
	Minneapolis		MN 55402
	City	State	ZIP Code
Contact phone		Email	Michael.Slade@UMB.com

In re Brightmark Plastics Renewal LLC, Case No. 25-10472 (LSS)

Rider to the Proof of Claim of UMB Bank, N.A., not in its individual capacity but solely in its capacity as Trustee and Collateral Agent under the Indenture (defined herein)

This addendum (the “Addendum”) to this master proof of claim (the “Proof of Claim”) is made and filed by UMB Bank, N.A., not in its individual capacity but solely in its capacity as trustee and collateral agent (the “Trustee”), on behalf of its and the Bondholders (as defined below) against Brightmark Plastics Renewal Indiana LLC f/k/a RES Polyflow Indiana LLC (the “Borrower”), Brightmark Plastics Renewal LLC f/k/a BME Renewable Polyfuels LLC (the “Debtor Parent”), and Brightmark Plastics Renewal Services LLC f/k/a BME Polyfuel Services LLC (“Services Debtor” and together with Borrower and Debtor Parent, the “Debtors”).¹ This Addendum and any attachments hereto are an integral part of the Proof of Claim and are incorporated by reference into the Proof of Claim for all purposes. Capitalized terms shall have the meanings ascribed herein.

SUMMARY OF CLAIM

1. The Claimants. UMB Bank, N.A., is the trustee and collateral agent for the tax exempt facility revenue bonds (the “Bonds”, and the holders of such Bonds, the “Bondholders”) issued in the original principal amount of \$185,000,000 under that certain Trust Indenture, dated as of March 1, 2019 (as amended or supplemented, including by the First Supplemental and Amendatory Trust Indenture, dated as of February 1, 2024, the “Indenture”), by and between the Indiana Finance Authority (the “Authority”) and the Trustee and made in connection with that certain Loan Agreement, dated as of March 1, 2019 (as the same may be amended or supplemented, the “Loan Agreement”), by and between the Authority and Brightmark Plastics

¹ Upon the request of the Trustee, the Debtors agreed the Trustee could file a consolidated Proof of Claim for administrative convenience.

Renewal Indiana LLC, formerly known as RES Polyflow Indiana, LLC. For administrative convenience, this master Proof of Claim is filed against each of the Borrower, the Debtor Parent and the Services Debtor, as applicable, on account of the Obligations (as defined in the Indenture and Security Document) as applicable (the “Pre-petition Obligations”).

2. In connection with the Bonds, the Borrower and the Authority entered into the Loan Agreement, pursuant to which the proceeds of the Bonds were loaned to the Borrower.

3. Pursuant to the Indenture, UMB was appointed Trustee with respect to the Bonds and, in its capacity as Collateral Agent, was assigned all of the Authority’s rights in and to the Pre-Petition Obligations.

4. Pursuant to the Indenture and that certain Mortgage and Security Agreement dated March 1, 2019 (the “Mortgage”), the Assignment of Leases, Rents, Contracts, Income, Proceeds, and Permits dated March 1, 2019 (the “Assignment of Leases and Rents”), the Pledge and Security Agreement dated March 1, 2019 (the “Pledge Agreement”), the Membership Interest Pledge Agreement dated March 1, 2019 by and between Debtor Parent and the Trustee (the “Parent Pledge Agreement”), the Collateral Assignment of Project Documents dated March 1, 2019 (the “Collateral Assignment,” and together with the Indenture, the Loan Agreement, the Bonds, the Mortgage, the Assignment of Leases and Rents, the Pledge Agreement, the Parent Pledge Agreement, the Direct Agreement (as defined below) and any and all other security agreements, pledges, collateral assignments, mortgages, security deeds, deeds of trust, collateral trust agreements, trust deeds, and other instruments executed and/or delivered in connection therewith

or related thereto, collectively, the “Indenture and Bond Documents”),² and as security for the Pre-Petition Obligations, the Borrower and the Debtor Parent, as applicable, granted the Trustee a first priority lien and security interest in substantially all of the Borrower’s assets and certain other collateral, as described in the Indenture and Security Documents, including but not limited to (i) a first priority mortgage on that certain plastics recovery and recycling facility in Ashley, Indiana (the “Plant”), (ii) a pledge of the Borrower’s gross revenues, (iii) a pledge of the membership interests of the Borrower by its direct parent, Debtor Parent, (iv) an authorization for the Trustee to enforce the Borrower’s rights under certain agreements entered into with respect to the Plant, (v) a first priority lien on substantially all of the Borrower’s personal property, and (vi) certain agreements of the Borrower (collectively, the “Collateral”).

5. The liens on and security interests in the Collateral are and remain duly perfected pursuant to such filings, registrations, recordings and control (as to Collateral with respect to which liens may be perfected by possession or control by a secured party or its agent) as is required and permitted under the Uniform Commercial Code or other applicable law or as otherwise perfected as provided under the Uniform Commercial Code or applicable law.

6. Pursuant to and as set forth in the Collateral Assignment, among other things, the Trustee was assigned all of the Borrower’s rights, powers, and interests in that certain Master Operation and Maintenance Agreement dated March 12, 2018 by and between Borrower and

² In addition to the Indenture there are other documents, instruments, certificates, ancillary and related agreements or other writings executed or delivered in connection with the Indenture and the issuance of the Bonds that support this Proof of Claim, including but not limited to documents identified on Appendix 1 and Appendix 2 attached hereto (the “Supplemental Documents” and, together with the Indenture and Bond Documents, the “Indenture and Security Documents”). Copies of the Indenture and Security Documents and other related and ancillary agreements, documents and instruments which relate to this Proof of Claim are incorporated by reference and too voluminous to attach, and the Trustee believes the Debtors have, or should have, copies of all such documents. This Proof of Claim contains only a summary of the Indenture and Security Documents and other related and ancillary agreements, documents and instruments. Should any party in interest desire to receive copies of the documents which relate to this Proof of Claim, they are available upon written request to the Trustee or its counsel, as provided herein.

Services Debtor. The Trustee and the Services Debtor are also party to that certain Master Operation and Maintenance Agreement Direct Agreement dated as of March 1, 2019 by and among UMB Bank, N.A., as Collateral Agent, BME Polyfuel Services LLC, and RES Polyflow Indiana LLC, as Borrower (the “Direct Agreement”).

7. The Trustee holds all rights and powers as are provided and set forth in the Indenture and Security Documents.

8. Michael G. Slade is a Senior Vice President of UMB Bank, N.A. (“UMB”). UMB’s business address is UMB Bank, N.A., 120 South Sixth Street, Suite 1400, Minneapolis, MN 55402. Mr. Slade is duly authorized and empowered to file a proof of claim on behalf of UMB in its capacity as Trustee.

9. Background of Claim. The Proof of Claim consists of all amounts due and owing to the Trustee and/or the Bondholders under the Indenture and Security Documents. The amounts represented in the Proof of Claim are secured by valid, continuing, and perfected security interests in and continuing liens on the Collateral.

10. On or around March 1, 2025, the Borrower failed to make payment of its Debt Service Requirement (as defined in the Indenture) on account of principal and interest then due on the Bonds, resulting in failure to pay principal and interest due on the Bonds on March 1, 2025.

11. On or around March 7, 2025, the Trustee sent the Borrower that certain Declaration and Notice of Default and Notice of Acceleration dated March 7, 2024, advising the Borrower that as a result of its failure to make the Debt service Requirement payment, the Trustee was declaring events of default under the Loan Agreement and the Indenture and accelerating all amounts due under the Loan Agreement and the Indenture.

12. On March 16, 2025 (the "Petition Date"), the Borrower together with the Debtor Parent and Services Debtor each filed petitions for protection under chapter 11 of Title 11, United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), initiating the cases jointly administered under Case No. 25-10472 (the "Bankruptcy Cases").

13. Amount of Claim. This Proof of Claim asserts a claim against each of the Borrower, the Debtor Parent, and the Services Debtor, as applicable, for all amounts owed, arising under or related to the Indenture and Security Documents, whether contingent or non-contingent, due or owing, currently or in the future, wherever arising including, but not limited to, principal, interest, prepayment premiums, default interest, charges, fees, costs, expenses, disbursements, indemnifications, damages and any other claim or obligation of any kind.

14. Claim Against Borrower. As of the Petition Date, the Borrower was indebted to the Trustee pursuant, inter alia, the Indenture and Security Documents, in the aggregate amount of no less than \$172,600,000.00 in principal, accrued and unpaid interest in the amount of \$6,544,416.67, plus costs, expenses, charges, premiums, penalties, indemnities and other claims as provided for under the Indenture and Security Documents. These amounts are secured by valid, perfected and continuing liens in the Collateral as set forth in the Indenture and Security Documents.

15. Claim Against Debtor-Parent. As of the Petition Date, the Debtor-Parent is or may be indebted to the Trustee pursuant to the Indenture and Security Documents, including but not limited to the Parent Pledge Agreement pursuant to which the Debtor-Parent pledged its equity interests in the Borrower to the Trustee.

16. Claim Against Services Debtor. As of the Petition Date, the Services Debtor is or may be indebted to the Trustee pursuant to the Indenture and Security Documents, including but not limited to the Collateral Assignment, that certain Master Operation and Maintenance Agreement dated March 12, 2018 by and between Borrower and Services Debtor, and the Direct Agreement.

17. The Borrower, Debtor Parent and Services Debtor are and will be indebted to Trustee for (i) Trustee's fees and expenses in an unliquidated amount, including reasonable fees and disbursements of counsel and other agents and professionals, in accordance with the Indenture and Security Documents; and (ii) other costs, charges, expenses, disbursements, indemnifications, penalties, reimbursements, damages and other liabilities and obligations payable under the Indenture and Security Documents.

18. The Trustee submits this Proof of Claim for compensation, reimbursement of expenses and indemnity pursuant to the Indenture and Security Documents and all ancillary and related agreements, documents and interests. The Borrower, Debtor Parent and Services Debtor are also obligated to the Trustee in an unliquidated amount for the costs, charges, expenses, disbursements and indemnification claims of the Trustee in defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties as Trustee under the Indenture or related to the Indenture and Security Documents. The Trustee is also submitting this Proof of Claim for its fees, expenses, indemnity, disbursements and other charges for acting as Trustee under the Indenture and Security Documents, including but not limited to Section 8.03 of the Indenture.

19. The amounts due for compensation, expenses and indemnity consist of the following:

Fees, Expenses, Disbursements and Costs of UMB Bank, N.A., in its capacity as Trustee and Collateral Agent	Presently contingent and unliquidated
Fees, Expenses, Disbursements, Advances and Costs of ArentFox Schiff LLP	Presently contingent and unliquidated
Fees, Expenses, Disbursements, Advances and Costs of Womble Bond Dickinson LLP	Presently contingent and unliquidated
Fees, Expenses, Disbursements, Advances and Costs of FTI Consulting, Inc.	Presently contingent and unliquidated
Indemnities	Presently contingent and unliquidated
Total	Presently contingent and unliquidated

20. The Trustee, on behalf of the Bondholders, has or may have claims against the Borrower, Debtor Parent, and/or Services Debtor that arose pre-petition under or related to the Indenture and Security Documents and any related and ancillary agreement, document or instrument and under state, federal and common law including, but not limited to, tort, contract or securities laws. The claims also include claims against the Borrower, the Debtor Parent and/or the Services Debtor for any damages resulting from the breach or violations of the Indenture and Security Documents and any and all claims arising under common law, securities law, state law or federal law, including, but not limited to, claims arising under applicable fraudulent conveyance laws and those claims set out herein, which claims are not currently liquidated or determined. For the avoidance of doubt, this Proof of Claim includes any claims that have been, may be or could be asserted against or related to the Debtors in any lawsuit, action, proceeding, contested matter or adversary proceeding.

21. This Proof of Claim is filed as a secured claim against the Borrower and Debtor Parent pursuant to the Indenture and Security Documents, and if applicable, as an administrative

expense, pursuant to the Indenture and/or applicable law.³ Nothing set forth herein is, or shall be deemed to be a waiver or relinquishment, in whole or in part, of any claim, administrative, secured, unsecured, or otherwise and any deficiency claim is hereby preserved and included as part of this Proof of Claim. Any and all claims provided or granted under any order entered in this proceeding are hereby preserved and included or part of this Proof of Claim.

22. Failure to comply with the requirements of the Indenture and Security Documents and the occurrence of certain events specified in the Indenture and Security Documents, including but not limited to the filing by the Debtors of petitions seeking relief under chapter 11 of the Bankruptcy Code, constitutes Events of Default under the Indenture and Security Documents. The Trustee expressly reserves its right to assert that any additional Events of Default have occurred and the filing of this Proof of Claim shall not constitute a waiver thereof.

23. Pursuant to, among other things, Section 7.07 of the Indenture, the Trustee is expressly authorized to file this Proof of Claim on behalf of the Bondholders.

24. No judgment has been rendered on this Proof of Claim or any of the claims provided herein.

25. To the best of the Trustee's knowledge, the claims set forth in this Proof of Claim are not subject to any setoff or counterclaim by the Debtors; *provided, however*, the Trustee expressly reserves and does not waive any setoff or recoupment rights it may possess.

26. Pursuant to, among other things, Section 8.03 of the Indenture, the Trustee has a contractual charging lien and priority on all distributions made on account of this claim. Trustee hereby demands that any distributions on account of the Pre-Petition Obligations and/or the

³ The Trustee reserves the right to claim priority in payment for all or part of its fees, expenses and indemnities, including attorneys' fees and expenses and other professional fees and expenses, as an administrative expense pursuant to 11 U.S.C. §§ 105, 507(a)(1) and (3) and 503(b)(5).

Collateral be made through (or at the direction of) the Trustee pursuant to the Indenture and Federal Rule of Bankruptcy Procedure 3021 so that Trustee can assert its lien and priority rights.

27. The Trustee specifically reserves its rights to amend, modify, supplement or update at any time in the future for any proper purpose this Proof of Claim if the Trustee should deem it necessary and appropriate for any reason, including without limitation, to reflect any additional claims or premiums set forth in the Indenture and Security Documents, including but not limited to any make-whole amount, against the Debtors, to specify additional costs, expenses or other charges, disbursements, indemnities or claims incurred by the Trustee, to fix or liquidate any contingent or unliquidated amounts, to assert a claim or claims for additional amounts due and/or claims based on alternative theories or liabilities, or to assert any claims for damages arising from events or conduct by the Debtors. The Trustee further reserves the right to file additional proofs of claims for claims which may be based on the same or additional documents, including without limitation, claims for interest, fees, and related expenses that are not ascertainable at this time and for administrative expense claims or other priority claims. The Trustee does not, by this Proof of Claim or any amendment or other action, waive any rights with respect to any scheduled claim.

28. This Proof of Claim also expressly includes any and all rights to assert a constructive trust against assets or cash held by the Debtors, and also includes any and all amounts owed, for damages or otherwise, on account of any and all claims the Trustee has or may have, whether known or unknown, against the Debtors and all those purporting to act on their behalf, whether presently asserted or to be asserted, including, without limitation, claims based upon (a) common law fraud; (b) misrepresentation; (c) subrogation; (d) indemnity; (e) contribution; (f) unjust enrichment; (g) constructive trust; (h) fraudulent conveyance; (i) failure to fulfill contractual and fiduciary obligations; (j) breach of implied covenant of good faith and fair dealing; (k) making,

causing, or permitting to be made misleading statements regarding the business of the Debtors; (l) failure to take prudent and appropriate action regarding adverse business conditions affecting the business operations of the Debtors; (m) tortious interference; and (n) *quantum meruit*, all of which singularly or collectively may be applicable to damages or other claims incurred by the Trustee.

29. The filing of this Proof of Claim is not, nor shall it be deemed to be, (a) a waiver or release of the Trustee's rights against any person, entity or property; (b) a waiver of the Trustee's rights to any security held by the Trustee with respect to the Bondholders; (c) a consent by the Trustee to the jurisdiction of the Bankruptcy Court with respect to the subject matter of these claims or any objection or other proceeding commenced in the Bankruptcy Cases against or otherwise involving the Trustee; (d) a waiver of the right to move to withdraw the reference, or otherwise to challenge the jurisdiction of the Bankruptcy Court; (e) a waiver of any right to a jury trial; (f) an election of a remedy; (g) a waiver of any past, present or future defaults or events of default; (h) a waiver of any rights under section 1111(b) of the Bankruptcy Code; (i) a waiver of any rights and claims against the Debtors and their respective present and former creditors, agents, representatives, officers, directors, employees and professionals under Bankruptcy Code section 510, including claims of subrogation, equitable subordination and the right and benefit at law or in equity to all rights and interests with respect to the Indenture and Security Documents; (j) a waiver of any right to assert that all or any portion of the Proof of Claim constitutes an administrative expense claim in the Bankruptcy Cases; (k) a waiver or release of the right of the Trustee or any Bondholder to have any and all final orders in any and all non-core matters or proceedings entered only after de novo review by a United States District Court Judge; (l) a waiver or release of the right of the Trustee or any Bondholder to have any unliquidated portions of their claims determined by applicable state courts; or (m) a waiver or release of any other rights, claims,

actions, setoffs, or recoupments to which the Trustee or any Bondholder may be entitled under agreements, documents, or instruments, in law or at equity, all of which rights, claims, actions, defenses, setoffs, and recoupments are expressly preserved. This Proof of Claim shall not be deemed or construed as a waiver or release of the terms and provisions of the Indenture and Security Documents or related documents or applicable law.

30. This Proof of Claim is based upon information presently available to the Trustee. The Trustee may hold additional claims or interests against the Debtors. Information supporting such additional claims or interests, however, is presently unavailable to the Trustee.

31. The address to which all notices and other communications should be sent with respect to this Proof of Claim are as follows:

UMB Bank National Association
Attention: Michael G. Slade
120 South Sixth Street, Suite 1400
Minneapolis, MN 55402
Michael.Slade@UMB.com

with a copy to:

ArentFox Schiff LLP
1301 Avenue of the Americas
Floor 42
New York, NY 10019
Attention: Mark Angelov, Esq.; Beth Brownstein, Esq.
Tel.: (212) 484-3900
Mark.Angelov@afslaw.com
Beth.Brownstein@afslaw.com

Appendix 1⁴

BASIS FOR CLAIM

A. Indenture and Security Documents

1. Trust Indenture, dated as of March 1, 2019, by and between Indiana Finance Authority and UMB Bank, N.A., as Trustee and Collateral Agent, relating to \$185,000,000 Indiana Finance Authority Exempt Facility Revenue Bonds, Series 2019 (RES Polyflow Indiana Project) (Green Bonds).
2. Loan Agreement, dated as of March 1, 2019, by and among Indiana Finance Authority, RES Polyflow Indiana LLC, and BME Renewable Polyfuels LLC.
3. First Amendatory Trust Indenture, dated as of February 1, 2024, by and between Indiana Finance Authority, as Issuer, and UMB Bank, N.A., as trustee.
4. Mortgage and Security Agreement, dated as of March 1, 2019, given by RES Polyflow Indiana LLC, as grantor, in favor of UMB Bank, N.A., as beneficiary.
 - Recorded on April 19, 2019 in Steuben County, IN at Document No. 19040421 MTG
5. Assignment of Leases, Rents, Contracts, Income, Proceeds, and Permits, dated as of March 1, 2019, by RES Polyflow Indiana LLC, as assignor, in favor of UMB Bank, N.A., as trustee and collateral agent.
 - Recorded on April 19, 2019 in Steuben County, IN at Document No. 19040422 MISC
6. Pledge and Security Agreement, dated as of March 1, 2019, by and between RES Polyflow Indiana LLC, as debtor, and UMB Bank, N.A., as collateral agent, as secured party
7. Member Interest Pledge Agreement, dated as of March 1, 2019, by and between BME Renewable Polyfuels LLC, as grantor, and UMB Bank, N.A., as collateral agent.
8. Collateral Assignment of Project Documents, dated as of March 1, 2019, by and between RES Polyflow Indiana LLC, as assignor, and UMB Bank, N.A., as trustee and collateral agent, as assignee.

⁴ UMB reserves all rights with respect to the documents including in this appendix, including but not limited to the right to further supplement or amend this appendix. The documents included in this appendix are voluminous and upon information and belief are already in the Debtors' possession (including having been provided directly to the Debtors by the Trustee on March 27, 2025) and therefore are not attached here. Copies of the documents referenced in this appendix may be available upon request to the Trustee. The descriptions of the Indenture and Security Documents set forth in this Proof of Claim are a summary only and are qualified in their entirety by reference to the applicable Indenture and Security Documents. In the event of any inconsistency between this Proof of Claim and any such document, the relevant document will control. Nothing in this Proof of Claim will limit or qualify the rights granted to the Trustee under the Indenture and Security Documents.

9. Intercreditor Agreement, dated as of April 10, 2019, by and among RES Polyflow Indiana LLC, BME Renewable Polyfuels, LLC, UMB Bank, N.A., as trustee and collateral agent, Indiana Finance Authority, and J. Aron & Company LLC.
10. Design-Build Agreement Direct Agreement, dated March 1, 2019, by and among IPS Engineering Services, LLC, UMB Bank, N.A. as collateral agent, and RES Polyflow Indiana LLC, as borrower.
11. Master Operation and Maintenance Agreement, dated March 12, 2018, by and between BME Polyfuel Services LLC and RES Polyflow Indiana, LLC.
12. Master Operation & Maintenance Agreement Direct Agreement, dated March 1, 2019, by and among BME Polyfuel Services LLC, UMB Bank, N.A., as Collateral Agent, and RES Polyflow Indiana LLC, as Borrower.
13. Naptha Blendstock and Distillate Blendstock Sale and Purchase Agreement, dated as of February 22, 2018, by and between RES Polyflow Indiana LLC, as seller, and BP Products North America Inc., as buyer.
14. Wax Sale and Purchase Agreement, dated as of November 9, 2017, by and between RES Polyflow Indiana LLC, as seller, and A M Wax, as buyer.
15. Limited Agency Agreement, dated as of January 22, 2018, by and between RES Polyflow Indiana LLC, and Plastico LLC.
16. Equipment Supply Agreement, dated July 20, 2018, by and between RES Polyflow Indiana, LLC, as buyer, and Vecoplan, LLC, as seller.
17. Supply Agreement, dated as of July 25, 2017, by and between RES Polyflow Indiana LLC and Wilmington Paper Company.
18. Intellectual Property License Agreement, dated as of April 10, 2019, by and between RES Polyflow LLC and Indian Harbor Insurance Company.

B. Trustee's Perfected Security Interests

Collateral. Pursuant to the Indenture and Security Documents, the Trustee, on behalf of itself and the Bondholders, was granted security interests in, and continuing first-priority liens on, the "Collateral" (as defined in the Indenture and Security Documents) that constitutes, among other things: (i) a first priority mortgage on that certain plastics recovery and recycling facility in Ashley,

Indiana (the “Plant”), (ii) a pledge of the Borrower’s gross revenues, (iii) a pledge of the membership interests of the Borrower by its direct parent, BME Renewable Polyfuels, LLC, (iv) an authorization for the Trustee to enforce the Borrower’s rights under certain agreements entered into with respect to the Plant, (v) a first priority lien on substantially all of the Borrower’s personal property, and (vi) certain agreements of the Borrower. The Collateral includes, without limitation:

1. Mortgage.⁵

A first priority mortgage on the recycling facility in Ashley, Indiana, as described more particularly in the Mortgage, together with all right, title and interest of the Borrower, including any after-acquired right, title or reversion, in and to the beds of the ways, streets, avenues and alleys adjoining the Project and the Project Site, together with all and singular the rights, alleys, ways, tenements, hereditaments, easements, appurtenances, passages, waters, water rights, water courses, riparian rights, liberties, advantages, accessions and privileges now or hereafter appertaining to the Project and the Project Site or any part thereof; including, but not limited to, any homestead or other claim at law or in equity, the reversion or reversions, remainder or remainders thereof; and also all the estate, property, claim, right, title or interest now owned or hereafter acquired by the Borrower in or to the Project and the Project Site or any part thereof; together with all of the improvements to the Project and the Project Site, together with all of the equipment (which equipment, so far as permitted by law, shall be deemed to be fixtures and part of the Project and the Project Site and of the improvements, and as to any part of the equipment not deemed or permitted by law to be fixtures, the Mortgage shall also constitute a security agreement under the Uniform Commercial Code, and pursuant thereto, and in order to secure the repayment of the Secured Obligations and the performance of the Secured Obligations, the Borrower grants to Trustee a continuing security interest under the Uniform Commercial Code in and to such part of the equipment not deemed or permitted by law to be fixtures, and the proceeds thereof and with respect to which equipment, the Trustee shall have all of the rights and remedies of a secured party under the Uniform Commercial Code); together with all receivables, licenses, and records; together with any and all judgments, awards of damages (including but not limited to severance and consequential damages), payments, proceeds, settlements or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of: in connection with, or in lieu of (a) any condemnation of the Project or the Project Site or improvements, either temporarily or permanently, (b) any change or alteration of the grade of any street, and (c) any other damage to, or decrease in value of the Project, the Project Site or any part thereof, including interest on any such judgment, award of damages, payment,

⁵ Capitalized terms used but not otherwise defined in this section shall have the meanings given to them in the Mortgage.

proceeds, settlement or other compensation, and of the reasonable counsel fees, costs and disbursements, if any, incurred by the Trustee in connection with the collection of such judgment, award of damages, payment, proceeds, settlement or other compensation, including interest thereon; together with any and all payments, proceeds, settlements or other compensation heretofore or hereafter made, including any interest thereon, and the right to receive the same, from any and all insurance policies covering the Project, the Project Site, the equipment or any portion thereof; together with all rents; together with all right, title, and interests of the Borrower in and to, and remedies under, any and all leases and subleases of the Project, the Project Site or any part thereof, both now in existence or hereafter entered into, and all contract rights, accounts receivable and general intangibles growing out of or in connection with such leases and subleases, together with all proceeds thereof; and including, without limitation, all cash or securities deposited thereunder to secure performance by the lessees of their obligations thereunder, whether such cash or securities are to be held until the expiration of the terms of such leases or are to be applied to one or more of the installments of rent coming due immediately prior to the expiration of such terms; reserving in the Borrower a license, terminable upon the occurrence of an Event of Default, to enforce, administer, collect and receive the same, together with all right, title, and interest of the Borrower (i) to the funds on deposit in the Funds established in connection with the Bonds and Parity Indebtedness, (ii) in the reserves established under the Indenture, (iii) in any debt service reserve established under the Indenture, (iv) in any of the other funds or accounts established under the Indenture (except the Rebate Fund) or in connection with any Parity Indebtedness, and (v) to any other funds, securities, instruments, documents and other property which are at any time paid to, deposited with, under the control of or in the possession of the Issuer, the Trustee, any Bondholder, or any of their agents, including all Accounts; together with any and all future advances, together with any interest thereon, which are made by the Issuer or any Secured Hedge Provider to or for the benefit of the Borrower up to an aggregate maximum principal amount outstanding at any point in time of Two Hundred Percent (200%) of the Original Principal Amount (provided, that Issuer shall not be required to make any future advances except as expressly provided herein or in the Loan Agreement and no Secured Hedge Provider shall be required to make any future advances except as expressly provided in the relevant Secured Hedge Contract), together with all substitutions, replacements, extensions, renewals, additions, accessories, proceeds and products of the foregoing.

2. Pledge and Security Agreement.⁶

In order to secure the prompt and complete payment and performance of the Obligations, Borrower hereby grants a security interest, assigns, conveys, mortgages, pledges, hypothecates and transfers to Trustee, for the benefit of the Bondholders, a Lien upon and security interest in all of its right title and interest in, to and under the following property, whether now owned by or existing, or hereafter

⁶ Capitalized terms used but not defined in this section shall have the meanings given to them in the Pledge and Security Agreement.

acquired by or arising in favor of Borrower, and regardless of where located (all of the following being hereinafter collectively referred to as the "Collateral"):

(a) (i) all Accounts; (ii) all Chattel Paper; (iii) all Documents; (iv) all General Intangibles; (v) all Goods (including, without limitation, Inventory, Equipment, and Fixtures); (vi) all Instruments; (vii) all Investment Property; (viii) all Deposit Accounts of Borrower, including, without limitation, all blocked accounts, concentration accounts, disbursement accounts and all other bank accounts and all deposits therein; (ix) all money, cash or cash equivalents of Borrower; (x) all Letter-of Credit Rights of Borrower; (xi) all commercial tort claims, which may be listed on supplements to this Agreement from time to time; and (xii) to the extent not otherwise included, all Proceeds including all tort claims, insurance claims and other rights to payments not otherwise included in the foregoing and products of the foregoing and all accessions to, substitutions and replacements for, and rents and profits of, each of the foregoing.

(b) In addition, to secure the prompt and complete payment and performance of the Obligations, Borrower hereby grants Trustee a right of setoff against the Collateral of Borrower held by Trustee, consisting of Collateral now or hereafter in the possession or custody of or in transit to Secured Party, for any purpose, including safekeeping, collection or pledge, for the account of Borrower, or as to which Borrower may have any right or power, subject to the terms of the Intercreditor Agreement.

"Accounts" means all "accounts," as such term is defined in the UCC, now owned or hereafter acquired by Borrower, including, without limitation, (a) all accounts receivable, other receivables, book debts and other forms of obligations (other than forms of obligations evidenced by Chattel Paper or Instruments), including any such obligations that may be characterized as an account or contract right under the UCC, (b) all of Borrower's rights in, to and under all purchase orders or invoices for sale of goods or performance of services, (c) all amounts now or hereafter payable to Borrower under any of the Project Documents, whether characterized as payments for the sale of goods, performance of services, termination payments, cancellation payments, indemnification payments, damages, liquidated damages, claims for interests, costs or otherwise, (d) all of Borrower's rights to any goods represented by any of the foregoing (including unpaid sellers' rights of rescission, replevin, reclamation and stoppage in transit and rights to returned, reclaimed or repossessed goods), (e) all rights to payment due to Borrower for property sold, leased, licensed, assigned or otherwise disposed of, for a policy of insurance issued or to be issued, or other contract, arising out of the use of a credit card or charge card, or for services rendered or to be rendered by Borrower or in connection with any other transaction (whether or not yet earned by performance on the part of Borrower), and (f) all collateral security or any kind given by any Account Debtor or any other Person with respect to any of the foregoing.

"Chattel Paper" means any "chattel paper," as such term is defined in the UCC including electronic chattel paper, now owned or hereafter acquired by Borrower.

"Commodity Accounts" means all "commodity accounts," as such term is defined in the UCC, now or hereafter held or maintained in the name of Borrower.

"Copyright License" means rights under any written agreement now or hereafter acquired by Borrower granting any right to use any Copyright.

"Copyrights" means all or the following owned or hereafter adopted or acquired by Borrower: (a) all copyrights and General Intangibles of like nature (whether registered or unregistered), all registrations and recordings thereof, and all applications in connection therewith, including all registrations, recordings and applications in the United States Copyright Office or in any similar office or agency of the United States, any state or territory thereof, or any other country or any political subdivision thereof, and (b) all reissues, extensions or renewals thereof.

"Deposit Accounts" means all "deposit accounts" as such term is defined in the UCC, now or hereafter held in the name of Borrower.

"Documents" means all "documents," as such term is defined in the UCC, now owned or hereafter acquired by Borrower, wherever located.

"Equipment" means "equipment," as such term is defined in the UCC, now owned or hereafter acquired by Borrower, wherever located and, in any event, including, without limitation, all of Borrower's machinery and equipment, including pulp and paper making equipment, processing equipment, conveyors, machine tools, data processing and computer equipment, including embedded software and peripheral equipment and all engineering, processing and manufacturing equipment, office machinery, furniture, material handling equipment, tools, attachments, accessories, automotive equipment, trailers, trucks, forklifts, molds, dies, stamps, motor vehicles, rolling stock and other equipment of every kind and nature, trade fixtures and fixtures (including pulp and paper making equipment to the extent a court determines they do not constitute Fixtures or Real Property) not forming a part of the Real Property, together with all additions and accessions thereto, replacements therefor, all parts therefor, all substitutes for any of the foregoing, fuel therefor, and all manuals, drawings, instructions, warranties and rights with respect thereto, and all products and proceeds thereof and condemnation awards and insurance proceeds with respect thereto.

"Fixtures" means all "fixtures", as such term is defined in the UCC, now owned or hereafter acquired by Borrower, wherever located.

"General Intangibles" means all "general intangibles," as such term is defined in the UCC, now owned or hereafter acquired by Borrower, including,

without limitation all right, title and interest that Borrower may now or hereafter have in or under any contract, including, without limitation, to the extent the same is not an Account, all or Borrower's right, title and interest in the Project Documents and all amounts payable to or receivable by Borrower thereunder, whether characterized as payments for the sale of goods, performance of services, termination payments, cancellation payments, indemnification, payments, damages, liquidated damages, claims for interests, costs or otherwise, all payment intangibles, customer lists, Licenses, Copyrights, Trademarks, Patents, and all applications therefor and reissues, extensions or renewals thereof, rights in intellectual Property, interests in partnerships, joint ventures and other business associations, licenses, permits, copyrights, trade secrets, proprietary or confidential information, inventions (whether or not patented or patentable), technical information, procedures, designs, knowledge, know-how, software, data bases, data, skill, expertise, experience, processes, models, drawings, materials and records, goodwill (including the goodwill associated with any Trademark or Trademark License), all rights and claims in or under insurance policies (including insurance for fire, damage, loss and casualty, whether covering personal property, real property, tangible rights or intangible rights, all liability, life, key man and business interruption insurance, and all unearned premiums), uncertificated securities, choses in action, deposit, checking and other bank accounts, rights to receive tax refunds and other payments, rights to receive dividends, distributions, cash, Instruments and other property in respect of or in exchange for pledged Investment Property, rights of indemnification, all books and records, correspondence, credit files, invoices and other papers, including without limitation all tapes, cards, computer runs and other papers and documents in the possession or under the control of Borrower or any computer bureau or service company from time to time acting for Borrower.

"Goods" means all "goods," as defined in the UCC, now owned or hereafter acquired by Borrower, wherever located, including, without limitation, embedded software to the extent included in "goods" as defined in the UCC.

"Instruments" means all "instruments," as such term is defined in the UCC, now owned or hereafter acquired by Borrower, wherever located, and, in any event, including, without limitation, all certificated securities, all certificates of deposit, and all promissory notes and other evidences of indebtedness, other than instruments that constitute, or are a part of a group of writings that constitute, Chattel Paper.

"Inventory" means all "inventory," as such term is defined in the UCC, now owned or hereafter acquired by Borrower, wherever located, and in any event including, without limitation, inventory, merchandise, goods and other personal property that are held by or on behalf of Borrower for sale or lease or are furnished or are to be furnished under a contract of service, or that constitute raw materials, work in process, finished goods, returned goods, or materials or supplies of any kind, nature or description used or consumed or to be used or consumed in such

Borrower's business or in the processing, production, packaging, production, delivery or shipping of the same, including all supplies and embedded software.

"Investment Property" means all "investment property" as such term is defined in the UCC, now owned or hereafter acquired by Borrower, wherever located, including, without limitation, (i) all securities, whether certificated or uncertificated, including stocks, bonds, interests in limited liability companies, partnership interests, treasuries, certificates of deposit, and mutual fund shares; (ii) all securities entitlements of Borrower, including the rights of Borrower to any Securities Account and the financial assets held by a securities intermediary in such Securities Account and any free credit balance or other money owing by any securities intermediary with respect to that account; (iii) all Securities Accounts of Borrower; (iv) all commodity contracts of Borrower; and (v) all Commodity Accounts held by Borrower.

"Letter-of-Credit Rights" means all "letter-of-credit rights" as such term is defined in the UCC, now owned or hereafter acquired by Borrower.

"License" means any Copyright License, Patent License, Trademark License or other similar license of intellectual property now held or hereafter acquired by Borrower. "Lien" means any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge against or interest in property, or other priority or preferential arrangement of any kind or nature whatsoever, to secure payment of a debt or performance of an obligation. "Patent License" means rights under any written agreement now or hereafter acquired by Borrower granting any right to use any Patent.

"Patents" means all of the following in which Borrower now holds or hereafter acquires any interest: (a) all letters patent of the United States or any other country, all registrations and recordings thereof, and all applications for letters patent of the United States Patent and Trademark Office or in any similar office or agency of the United States, any State, or any other country, and (b) all reissues, continuations, continuations-in-part or extensions thereof.

"Proceeds" means "proceeds," as such term is defined in the UCC, now owned or hereafter acquired by Borrower, wherever located, including, without limitation, (a) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to Borrower from time to time with respect to any of the Collateral, (b) any and all payments (in any form whatsoever) made or due and payable to Borrower from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any Governmental Authority (or any Person under the color of governmental authority), (c) any claim of Borrower against third parties for past, present or future infringement or dilution of any Copyright, Copyright License, Trademark or Trademark License, (d) any recoveries by Borrower against third parties with

respect to any litigation or dispute concerning any of the Collateral including claims arising out of the loss or nonconformity of, interference with the use of, defects in, or infringement of rights in, or damage to, Collateral, (e) all amounts collected on, or distributed on account of, other Collateral, including dividends, interest, distributions and Instruments with respect to Investment Property, and (f) any and all other amounts, rights to payment or other property acquired upon the sale, lease, license, exchange or other disposition of Collateral and all rights arising out of Collateral.

"Securities Accounts" means all "securities accounts," as such term is defined in the UCC, now or hereafter held or maintained in the name of Borrower.

"Software" means all "software" as such term is defined by the UCC, now owned or hereafter acquired by Borrower, other than software embedded in any category of Goods, including all computer programs and all supporting information provided in connection with a transaction related to any program.

"Trademark License" means rights under any written agreement now or hereafter acquired by Borrower granting any right to use any Trademark.

"Trademarks" means all of the following now owned or hereafter existing or adopted or acquired by Borrower: (a) all trademarks, trade names, corporate names, business names, trade styles, service marks, logos, other source or business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of like nature (whether registered or unregistered), all registrations and recordings thereof, and all applications in connection therewith, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state or territory thereof, or any other country or any political subdivision thereof; (b) all reissues, extensions or renewals thereof; and (c) all goodwill associated with or symbolized by any of the foregoing.

"UCC" means the Uniform Commercial Code in effect in the State of Indiana.

3. Parent Pledge Agreement.⁷

As security for the prompt and complete payment and performance when due of the Obligations, BME Renewable Polyfuels LLC ("Grantor") hereby grants to Trustee, for the benefit of the Bondholders, a security interest in and pledges to Trustee, for the benefit of the Bondholders, all of the following property, whether now owned by or existing, or hereafter acquired by or arising in favor of, Grantor, and regardless of where located (all of the following being herein collectively referred to as the "Collateral"):

⁷ Capitalized terms used but not defined in this section shall have the meanings given to them in the Parent Pledge Agreement.

(a) all of Grantor's right, title and interest as the member in the Borrower, including without limitation, all of the Membership Interests, all of Grantor's right derived from its Membership Interests to receive distributions at any time or from time to time of cash and other property, real, personal or mixed, from the Borrower upon complete or partial liquidation or otherwise;

(b) all of Grantor's right, title, and interest derived from its Membership Interests in specific property of the Borrower;

(c) all of Grantor's right, title and interest derived from its Membership Interests, if any, to participate in the management and voting of the Borrower; and

(d) all of Grantor's right, title and interest derived from its Membership Interests in and to:

(i) all rights, privileges, authority and power of Grantor as owner and holder of the items specified in (a), (b), and (c) above, including but not limited to, all contract rights related thereto;

(ii) all options and other agreements for the purchase or acquisition of any interests in the Borrower;

(iii) any document or certificate representing or evidencing Grantor's rights and interests in the Borrower;

(iv) all commercial tort claims, contracts, documents, general intangibles, investment property and supporting obligations related to or in respect of any of the foregoing; and

(v) to the extent not otherwise included, all Proceeds and products of any of the foregoing.

"Proceeds" shall mean "proceeds," as such term is defined in the UCC, and, in any event, shall include, without limitation, (a) any and all accounts, instruments, cash or other forms of money or currency or other proceeds payable to Grantor from time to time in respect of the Collateral, (b) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to Grantor from time to time with respect to any of the Collateral, (c) any and all payments (in any form whatsoever) made or due and payable to Grantor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any governmental authority (or any Person acting under color of governmental authority), (d) any claim of Grantor against third parties in respect of the Collateral, (d) all certificates, dividends, distributions, cash, instruments and other property received or distributed in respect of or in exchange for any Collateral and (f) any

and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

"UCC" shall mean the Uniform Commercial Code as the same may from time to time be in effect in the State of Indiana; provided, however, in the event that by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of Trustee's security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of Indiana, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection of priority and for purposes of definitions related to such provisions.

4. Collateral Assignment.⁸

As collateral security for all debts, liabilities and obligations of Borrower now existing or hereafter arising under the Loan Agreement, the Indenture and the Secured Hedge Contracts, Borrower hereby assigns, transfers and sets over to Trustee all of its rights, but not its obligations, under (i) the Design Build Agreement, JICI Agreement, Blendstock Agreement, Wax Agreement, Feedstock Supply Agreements, Performance Insurance Policy, the License Agreement, (ii) all of the other documents, agreements or instruments contemplated thereby or executed in connection therewith and (iii) any and all other existing and future contracts, agreements, permits, licenses, third party reports, surveys architectural plans or hereafter entered into or obtained by Assignor in connection with the ownership, use, operation and management of the Project (all such documents together with the documents contemplated in (i) and (ii) above, collectively, the "Project Documents").

Trustee shall have no obligation or duty to perform any of the obligations of Borrower under the Project Documents, all of which shall remain the sole and exclusive duty and obligation of Assignor.

In connection with the construction of the Project (as defined in the BPA) to be undertaken by or on behalf of the Borrower, the Borrower has entered into or will enter into the following: (i) a Design Build Agreement between the Borrower and JPS Engineering Services, LLC (as amended, restated or otherwise modified from time to time, the "Design Build Agreement"); (ii) a construction contract for portions of the Project between the Borrower and Jim Ingledue Construction, Inc. (as amended, restated or otherwise modified from time to time, the "JICI Agreement"); (iii) a purchase agreement between the Borrower and BP Products North America, Inc. (as amended, restated or otherwise modified from time to time, the "Blendstock Agreement"); (iv) a purchase agreement between the Borrower and AM Wax Inc. (the "Wax Agreement"); (v) six feedstock supply agreements

⁸ Capitalized terms used but not defined in this section shall have the meanings given to them in the Collateral Assignment

between the Borrower and regional and national waste recycling companies (as amended, restated or otherwise modified from time to time, the "Feedstock Supply Agreements"); (vi) a performance insurance policy from Indian Harbor Insurance Company (the "Performance Insurance Policy"); and (vii) a technology license agreements relating to certain technology components or the Project between Assignor and RES Polyflow LLC (the "License Agreement").

5. Assignment of Leases and Rents.⁹

Borrower, pursuant to the terms of this Assignment, hereby absolutely and irrevocably assigns, conveys and transfers to Trustee, all of Borrower's right, title, interest and estate (1) in and to all of the rents, income and profits of and from certain real property located in the Town of Ashley, Steuben County, Indiana, which is more particularly described in Exhibit A attached hereto and made a part hereof, or of and from all improvements at any time constructed thereon or any personal property or fixtures at any time installed or used therein (collectively, the "Property"), (2) in and to all Leases (as hereinafter defined), now existing or hereafter made and affecting the Property or any part thereof, as the same may be extended, amended and renewed, with all rent, income and profits due and becoming due therefrom, (3) in and to all Rents (as hereinafter defined) and Income (as hereinafter defined) from the operation of any business of Borrower located on the Property, and (4) in, to and under all Contracts (as hereinafter defined) and, to the extent permitted by law, all Permits (as hereinafter defined).

"Contracts" means all present and future agreements and contracts made by Borrower, whether written or oral, relating to (i) the operation of any business on the Property or the sale of any portion thereof, including without limitation any and all management agreements and agreements for the sale, purchase or conveyance of any portion of the Property, (ii) the design, construction, operation, management, maintenance, or repair of the Property, and (iii) any and all guaranties of any of the foregoing and any extensions, amendments, restatements or modifications thereof or thereto.

"Income" means all income, cash, accounts, accounts receivable, proceeds and profits due or becoming due to Borrower pursuant to any Contract or Lease.

"Leases" means (i) all present and future leases covering all or any portion of the Property, (ii) all agreements for use or occupancy of any portion of the Property, (iii) all present and future ground leases covering any portion of the Property, (iv) any and all guaranties of the performance of any lessee under any lease of all or any part of the property, and (v) any extensions, amendments, modifications, supplements or replacements of or to any lease of all or any part of the Property and any and all further leases and subleases, lettings or agreements

⁹ Capitalized terms used but not defined in this section shall have the meanings given to them in the Assignment of Leases and Rents.

(including rights in respect of tenants holding over and tenancies following attornment) of all or any part of the Property.

“Permits” means all licenses, rights and privileges granted to Borrower or in which Borrower has any rights required for or useful in connection with the operation of any business located on the Property.

“Proceeds” means all amounts, sums of money or things of value derived from or arising from any Lease, Contract or Permit.

“Rents” means all rentals, income, security deposits and other sums of money due or becoming due to Borrower under any Lease or any Contract; all monies due and to become due Borrower under any Lease or Contract for services, materials, or installations supplied, whether or not the same were supplied under the terms of any Lease or Contract, and the proceeds of all such Rents, both cash and non-cash, including but not limited to, any minimum rents, additional rents, percentage rents, lease termination payments, parking, maintenance, insurance and tax contributions, any damages following default by a tenant under any lease, any penalties or premiums payable by a tenant under any Lease and the proceeds of any policy of insurance covering loss of rents resulting from destruction or damage to any portion of the Property.

Appendix 2**Lien Perfection Documents¹⁰**

Document	Reference No.	Date Recorded	Place Recorded
Mortgage and Security Agreement, dated as of March 1, 2019, given by RES Polyflow Indiana LLC, as grantor, in favor of UMB Bank, N.A., as beneficiary.	Document No. 19040421 MTG	April 19, 2019	Steuben County, IN recorder
Assignment of Leases, Rents, Contracts, Income, Proceeds, and Permits, dated as of March 1, 2019, by RES Polyflow Indiana LLC, as assignor, in favor of UMB Bank, N.A., as trustee and collateral agent	Document No. 19040422 MISC	April 19, 2019	Steuben County, IN recorder
UCC-1 Financing Statement	U19000018 UCC	April 19, 2019	Steuben County, IN recorder
UCC-1 Financing Statement	20193474264	May 20, 2019	Delaware Secretary of State
UCC-1 Financing Statement	201900004483960	May 24, 2019	Indiana Secretary of State
UCC-1 Amendment	202101072725608	January 7, 2021	Indiana Secretary of State
UCC-1 Amendment	20210183351	January 7, 2021	Delaware Secretary of State

¹⁰ UMB reserves all rights with respect to the documents including in this appendix, including but not limited to the right to further supplement or amend this appendix. The documents included in this appendix are voluminous and upon information and belief are already in the Debtors' possession (including having been provided directly to the Debtors by the Trustee on March 27, 2025) and therefore are not attached here. Copies of the documents referenced in this appendix may be available upon request to the Trustee. The descriptions of the Indenture and Security Documents set forth in this Proof of Claim are a summary only and are qualified in their entirety by reference to the applicable Indenture and Security Documents. In the event of any inconsistency between this Proof of Claim and any such document, the relevant document will control. Nothing in this Proof of Claim will limit or qualify the rights granted to the Trustee under the Indenture and Security Documents.

UCC-1 Continuation	202312083136235	December 8, 2023	Indiana Secretary of State
UCC-1 Continuation	20238320698	December 8, 2023	Delaware Secretary of State
UCC-1 Amendment	202502133291239	February 13, 2025	Indiana Secretary of State
UCC-1 Amendment	20251000733	February 13, 2025	Delaware Secretary of State

CERTIFICATE OF SERVICE

I, Matthew P. Ward, do hereby certify that on April 18, 2025, I caused a copy of the foregoing *Motion of UMB Bank, N.A., as Trustee and Collateral Agent, for Entry of an Order (I) Dismissing the Chapter 11 Cases for Cause Pursuant to 11 U.S.C. § 1112 or (II) in the Alternative, Granting Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362* to be filed and served via the Court's Electronic Filing (CM/ECF) system on all parties registered to receive electronic notices in this case, upon the parties listed below and upon the Core/2002 attached hereto as **Exhibit A**, via electronic mail, and U.S. First Class Mail.

<u>VIA FIRST CLASS MAIL</u> Brightmark Plastics Renewal LLC ATTN: President or Chief Legal Officer 1725 Montgomery St., Fl 3 San Francisco, CA 94111 <i>The Debtor</i>	<u>VIA ELECTRONIC MAIL</u> POTTER ANDERSON & CORROON LLP Jeremy W. Ryan R. Stephen McNeill Katelin A. Morales 1313 N. Market Street, 6th Floor Wilmington, DE 19801 jryan@potteranderson.com rmcneill@potteranderson.com kmorales@potteranderson.com <i>Counsel for the Debtor</i>
<u>VIA ELECTRONIC MAIL</u> Benjamin A. Hackman The Office of the United States Trustee for the District of Delaware 844 King Street, Suite 2207 Wilmington, DE 19801 Benjamin.a.hackman@usdoj.gov <i>Office of the United States Trustee</i>	

/s/ Matthew P. Ward
Matthew P. Ward, Esq. (Del. Bar No. 4471)

EXHIBIT A

Core/2002 SERVICE LIST

Creditor	Address1	Address2	Address3	Address4	Address5	Email	Method of Service
BBC Pump & Equipment Company, Inc	Sales Engineer	777 N Tibbs Ave	Indianapolis, IN 46222			AR@bbcpump.com	Electronic Mail
Brightmark Plastics Ashley Holdco LLC	Attn: General Counsel	1725 Montgomery St, 3rd Fl	San Francisco, CA 94111-1018				First-Class Mail
Brushy Creek Industrial Solutions, LLC	2909 Graphic Pl	Plano, TX 75075				kt@bcindsol.com	Electronic Mail
CB&I LLC	dba McDermott	915 N Eldridge Parkway				cash.applications@mcdermott.com	Electronic Mail
Chemted LLC	981 TX-174	Rio Vista, TX 76093	Houston, TX 77079			kk@chemted.com	Electronic Mail
Chipman Brown Cicero & Cole LLP	Attn: Mark L Desgrosseilliers	Hercules Plz	1313 N Market St, Ste 5400	Wilmington, DE 19801		desgross@chipmanbrown.com	Electronic Mail
Chipman Brown Cicero & Cole, LLP	Attn: Mark L Desgrosseilliers/Alison R Maser	Attn: Robert A Weber	Hercules Plz	1313 N Market St, Ste 5	Wilmington, DE 19801	desgross@chipmanbrown.com	Electronic Mail
Chipman Brown Cicero & Cole, LLP	Attn: Alison R Maser					maser@chipmanbrown.com	Electronic Mail
Chipman Brown Cicero & Cole, Llp	Attn: Robert A Weber					weber@chipmanbrown.com	Electronic Mail
Colliers, Engineering & Design Inc	101 Crawfords Corner Rd, Ste 3400	Holmdel, NJ 07733				remittanceadvice@collierseng.com	Electronic Mail
Consolidated Mechanical Inc (CMI)	2900 Airpark Dr	Owensboro, KY 42301				scampbell@cmipower.com	Electronic Mail
E2G, The Equity Engineering Group, Inc	Operations Coordinator	20600 Chagrin Blvd, Ste 1200	Shaker Heights, OH 44122			accounting@e2g.com	Electronic Mail
Enpro, Inc	Sales Dept	121 S Lombard Rd	Addison, IL 60101-3084			beth_obrien@enproinc.com	Electronic Mail
Flosource Inc	1405 Hancel Pkwy	Mooresville, IN 46158				ar@flosource.com	Electronic Mail
G&L Corp	3101 Brooklyn Ave	Ft Wayne, IN 46809				krista@g-icorp.com	Electronic Mail
George E Booth Company, Inc	8202 W 10th St	Indianapolis, IN 46214				ar@gebooth.com	Electronic Mail
Heat Power Engineering Co Inc (HPE)	Sales Dept	702 Incentive Dr	Ft Wayne, IN 46825				First-Class Mail
Hydrocarbon Filtration LLC	107 B Shooting Club Rd	Boerne, TX 78006				accounting@therigteam.com	Electronic Mail
IMET Corp	P.O. Box 470812	Cleveland, OH 44147				cmills@imet.net	Electronic Mail
Industrial Applied Technologies	2381 W Stadium Blvd	Ann Arbor, MI 48103				tbearden.iatlnc@gmail.com	Electronic Mail
Internal Revenue Service	Attn: Centralized Insolvency Operation	P.O. Box 7346	Philadelphia, PA 19101-7346				First-Class Mail
IPS Resources LLC	146 Dixie Hwy	Rossford, OH 46571				accounting@ipscontractor.com	Electronic Mail
JK ICE Ventures Inc	dba Industrial Contracting & Engineering	319 Pokagon Trl, Ste C	Angola, IN 46703			kwilliams@jici.com	Electronic Mail
Kammerer Inc	2348 E Kammerer Rd	Kendallville, IN 46755				AR@kammerer-inc.com	Electronic Mail
Kendall Electric Inc	5101 S Sprinkle Rd	Portage, MI 49002				ar@kendallgroup.com	Electronic Mail
Kilpatrick Townsend & Stockton LLP	Attn: Paul M Rosenblatt	1100 Peachtree St Ne, Ste 2800	Atlanta, GA 30309-4528			PRosenblatt@ktslaw.com	Electronic Mail
Kilpatrick Townsend & Stockton LLP	Attn: Paul M Rosenblatt	1100 Peachtree St NE, Ste 2800	Atlanta, GA 30309			prosenblatt@ktslaw.com	Electronic Mail
Krohne Inc	55 Cherry Hill Dr	Beverly, MA 01915				AR@KROHNE.COM	Electronic Mail
Larry's Lock & Safe Service, Inc	dba Lakeland Electronics	1601 N Wayne St, Ste 107	Angola, IN 46703			mike@lakelandelectronics.com	Electronic Mail
MTR Machining Concept, Inc	2878 W 800 S	Ashley, IN 46705				customerservice@mtrmachine.com	Electronic Mail
NES Global Ltd	1 Memorial City Plz	800 Gessner Dr, Ste 800	Houston, TX 77024			us.receivables@nesgt.com	Electronic Mail
Office of the Attorney General	Attn: Kathy Jennings	Carvel State Office Bldg	820 N French St	Wilmington, DE 19801		attorney.general@delaware.gov	Electronic Mail
Office of the Attorney General	Attn: Todd Rokita	Indiana Govt Ctr S	302 W Washington St, 5th Fl	Indianapolis, IN 46204		Constituent@atg.in.gov	Electronic Mail
Office of the Attorney General of Delaware	Delaware Dept of Justice	Carvel State Bldg	820 N French St	Wilmington, DE 19801		attorney.general@delaware.gov	Electronic Mail
Office of the US Attorney	for the District of Delaware	1313 N Market St	P.O. Box 2046	Wilmington, DE 19801			First-Class Mail
Office of the US Trustee	for the District of Delaware	J Caleb Boggs Federal Bldg	844 King St, Ste 2207	Lockbox 35	Wilmington, DE 19801		First-Class Mail
Price Automation LLC	205 W 700 S	Pleasant Lake, IN 46779				lance.price@p-automation.com	Electronic Mail
Rochem Americas Inc	426 30th St	Hermosa Beach, CA 90254				nora@rochemamericas.com	Electronic Mail
Securities & Exchange Commission	100 F St NE	Washington, DC 20549					First-Class Mail
Securities & Exchange Commission	Ft Worth Regional Office	801 Cherry St, Ste 1900, Unit 18	Ft Worth, TX 76102				First-Class Mail
Shambaugh & Sons	7614 Opportunity Dr	Ft Wayne, IN 46825				aperkey@shambaugh.com	Electronic Mail
South Shore Controls, Inc	9395 Pinecone Dr	Mentor, OH 44060				AR@southshorecontrols.com; rhowell@southshorecontrols.com	Electronic Mail
Transmission & Fluid Equipment Inc	Sales Dept	6912 Trafalgar Dr	Ft Wayne, IN 46803			ar@tfedirect.com	Electronic Mail
Vecoplan LLC	5708 Uwharrie Rd	Archdale, NC 27263				ar.us@vecoplan.com	Electronic Mail
ZymeFlow Inc	12600 N Featherwood Dr, Ste 330	Houston, TX 77034				eddiekaye.jecmenek@zymeflow.com	Electronic Mail