IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
F21 OPCO, LLC, *et al.*,[1]	Case No. 25-10469 (MFW)
Debtors.	(Jointly Administered)
	Ref: Docket No. 472

DECLARATION OF MICHAEL BROWN IN SUPPORT OF CONFIRMATION OF THE DEBTORS' AMENDED JOINT PLAN PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

I, Michael Brown, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true to the best of my knowledge, information and belief:

BACKGROUND AND QUALIFICATIONS

1. I am a Director at Berkeley Research Group, LLC ("**BRG**"), a professional services firm with offices located at 99 High Street, 27th Floor, Boston, Massachusetts 02110, and since January 2025, I have served as the Co-Chief Restructuring Officer (the "**Co-CRO**")[2] of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**"). I am over the age of 18 and am authorized to submit this declaration (this "**Declaration**") on behalf of the Debtors in support of the *Debtors' Amended Joint Plan Pursuant to Chapter 11 of the Bankruptcy Code*

[1] The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: F21 OpCo, LLC (8773); F21 Puerto Rico, LLC (5906); and F21 GiftCo Management, LLC (6412). The Debtors' address for purposes of service in these Chapter 11 Cases is 110 East 9th Street, Suite A500, Los Angeles, CA 90079.

[2] At the same time, Stephen Coulombe of BRG was appointed as the Co-Chief Restructuring Officer.

25104692506230000000000002

[D.I. 472] (as modified, amended, or supplemented from time to time in accordance with its terms, the "**Plan**").[3]

2. I have more than 14 years of experience serving as a financial advisor and providing restructuring and performance improvement services to corporations, various creditor classes, equity owners, and directors of underperforming companies, including a significant number of large retailers with substantial national and international presences. Prior to joining BRG in May 2016, I was a Consultant at FTI Consulting, Inc., where I served in similar capacities on behalf of distressed companies. BRG has provided financial advisory and senior management services in some of the largest chapter 11 cases, including many in the retail sector, filed in this District and elsewhere. I personally provided financial services on American Apparel, Pacific Sunwear, and David's Bridal, among others.

3. On April 11, 2025, the Court entered that certain *Order Authorizing the Retention and Employment of Berkeley Research Group, LLC to Provide Co-Chief Restructuring Officers and Additional Personnel for the Debtors, Effective as of the Petition Date* [D.I. 196]. In our roles as the Co-CRO, Mr. Coulombe and I have been the principal BRG representatives acting on behalf of the Debtors. Except as otherwise indicated herein, all statements and facts set forth in this Declaration are based upon: (a) my personal knowledge of the Debtors' operations and finances based on information provided by the Debtors or their advisors during the course of BRG's engagement by the Debtors; (b) my review of relevant documents, including information provided by other parties; (c) information provided to me by, or discussions with, employees of BRG who are assisting me as the Co-CRO; (d) discussions with the members of the Debtors' management

[3] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Plan, or the *Disclosure Statement for Debtors' Joint Plan Pursuant to Chapter 11 of the Bankruptcy Code* (the "**Disclosure Statement**") [D.I. 344], as applicable.

team or the Debtors' other advisors; and/or (e) my personal involvement in the events at issue. If I were called upon to testify, I could and would testify competently to the facts set forth herein.

I. The Plan Satisfies Each Requirement for Confirmation

4. It is my understanding that the Plan satisfies all applicable requirements for confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code. I provide the following testimony as support for satisfying certain applicable confirmation requirements for which additional facts are relevant.

A. Section 1129(a)(1) of the Bankruptcy Code: The Plan Complies with the Applicable Provisions of the Bankruptcy Code

5. It is my understanding that the Plan complies with all applicable provisions of the Bankruptcy Code, including sections 1122 and 1123, as required by section 1129(a)(1) of the Bankruptcy Code.

i. Section 1122 of the Bankruptcy Code: Classification of Claims and Interests

6. The Plan classifies Claims and Interests as follows:

Class	Claim or Interest	Status	Voting Rights
1	Other Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
2	Other Priority Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
3	ABL Claims	Impaired	Entitled to Vote
4	Term Loan Claims	Impaired	Entitled to Vote
5	Subordinated Loan Claims	Impaired	Entitled to Vote
6	General Unsecured Claims	Impaired	Entitled to Vote
7	Intercompany Claims	Unimpaired / Impaired	Not Entitled to Vote (Presumed to Accept / Deemed to Reject)

Class	Claim or Interest	Status	Voting Rights
8	Intercompany Interests	Unimpaired / Impaired	Not Entitled to Vote (Presumed to Accept / Deemed to Reject)
9	Existing Equity Interests	Impaired	Not Entitled to Vote (Deemed to Reject)

7. I believe that all Claims and Interests within each Class have the same or substantially similar rights against the Debtors. In addition, I believe that the Plan appropriately provides for separate classification of Claims and Interests based upon differences in such Claims' and Interests' nature and legal rights with respect to the Debtors' property and their priority. Accordingly, I believe that the Plan complies with section 1122 of the Bankruptcy Code.

ii. Section 1123 of the Bankruptcy Code: The Plan's Mandatory Content is Appropriate

8. I have been advised that the Plan fully complies with each requirement of section 1123(a) of the Bankruptcy Code, based on the following:

- ***Specification of Classes, Impairment, and Treatment***. I understand that the first three requirements of section 1123(a) of the Bankruptcy Code are that a plan specify: (a) the classification of claims and interests; (b) whether such claims and interests are impaired or unimpaired; and (c) the precise nature of their treatment under the plan. I have been advised that the Plan properly designates classes of claims and interests, identifies which classes are impaired and unimpaired, and specifies the treatment of each class.

- ***Equal Treatment.*** I understand that section 1123(a)(4) of the Bankruptcy Code requires that a plan "provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest." I believe that the Plan satisfies this requirement because Holders of

Allowed Claims or Interests will receive the same rights and treatment as other Holders of Allowed Claims or Interests within such Holders' respective Class.

- ***Means for Implementation***. I understand that section 1123(a)(5) of the Bankruptcy Code requires that a plan provide "adequate means" for its implementation. I believe that the Plan satisfies this requirement by providing for, among other things, (a) the funding of the Plan Administration Amount, (b) the vesting of the Distribution Co. Assets in Distribution Co. on the Effective Date, including certain designated Debtors' Causes of Action, and (c) the appointment of the Plan Administrator, in each case as and to the extent provided for in the Plan.

- ***Non-Voting Stock***. I understand that section 1123(a)(6) of the Bankruptcy Code requires that a debtor's corporate constituent documents prohibit the issuance of nonvoting equity securities. The Plan does not provide for the issuance of equity or other securities of the Debtors, including non-voting equity securities, and, accordingly, I believe that the requirements of section 1123(a)(6) of the Bankruptcy Code are inapplicable or otherwise satisfied.

- ***Selection of Officers and Directors.*** I understand that section 1123(a)(7) of the Bankruptcy Code requires that the manner of selection of any director, officer, or trustee, or any other successor thereto, be "consistent with the interests of creditors and equity security holders and with public policy." The Plan provides that all members or managers of existing boards or governance bodies shall be deemed to have resigned on the Effective Date, and the Plan Supplement discloses that, in accordance with the Committee Settlement, the Committee selected Steven Balasiano of MHR Advisory Group, LLC to serve as the Plan Administrator. Accordingly, I believe that the Plan's provisions satisfy section 1123(a)(7) of the Bankruptcy Code.

B. Section 1129(a)(2) of the Bankruptcy Code: Plan Solicitation and Acceptance of the Plan

9. I understand that section 1129(a)(2) of the Bankruptcy Code requires compliance with the disclosure and voting requirements of sections 1125 and 1126 of the Bankruptcy Code, respectively. As an initial matter, the Court approved the Disclosure Statement as having adequate information. In addition, it is my understanding that the Notice and Claims Agent solicited votes on the Plan consistent with Disclosure Statement and Solicitation Procedures Order. Accordingly, I believe that the Debtors and their professional advisors have acted in good faith in connection with the solicitation and tabulation of Plan votes.

10. In accordance with the Disclosure Statement and Solicitation Procedures Order and the Plan, the Debtors solicited votes on the Plan only from the Holders of Claims in Class 3 (ABL Claims), Class 4 (Term Loan Claims), Class 5 (Subordinated Loan Claims) and Class 6 (General Unsecured Claims) (collectively, the "**Voting Classes**"), which are the only Classes Impaired and entitled to vote on the Plan. The Debtors did not solicit votes to accept or reject the Plan from the Holders of Claims and Interests in the remaining Classes, as such Classes are (a) Unimpaired and, therefore, presumed to have accepted the Plan, or (b) Impaired and deemed to have rejected the Plan. Based on my review of the Plan voting report filed by the Notice and Claims Agent [Docket No. 465] (the "**Voting Report**"), each Voting Class overwhelmingly voted to accept the Plan. Based upon the foregoing, I believe that the requirements of sections 1125 and 1126 of the Bankruptcy Code have been satisfied and, thus, the Debtors have satisfied the requirements of section 1129(a)(2) of the Bankruptcy Code.

C. Section 1129(a)(3) of the Bankruptcy Code: The Plan Has Been Proposed in Good Faith

11. Based on discussions with the Debtors' other professionals and my involvement in these Chapter 11 Cases, I believe that the Debtors proposed the Plan in good faith, and not by any

means forbidden by law, with the legitimate and honest purposes of preserving and maximizing the value of the Debtors' estates, effectuating a comprehensive, efficient and feasible liquidation of the Debtors' assets, and maximizing the recoveries of all creditor constituencies. The Plan (including all documents necessary to effectuate the Plan) was negotiated extensively, at arm's-length, and in good faith among representatives of the Debtors, the ABL Agent (on behalf of the ABL Lenders), the Term Loan Agent (on behalf of the Term Loan Lenders), the Subordinated Loan Agent (on behalf of the Subordinated Loan Lenders), the SPARC Parties, and the Committee, all of whom have worked diligently to negotiate the terms of the Plan and effectuate the liquidation of the Debtors in a timely and efficient manner to preserve and enhance the value of the Debtors' estates. Each of these creditor constituencies supports confirmation of the Plan.

12. I believe that had the above-listed parties not provided the critical concessions and contributions embodied in the Plan, the recovery to Holders of Allowed General Unsecured Claims would be materially less than those provided under the Plan. Furthermore, I understand that no party in interest has objected to the Plan on the basis that it was proposed in bad faith. Based upon the foregoing, I believe that the Plan is consistent with the purposes of the Bankruptcy Code and, therefore, the Plan has been proposed in good faith and satisfies section 1129(a)(3) of the Bankruptcy Code.

D. Section 1129(a)(4) of the Bankruptcy Code: The Plan Provides that Professional Fees and Expenses are Subject to Court Approval

13. Based upon discussions with the Debtors' other professionals and my familiarity with the Plan, I understand that Article II.B of the Plan requires that all Professionals requesting compensation pursuant to sections 327, 328, 329, 330, 331, or 363 of the Bankruptcy Code for services rendered or reimbursement of expenses incurred before the Confirmation Date file a fee

application for final allowance of their Professional Fee Claims no later than thirty (30) days after the Effective Date. Accordingly, I believe that the Plan satisfies section 1129(a)(4) of the Bankruptcy Code.

E. Section 1129(a)(5) of the Bankruptcy Code: The Identity of the Post-Effective Date Debtors' Officers and Directors Has Been Disclosed

14. The Plan provides that, on the Effective Date, all members or managers of existing boards or governance bodies shall be deemed to have resigned, and the Plan Administrator will be appointed as the sole officer and director of each of the post-Effective Date Debtors. The identity of the Plan Administrator and his proposed compensation was disclosed in the Plan Supplement. It is my understanding and belief that the appointment of the Plan Administrator is consistent with the interests of the Debtors' creditors and equity security holders and with public policy. Accordingly, I believe that the Plan satisfies the requirements of section 1129(a)(5) of the Bankruptcy Code.

F. Section 1129(a)(6) of the Bankruptcy Code: The Plan Does Not Contain Any Rate Changes

15. The Plan does not provide for any rate changes by the Debtors. Therefore, section 1129(a)(6) of the Bankruptcy Code is inapplicable to these Chapter 11 Cases.

G. Section 1129(a)(7) of the Bankruptcy Code: The Plan Satisfies the "Best Interests Test"

16. I have been advised that the Bankruptcy Code requires that, with respect to each impaired Class of Claims and Interests under the Plan, each Holder of such Claim or Interest must (i) accept the Plan or (ii) receive or retain property under the Plan that is not less than the amount that such Holder would receive or retain in a chapter 7 liquidation of the Debtors. For the purposes of determining whether the Plan meets this requirement, the Debtors prepared the liquidation analysis attached as Exhibit D to the Disclosure Statement. It demonstrates that the Plan satisfies

the requirements of section 1129(a)(7) of the Bankruptcy Code, as it indicates that all Holders of Allowed Claims and Interests will receive under the Plan not less than such Holders would receive if these Chapter 11 Cases were converted to chapter 7 cases.

17. In addition, the SPARC Settlement, the Committee Settlement, and the funding of the Plan Administration Amount are all contingent upon confirmation of the Plan and the occurrence of the Effective Date. Therefore, if these Chapter 11 Cases were converted to chapter 7, the various concessions and contributions provided by the SPARC Parties and the ABL Lenders, as applicable, including the SPARC Parties' waiver of the right to recover from the Debtors any amounts on account of the SPARC Payable (which would otherwise substantially dilute recoveries to Holders of Allowed General Unsecured Claims), and the ABL Lenders allowing the Debtors to fund the Plan Administration Amount from the Debtors' cash on hand (which is cash collateral subject to the ABL Liens under the Cash Collateral Order), would not be available to the Debtors' estates.

18. Without the SPARC Settlement, the Committee Settlement, and the funding of the Plan Administration Amount, among other things, Holders of Allowed General Unsecured Claims would realize significantly lower recoveries. On the other hand, the Plan will result in, among other things, Allowed Administrative Claims (including Professional Fee Claims), Priority Tax Claims, Other Secured Claims and Other Priority Claims being paid in full, and Holders of Allowed General Unsecured Claims receiving a significantly greater distribution on account of their Allowed General Unsecured Claims, none of which is likely to occur if these Chapter 11 Cases were converted to chapter 7.

19. As a result, I believe that the Plan is a superior alternative to converting these Chapter 11 Cases to chapter 7 of the Bankruptcy Code (and any other theoretical alternatives to

the Plan), and will clearly provide each Holder of an Allowed General Unsecured Claim with a greater recovery than such Holder would receive upon conversion of these Chapter 11 Cases to chapter 7. Indeed, it is likely that Holders of Allowed General Unsecured Claims would likely receive no recovery in a chapter 7 case. In light of the foregoing, I believe that the Plan satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code.

H. Section 1129(a)(8) of the Bankruptcy Code: The Plan Has Been Accepted by Each of the Voting Classes

20. Based on my review of the Voting Report, each Voting Class voted to accept the Plan. Pursuant to the Plan and the Disclosure Statement and Solicitation Procedures Order, Class 9 (Existing Equity Interests) was not entitled to vote on the Plan and is deemed to have rejected the Plan.[4] Nonetheless, it is my understanding that Plan does not discriminate unfairly and is fair and equitable with respect to such Class of Interests.

I. Section 1129(a)(9) of the Bankruptcy Code: The Plan Provides for Payment in Full of All Allowed Priority Claims

21. Based upon my discussions with the Debtors' other professionals and my familiarity with the Plan, I understand that, except to the extent that the Holder of a particular Allowed Claim has agreed to a different treatment of such Claim, Article II of the Plan provides for the treatment required by section 1129(a)(9) of the Bankruptcy Code for each of the various claims specified in sections 507(a)(1)-(8) of the Bankruptcy Code.

[4] Class 7 (Intercompany Claims) and Class 8 (Intercompany Interests) were not entitled to vote on the Plan because they are either Unimpaired and presumed to accept the Plan, or Impaired and deemed to reject the Plan.

J. Section 1129(a)(10): At Least One Class of Impaired, Non-Insider Claims Has Accepted the Plan

22. I understand that the Plan complies with section 1129(a)(10) of the Bankruptcy Code because each Voting Class is Impaired and has accepted the Plan, without including the acceptance of the Plan by any insiders in such Classes.

K. Section 1129(a)(11) of the Bankruptcy Code: The Plan is Feasible

23. It is my understanding that section 1129(a)(11) of the Bankruptcy Code requires that the Court determine that the Plan is feasible prior to confirmation, *i.e.*, that it is not likely to be followed by liquidation or the need for further financial reorganization, unless a liquidation is proposed in the plan. I understand that, in the context of the Plan, to the extent applicable, the feasibility test requires that the Court determine whether the Plan may be implemented and has a reasonable likelihood of success.

24. I believe that the Plan is feasible in that, at a minimum, there are adequate means of implementation. As an initial matter, the Plan is a plan of liquidation, and provides that the Debtors will be liquidated dissolved at some time after the Effective Date, and thus it is my understanding that the feasibility test may be inapplicable since a liquidation is proposed in the Plan. Assuming the feasibility test applies, the Plan provides for the appointment of the Plan Administrator to effectuate the distributions under the Plan, administer the Claims resolution process, liquidate or otherwise monetize the Distribution Co. Assets, and wind down the Debtors. Also, I believe that the Plan Administration Amount and the Professional Fee Escrow Amount, as applicable, will be sufficient to allow the Plan Administrator to make all payments required under the Plan on account of anticipated Allowed Administrative Claims (including Professional Fee Claims), Priority Tax Claims, Other Secured Claims and Other Priority Claims and otherwise administer the Plan and wind down the Debtors. Therefore, to the extent necessary, I believe that

the Plan is feasible because the Plan and transactions contemplated thereby: (a) provide the financial wherewithal necessary to implement the Plan; and (b) offer reasonable assurance that the Plan is workable and has a reasonable likelihood of success. Accordingly, based upon the foregoing, I believe that the Plan satisfies the feasibility requirements (if any, given that this is a plan of liquidation) of section 1129(a)(11) of the Bankruptcy Code.

L. Section 1129(a)(12) of the Bankruptcy Code: All Statutory Fees Have or Will be Paid under the Plan

25. I have been advised that the Plan satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code because it provides that all applicable statutory fees will be paid before or after the Effective Date in accordance with the terms of the Plan.

M. Sections 1129(a)(13)-1129(a)(16) of the Bankruptcy Code Are Inapplicable

26. It is my understanding that sections 1129(a)(13)-1129(a)(16) are inapplicable to the Plan.

N. Section 1129(b) of the Bankruptcy Code: The Plan Satisfies the "Cram-Down" Requirements for Rejecting Classes

27. I understand that, pursuant to section 1129(b) of the Bankruptcy Code, a plan may be confirmed notwithstanding the deemed rejection by a class of claims or equity interests (i.e., "crammed down") so long as the plan satisfies all of the requirements of section 1129(a) of the Bankruptcy Code, and the plan does not discriminate unfairly and is fair and equitable as to such non-accepting class or classes. For the reasons discussed below, I believe that the Plan may be confirmed as to Class 9 (Existing Equity Interests), which are deemed to reject the Plan and, as applicable, Class 7 (Intercompany Claims) and Class 8 (Intercompany Interests) (collectively, the "**Rejecting Classes**"), pursuant to the "cramdown" provisions of section 1129(b) of the Bankruptcy Code.

28. Based on my discussions with counsel for the Debtors, it is my understanding and belief that the Plan does not unfairly discriminate with respect to the Rejecting Classes.

29. I have been advised that sections 1129(b)(2)(B) and 1129(b)(2)(C) of the Bankruptcy Code provide that a plan is fair and equitable with respect to a class of impaired dissenting unsecured claims or equity interests if it provides that any holder of a claim or equity interest in a class junior to such dissenting class of claims or equity interests will not receive or retain under the plan on account of such junior claim or equity interest any property. It is my understanding that no Holder of a Claim or Interest in a Class junior to any of the Rejecting Classes will receive or retain any property under the Plan on account of such junior Claim or Interest. It is my further understanding that no Holder of a Claim or Interest in a Class senior to Holders in the Rejecting Classes will receive or retain any property under the Plan in an amount in excess of such Holder's Claims or Interests. For these reasons, I believe that the Plan is "fair and equitable" and, therefore, consistent with the requirements of section 1129(b) of the Bankruptcy Code.

30. In light of the foregoing, I believe that the cram down test of section 1129(b) is satisfied.

O. Section 1129(c) of the Bankruptcy Code: The Plan is the Only Plan Currently on File

31. I understand that the Plan is the only plan currently on file in these Chapter 11 Cases and, accordingly, the requirement of section 1129(c) of the Bankruptcy Code has been met.

P. Section 1129(d) of the Bankruptcy Code: The Purpose of the Plan is Not Tax or Securities Law Avoidance

32. The purpose of the Plan is not to avoid taxes or the application of section 5 of the Securities Act of 1933, and it is my understanding that no Governmental Unit or any other party has requested that the Court decline to confirm the Plan on the grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities

Act of 1933. Therefore, I believe that the Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code.

II. The Discretionary Contents of the Plan are Appropriate

A. The Plan Satisfies the Discretionary Provisions of Section 1123(b) of the Bankruptcy Code

33. I have been advised that section 1123(b) of the Bankruptcy Code allows a plan to include a variety of different permissive provisions. As discussed below, I believe that each of the Plan's permissive provisions comport with section 1123(b) of the Bankruptcy Code.

34. Section 1123(b)(1) of the Bankruptcy Code. As permitted under section 1123(b)(1) of the Bankruptcy Code, Article III of the Plan classifies and describes the treatment for Claims and Interests under the Plan, and identifies which Claims and Interests are impaired or unimpaired.

35. Section 1123(b)(2) of the Bankruptcy Code. As permitted under section 1123(b)(2) of the Bankruptcy Code, Article V of the Plan provides that all Executory Contracts or Unexpired Leases not previously assumed, assumed and assigned, or rejected pursuant to an order of the Bankruptcy Court, will be deemed rejected, in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, other than those Executory Contracts or Unexpired Leases that (1) are the subject of a motion to assume or reject that is pending on the Effective Date, (2) are identified on the Schedule of Assumed Executory Contracts and Unexpired Leases, if any, or (3) are a contract, release, or other agreement or document entered into in connection with the Plan. The Debtors' determinations regarding the rejection, assumption, or assumption and assignment of Executory Contracts or Unexpired Leases under the Plan are necessary to the implementation of the Plan and the winddown of the Debtors' Estates, and are in the best interests of the Debtors and their Estates.

36. Section 1123(b)(3) of the Bankruptcy Code. I have been informed that, in accordance with section 1123(b)(1) of the Bankruptcy Code, the Plan provides for the settlement of certain claims and Causes of Action that belong to the Debtors' estates. In particular, the SPARC Settlement and the Committee Settlement, without which the Debtors would be unable to propose the Plan, represent a fair and reasonable resolution of any and all claims and Causes of Action compromised and released under the Plan.

37. Specifically, (i) the concessions made by the ABL Agent (on behalf of the ABL Lenders), the Term Loan Agent (on behalf of the Term Loan Lenders), the Subordinated Loan Agent (on behalf of the Subordinated Loan Lenders), along with the SPARC Settlement and the Committee Settlement, provide significant value to the Debtors and their estates, including greater recoveries to Holders of Allowed General Unsecured Claims, favorably resolve any potential disputes regarding the significant SPARC Payable, and enable the prompt and efficient monetization of the Distribution Co. Assets and wind-down of the Debtors and their estates through the Plan; (ii) absent the funding of the Plan Administration Amount from the Debtors' cash on hand (which is cash collateral subject to the ABL Liens under the Cash Collateral Order), the SPARC Parties waiving the right to recover from the Debtors any amounts on account of the SPARC Payable (which would otherwise substantially dilute recoveries to Holders of Allowed General Unsecured Claims), and the benefits of the Committee Settlement, the Debtors would lack sufficient funds to develop and implement the Plan, or any other chapter 11 plan, and I believe that no distributions would be available for Holders of Allowed Priority Tax Claims, Other Secured Claims, Other Priority Claims, and General Unsecured Claims, let alone the recoveries that Holders of Allowed General Unsecured Claims are anticipated to receive under the Plan; (iii) the releases to be provided under the Plan, including those contemplated by the SPARC Settlement,

are given in exchange for appropriate consideration, and are vital to the Plan, as the ABL Lenders and the SPARC Parties would not have agreed to the terms of the Plan, including the SPARC Settlement and the Committee Settlement but for such releases; (iv) the Plan was negotiated extensively, at arm's-length, and in good faith among representatives of the Debtors (including the Debtors' two independent managers), the ABL Agent (on behalf of the ABL Lenders), the Term Loan Agent (on behalf of the Term Loan Lenders), the Subordinated Loan Agent (on behalf of the Subordinated Loan Lenders), the SPARC Parties, and the Committee, all of whom are represented by sophisticated counsel; and (v) the terms of the Plan are otherwise in the best interests of the Debtors, their estates, and Holders of Allowed Claims and Interests, and are fair, equitable, and reasonable under the facts and circumstances of these Chapter 11 Cases.

38. Ultimately, after carefully considering the terms of the Plan, including the SPARC Settlement and the Committee Settlement, and the theoretical alternatives to the Plan, including formulation of an alternative plan of liquidation, or conversion of these Chapter 11 Cases to chapter 7 of the Bankruptcy Code, I believe, in my business judgment, that the Plan is a superior alternative. As set forth more fully below, I have carefully considered the Debtor Releases to be provided under the Plan and I believe, in my business judgment, that such releases are necessary and appropriate under the circumstances of these Chapter 11 Cases and given in exchange for appropriate consideration. Moreover, as discussed below, I have been advised that the Third-Party Releases are fully consensual, and have been granted by applicable third parties on an informed basis.

39. In light of the foregoing, I believe that each of the Plan's permissive provisions comport with the requirements of the Bankruptcy Code.

B. The Plan's Release, Exculpation, and Injunction Provisions are Reasonable and in the Best Interest of the Debtors' Estates

40. I understand that the Plan includes several discretionary provisions releasing, exculpating and enjoining the pursuit of certain claims and Causes of Action. As discussed below, I believe that each of these provisions is appropriate under the circumstances of these Chapter 11 Cases.

i. The Debtor Release is Appropriate

41. Article VIII.B of the Plan (the "**Debtor Release**") provides for certain releases of claims and Causes of Action held by the Debtors against the Released Parties. I believe that the Debtor Release was instrumental in formulating and obtaining support for the Plan, which is the result of, among other things, extensive arm's length and good faith negotiations and mediation. Many of the Released Parties, including the Debtors' officers and managers, have served the Debtors during these Chapter 11 Cases, and I believe that they have worked tirelessly to maximize value for the benefit of all stakeholders.

42. Notably, the Debtor Release was negotiated in connection with the Plan Support Agreement, is a vital component of the Plan and the various compromises contemplated therein, and constitutes a sound exercise of the Debtors' business judgment. Moreover, the Debtor Release did not include the SPARC Parties until the SPARC Settlement had been approved by the Debtors' independent managers, and was given in exchange for significant consideration. As discussed in the *Declaration of Scott Vogel In Support of Confirmation of the Debtors Amended Joint Plan Pursuant to Chapter 11 of the Bankruptcy Code* (the "**Vogel Declaration**"), filed contemporaneously herewith, without the Debtor Release, the Debtors would not have secured support from the Debtors' secured lenders and various other Released Parties for the Plan, including the SPARC Parties.

43. In analyzing the Debtor Release, it is important to recognize that the Debtor Release reflects the review and assessment of potential claims by the independent Board. To carry out its mandate and discharge its responsibilities, the Board retained Young Conaway as investigation counsel. As detailed in the Vogel Declaration, at the conclusion of the Investigation, the Board determined that there were no colorable or valuable claims held by the Debtors against any Insiders as a result of the prepetition conduct of such parties, and there were no actionable or colorable claims against the Debtors' secured lenders.

44. Based on my participation in the Plan process, understanding of the Investigation, consideration of the information provided to me by the Debtors' legal and other advisors, and overall professional experience, I believe that the Debtor Release is an essential component of the Plan, constitutes a sound exercise of the Debtors' business judgment, and is supported by fair, sufficient, and adequate consideration. Moreover, I understand that the Committee supports the Debtor Release, consistent with the terms of the Committee Settlement, further underscoring that the Debtor Release is appropriate under the circumstances. I believe that without the Debtor Release, the Debtors would neither have been able to secure the significant benefits provided by the Plan, nor build consensus around the Plan.

ii. The Third-Party Releases are Consensual and Appropriate

45. Article VIII.C of the Plan provides for certain releases granted by the Releasing Parties, which includes all Holders of General Unsecured Claims that *opt into* such releases. The Third-Party Releases are consensual in that only parties that have affirmatively opted into such Third-Party Releases (as is the case for Holders of General Unsecured Claims) or otherwise agreed to provide mutual releases to the Debtors and the other Releasing Parties pursuant to and/or in connection with negotiation of the terms of the PSA and the Plan (as is the case for the other

Releasing Parties) are deemed to have granted such releases. Accordingly, I believe that the Third-Party Releases are reasonable and should be approved.

iii. The Exculpation Clause is Appropriate

46. Article VIII.D of the Plan provides for the exculpation of the Exculpated Parties (the "**Exculpation Clause**"). I understand that the Exculpation Clause prevents collateral attacks against estate fiduciaries or parties that have acted in good faith to help facilitate the Debtors' prosecution of these Chapter 11 Cases. I believe that the Exculpated Parties have played a critical role in achieving a consensual chapter 11 plan, which enjoys overwhelming support from voting creditors. The Exculpation Clause represents an integral piece of the Plan, and is the product of good faith, arm's-length negotiations, which were made possible only through contributions by the Exculpated Parties prior to and during these Chapter 11 Cases. I understand that the Exculpation Clause is tailored to protect the Exculpated Parties from potentially vexatious litigation based on the actions taken in furtherance of the Debtors' chapter 11 efforts. I further understand that it does not release any claims based on any act or omission that constitutes actual fraud, gross negligence, or willful misconduct as determined in a Final Order by a court of competent jurisdiction. Finally, I have been advised that the scope of the Exculpation Clause is appropriate under the circumstances, both with respect to conduct covered and the applicable time period to which it relates, in accordance with market practice in this district. I believe that the Exculpation Clause affords reasonable and appropriate protections that parties reasonably relied upon in actively engaging in the Debtors' chapter 11 efforts, to the benefit of all of the Debtors' stakeholders. Accordingly, I believe that the Exculpation Clause should be approved.

III. Cause Exists to Waive the Stay of the Confirmation Order.

47. I have been advised that Bankruptcy Rule 3020(e) generally provides a 14-day stay of the effectiveness of an order confirming a chapter 11 plan, unless the Court orders otherwise. I

understand a stay of such order will delay the Debtors' implementation of the Plan, extending the time that the Debtors must remain in chapter 11. The Plan (including all documents necessary to effectuate the Plan) is the product of extensive, good-faith negotiations among the Debtors and their key stakeholders. I believe that extending the length of time that the Debtors remain in chapter 11 would only serve to increase the administrative and professional costs incurred by the Debtors' estates, a cost which the Debtors and their creditors cannot bear. For all of these reasons, I believe that the Court should grant the Debtors' request to waive the stay imposed by the Bankruptcy Rules so that the Court's order confirming the Plan may be effective immediately upon its entry.

IV. Conclusion

48. For the reasons discussed above, as the Debtors' Co-CRO, and having been actively involved in these Chapter 11 Cases, I believe that the Plan is appropriate, in the best interests of the Debtors and their estates, and should be confirmed.

[*Remainder of Page Intentionally Left Blank*]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: June 23, 2025

/s/ Michael Brown
Michael Brown
Co-Chief Restructuring Officer