

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

<p>In re:</p> <p>CYXTERA TECHNOLOGIES, INC., <i>et al.</i>,</p> <p style="text-align: center;">Debtors.¹</p>	<p>Chapter 11</p> <p>Case No. 23-14853 (JKS)</p> <p>(Jointly Administered)</p>
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**DECLARATION OF JAMES LEE WITH RESPECT
TO THE TABULATION OF VOTES ON THE SECOND AMENDED JOINT
PLAN OF REORGANIZATION OF CYXTERA TECHNOLOGIES, INC. AND ITS
DEBTOR AFFILIATES PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

I, James Lee, depose and say under the penalty of perjury:

1. I am a Vice President of Public Securities Services employed by Kurtzman Carson Consultants LLC (“KCC”), whose main business address is 222 North Pacific Coast Highway, 3rd Floor, El Segundo, California 90245. I am above eighteen years of age, and I am competent to testify. Except as otherwise noted, all facts set forth herein are based on my personal knowledge, knowledge that I acquired from individuals under my supervision, and my review of relevant documents. I am authorized to submit this declaration (the “Declaration”) on behalf of KCC. If I were called to testify, I could and would testify competently as to the facts set forth herein.

2. I submit this Declaration regarding the solicitation of votes and the tabulation of Ballots cast on the *Second Amended Joint Plan of Reorganization of Cyxtera Technologies, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 551] (as has been amended by the *Third Amended Joint Plan of Reorganization of Cyxtera Technologies, Inc. and Its*

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.kcellc.net/cyxtera>. The location of Debtor Cyxtera Technologies, Inc.’s principal place of business and the Debtors’ service address in these chapter 11 cases is: 2333 Ponce de Leon Boulevard, Ste. 900, Coral Gables, Florida 33134.



Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 649], and the *Fourth Amended Joint Plan of Reorganization of Cyxtera Technologies, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 694], and as may be further revised, supplemented, modified and/or amended from time to time, the “Plan”).²

3. The Court authorized KCC’s retention (a) as claims and noticing agent to the Debtors on June 6, 2023, pursuant to the *Order (I) Authorizing the Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Effective as of the Petition Date and (II) Granting Related Relief* [Docket No. 67], and (b) as administrative advisor to the Debtors on July 18, 2023, pursuant to the *Order Authorizing the Debtors to Employ and Retain Kurtzman Carson Consultants LLC as Administrative Advisor Effective as of the Petition Date* [Docket No. 286] (together, the “Retention Orders”). The Retention Orders authorize KCC to assist the Debtors with, among other things, the service of solicitation materials and tabulation of votes cast to accept or reject the Plan. KCC and its employees have considerable experience in soliciting and tabulating votes to accept or reject chapter 11 plans.

4. On September 26, 2023, the Court entered the *Order Approving (I) the Adequacy of the Disclosure Statement, (II) the Solicitation Procedures, (III) the Forms of Ballots and Notices in Connection Therewith, and (IV) Certain Dates with Respect Thereto* [Docket No. 563] (the “Disclosure Statement Order”), establishing, among other things, the Solicitation Procedures. KCC adhered to the procedures outlined in the Disclosure Statement Order, and caused the Ballots to be distributed to parties entitled to vote on the Plan. I supervised the solicitation and tabulation performed by KCC’s employees.

² Capitalized terms used but not defined herein have the meanings ascribed to them in the Plan or the Disclosure Statement Order, as applicable.

A. Service and Transmittal of Solicitation Packages and Related Information.

5. Pursuant to the Disclosure Statement Order, on September 28, 2023, and from time to time thereafter, KCC caused the Solicitation Packages to be served on all known Holders of Claims in Class 3 (First Lien Claims) and Class 4 (General Unsecured Claims) (together, the “Voting Classes”). In lieu of a Solicitation Package, all known Holders of Claims and Interests in Class 1 (Other Secured Claims), Class 2 (Other Priority Claims), and Class 8 (Existing Equity Interests) (collectively, the “Non-Voting Classes”),³ and Holders of unclassified Claims, received the Notice of Non-Voting Status, the applicable Opt Out Form, and the Confirmation Hearing Notice. Furthermore, KCC caused the Confirmation Hearing Notice to be served on the creditor matrix and all other parties required to receive such notice pursuant to the Disclosure Statement Order. A certificate of service evidencing the foregoing was filed with the Court on October 12, 2023 [Docket No. 592].

6. On September 28, 2023, KCC posted links to the electronic versions of the Plan, Disclosure Statement, the Disclosure Statement Order, the Cover Letter, the Solicitation Procedures, the Notice of Non-Voting Status, and the Confirmation Hearing Notice on the public access website at www.kcellc.net/cyxtera.

7. On October 2, 2023, the Publication Notice was published in *The New York Times* (national edition) and the *Financial Times* (global edition). Affidavits evidencing the publication of the Publication Notice were filed with the Court on October 3, 2023 [Docket Nos. 572, 573].

8. KCC also forwarded Solicitation Packages and Confirmation Hearing Notices to voting and creditor matrix parties, as applicable, whose packages were returned with a forwarding address or if an alternate address was available. The supplemental certificates of service evidencing

³ Class 5 (Section 510 Claims) does not include any claims and was omitted from service.

the foregoing were filed with the Court on November 11, 2023 [Docket Nos. 682, 683] (together with certificates of service filed on October 12, 2023, and November 11, 2023, the “Solicitation Certificates”).

9. On November 1, 2023, the Debtors filed the *Notice of Sale Transaction* [Docket No. 648]. The *Notice of Sale Transaction* was also served on the Voting and Non-Voting Classes, as applicable, and the certificate of service evidencing the foregoing was filed with the Court on November 12, 2023 [Docket No. 684].

B. The Tabulation Process

10. The Disclosure Statement Order established September 14, 2023 as the Voting Record Date to determine which Holders of Claims and Interests were entitled to receive the Solicitation Package or the Notice of Non-Voting Status and an Opt Out Form, as applicable. Pursuant to the Disclosure Statement Order, Holders of Claims in Class 3 (First Lien Claims) and Class 4 (General Unsecured Claims) were entitled to vote to accept or reject the Plan. No other Classes were entitled to vote on the Plan.

11. In accordance with the Solicitation Procedures, KCC worked closely with the Debtors’ advisors to identify the Holders of Claims in the Voting Classes entitled to vote as of the Voting Record Date, and to coordinate the distribution of Solicitation Packages to such Holders. A detailed description of KCC’s distribution of Solicitation Packages is set forth in the Solicitation Certificates.

12. In accordance with the Solicitation Procedures, KCC received, reviewed, determined the validity of, and tabulated the Ballots submitted to vote on the Plan. Each Ballot submitted to KCC was date-stamped, scanned, assigned a Ballot number, entered into KCC’s voting database, and processed. To be included in the tabulation results as valid, a Ballot must have been (a) properly

completed pursuant to the Solicitation Procedures, (b) executed by the relevant Holder entitled to vote on the Plan (or such Holder’s representative), (c) returned to KCC via an approved method of delivery set forth in the Solicitation Procedures unless the delivery method requirement was waived by the Debtors, and (d) received by KCC on or before November 7, 2023, at 4:00 p.m. (prevailing Eastern Time) (the “Voting Deadline”). KCC completed its final tabulation of the Ballots on November 8, 2023, following a complete review and audit of all Ballots received.

13. The final tabulation of votes cast by timely (unless the Debtors directed KCC to count a Ballot received after the Voting Deadline) and properly completed Ballots received by KCC is set forth below:

Total Ballots Received			
Accept		Reject	
Number (% of Number)	Amounts (% of Amount)	Number (% of Number)	Amount (% of Amount)
Class 3 – First Lien Claims			
393 (100%)	\$919,446,609.77 (100%)	0 (0%)	0.00 (0%)
Class 4 – General Unsecured Claims			
61 (95.31%)	\$50,788,075.41 (84.82%)	3 (4.69%)	\$9,091,895.07 (15.18%)

C. Ballots That Were Not Counted

14. A report of any Ballots from parties in the Voting Classes excluded from the final tabulation, and the reasons for exclusion of such Ballots, is attached hereto as **Exhibit A**. All such Ballots were not counted for the following reason: the Ballot did not indicate an acceptance or rejection of the Plan (*i.e.*, an “abstained” vote).

D. Opt-Out Election

15. KCC also reviewed and documented elections recorded on (i) the Ballots from Holders of Claims in the Voting Classes that abstained or rejected the Plan and checked the box on such Ballot to opt out of the Third-Party Release, and (ii) the Opt-Out Forms from non-voting

Holders of Claims and Interests. A report of all Entities who opted out of the Third-Party Release by checking the opt-out box on the Opt Out Form or checked the opt-out box and abstained or rejected the Plan on their Ballot is attached hereto as **Exhibit B**. As further detailed in **Exhibit B**, the opt out process for Class 8 (Existing Equity Interests) proved successful based on the participation rates. Notably, 190 Holders of Class 8 Claims, holding approximately 5.4 million shares elected to opt out of the Third-Party Release. For the avoidance of doubt, this Declaration does not certify the validity or enforceability of any opt-out elections received, including those reported on **Exhibit B**, but rather is providing these opt-out election results for reporting and informational purposes only.

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To the best of my knowledge, information and belief, the foregoing information concerning the distribution, submission, and tabulation of Ballots in connection with the Plan is true.

Dated: November 14, 2023

/s/ James Lee

James Lee

KCC

222 N Pacific Coast Highway, 3rd Floor

El Segundo, CA 90245

Tel 310.823.9000

Exhibit A

**Exhibit A
Ballots Excluded from Tabulation**

Creditor Name	Date Received	Ballot No.	Voting Amount	Vote	Class	Reason Excluded
1550 Space Park Partners, LLC	11/06/2023	88	\$686,375.41	Abstain	4 General Unsecured Claims	Abstained
Anderson Lock & Safe	10/10/2023	19	\$1,186.09	Abstain	4 General Unsecured Claims	Abstained
Digital Lakeside, LLC	11/06/2023	89	\$1,580,709.58	Abstain	4 General Unsecured Claims	Abstained
Digital Nash, LLC	11/06/2023	90	\$702,151.37	Abstain	4 General Unsecured Claims	Abstained
Digital Piscataway, LLC	11/06/2023	91	\$3,531,941.04	Abstain	4 General Unsecured Claims	Abstained
DIGITAL REALTY TRUST LP	11/06/2023	92	\$72,418.35	Abstain	4 General Unsecured Claims	Abstained
Digital Space Park, LLC	11/06/2023	87	\$592,735.56	Abstain	4 General Unsecured Claims	Abstained
Digital Walsh 1, LLC	11/06/2023	93	\$516,230.68	Abstain	4 General Unsecured Claims	Abstained
Digital Walsh 2, LLC	11/06/2023	94	\$318,296.93	Abstain	4 General Unsecured Claims	Abstained
Digital Winona, LLC	11/06/2023	95	\$454,403.31	Abstain	4 General Unsecured Claims	Abstained
Global Weehawken Acquisition Company, LLC	11/06/2023	96	\$1,974,052.54	Abstain	4 General Unsecured Claims	Abstained
Liberty Mutual Insurance Company	11/06/2023	136	\$1,518,492.00	Abstain	4 General Unsecured Claims	Abstained
Pivot Technology Services Corp.	10/19/2023	47	\$394,957.82	Abstain	4 General Unsecured Claims	Abstained
SPU	10/24/2023	61	\$108,040.63	Abstain	4 General Unsecured Claims	Abstained
Telx - Chicago Lakeside, LLC	11/06/2023	97	\$30,214.19	Abstain	4 General Unsecured Claims	Abstained
Telx - Santa Clara, LLC	11/06/2023	98	\$1,162.66	Abstain	4 General Unsecured Claims	Abstained

Exhibit B

Exhibit B

Opt Out Summary

Ballots:

Creditor Name	Date Received	Ballot No.	Class	Voting Amount	Vote	Opt Out of Release
1550 Space Park Partners, LLC	11/06/2023	88	4 General Unsecured Claims	\$686,375.41	Abstain	Yes
Anderson Lock & Safe	10/10/2023	19	4 General Unsecured Claims	\$1,186.09	Abstain	Yes
CarOffer, LLC	10/16/2023	31	4 General Unsecured Claims	\$172,039.39	Reject	Yes
Digital Lakeside, LLC	11/06/2023	89	4 General Unsecured Claims	\$1,580,709.58	Abstain	Yes
Digital Nash, LLC	11/06/2023	90	4 General Unsecured Claims	\$702,151.37	Abstain	Yes
Digital Piscataway, LLC	11/06/2023	91	4 General Unsecured Claims	\$3,531,941.04	Abstain	Yes
DIGITAL REALTY TRUST LP	11/06/2023	92	4 General Unsecured Claims	\$72,418.35	Abstain	Yes
Digital Space Park, LLC	11/06/2023	87	4 General Unsecured Claims	\$592,735.56	Abstain	Yes
Digital Walsh 1, LLC	11/06/2023	93	4 General Unsecured Claims	\$516,230.68	Abstain	Yes
Digital Walsh 2, LLC	11/06/2023	94	4 General Unsecured Claims	\$318,296.93	Abstain	Yes
Digital Winona, LLC	11/06/2023	95	4 General Unsecured Claims	\$454,403.31	Abstain	Yes
Global Weehawken Acquisition Company, LLC	11/06/2023	96	4 General Unsecured Claims	\$1,974,052.54	Abstain	Yes
Great Lakes Plumbing & Heating Co.	10/15/2023	24	4 General Unsecured Claims	\$71,273.68	Reject	Yes
Liberty Mutual Insurance Company	11/06/2023	136	4 General Unsecured Claims	\$1,518,492.00	Abstain	Yes
Pivot Technology Services Corp.	10/19/2023	47	4 General Unsecured Claims	\$394,957.82	Abstain	Yes
RS Titan, LLC	11/07/2023	106	4 General Unsecured Claims	\$8,848,582.00	Reject	Yes
SPU	10/24/2023	61	4 General Unsecured Claims	\$108,040.63	Abstain	Yes
Telx - Chicago Lakeside, LLC	11/06/2023	97	4 General Unsecured Claims	\$30,214.19	Abstain	Yes
Telx - Santa Clara, LLC	11/06/2023	98	4 General Unsecured Claims	\$1,162.66	Abstain	Yes

Opt Out Forms:

Creditor Name	Date Received	Ballot No.	Class	Opt Out of Release
4650 Santa Clara Technology Partners LLC	11/07/2023	118	Unclassified	Yes
4700 Santa Clara Technology Partners LLC	11/07/2023	120	Unclassified	Yes
CITY OF HAMPTON	10/04/2023	5	1 Other Secured Claims	Yes
F.A.A. Technology Partners LLC	11/07/2023	112	Unclassified	Yes
F.E. Moran Inc.	10/12/2023	20	1 Other Secured Claims	Yes
Highline Water District	10/23/2023	56	1 Other Secured Claims	Yes
HITT Contracting, Inc.	11/07/2023	105	1 Other Secured Claims	Yes
Liberty Mutual Insurance Company	11/06/2023	104	Unclassified	Yes
MAKO POWER LLC	10/03/2023	4	Unclassified	Yes
R.K. Electric, Inc.	10/09/2023	13	1 Other Secured Claims	Yes
Texas Comptroller of Public Accounts	10/16/2023	36	Unclassified	Yes
Texas Workforce Commission	10/16/2023	35	Unclassified	Yes

Exhibit B
Class 8 Opt-Out Detail
Cyxtera Interest Holders

DTC Part No.	Nominee	Total Number of	
		Accounts	Opt-Outs
		Total Number of Shares	
		Opting Out	
0015	MSSB	12	157,200
0062	VANGUARD	7	2,106
0141	WELLS CLRG	3	971
0158	APEX CLEAR	9	3,647
0161	BOFA	1	119,493
0164	CHS SCHWAB	38	2,447,022
0188	TD AMERITR	12	311,335
0221	UBS FINAN	1	4,000
0226	NFS LLC	54	1,831,248
0352	JPMS/JPMC	1	5
0443	PERSHING	1	555
0534	INT BROKER	18	437,393
0547	RW BAIRD	1	13,000
0725	RAYMOND	1	60
0901	BANK OF NY	1	500
0902	JPMCBNA	1	325
2116	FIFTH NA	1	1
2402	DRIVEW LLC	18	14,191
5002	RBC/DOMN	2	193
5036	TD WATER	1	25,000
5084	QUES/CDS	2	6,735
8862	MLPFS/8862	5	1,740
	TOTALS:	190	5,376,720