

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

In re:

PARETEUM CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No.: 22-10615 (LGB)

(Jointly Administered)

**DECLARATION OF ANTHONY M. SACCULLO
IN SUPPORT OF PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER APPROVING MODIFIED DISCLOSURE STATEMENT
AND CONFIRMING MODIFIED CHAPTER 11 PLAN OF LIQUIDATION
FOR PARETEUM CORPORATION AND CERTAIN OF ITS AFFILIATES**

I, Anthony M. Saccullo, being duly sworn, state the following under penalty of perjury:

1. I am the Wind Down Officer of Pareteum Corporation and its affiliates as debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”). The Debtors, as “proponents of the plan” within the meaning of section 1129 of title 11 of the United States Code (the “Bankruptcy Code”), filed the *Modified Chapter 11 Plan of Liquidation for Pareteum Corporation and Certain of Its Affiliates*, dated as of August 22, 2022 [Docket No. 299-1] (as amended, modified, and/or supplemented at [Docket No. 364, Ex. A], the “Plan”), and the *Modified Disclosure Statement for the Chapter 11 Plan of Liquidation for Pareteum Corporation and Certain of Its Affiliates*, dated August 22, 2022 [Docket No. 300-1] (as amended, modified, and/or supplemented at [Docket No. 365, Ex. A], the “Disclosure Statement”).

¹ The Debtors in the Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, if applicable, are: Pareteum Corporation (7538); Pareteum North America Corp. (f/k/a Elephant Talk North America Corp.) (9623); Devicescape Holdings, Inc. (2909); iPass, Inc. (4598); iPass IP LLC (2550); Pareteum Europe B.V.; Artidium Group Ltd. (f/k/a Artidium PLC); Pareteum Asia Pte. Ltd.; and Pareteum N.V. (f/k/a Artidium N.V.). The mailing address of the Debtors, solely for the purposes of notices and communications, is c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.



2. I respectfully submit this declaration (this "Declaration") in support of confirmation of the Plan and approval of the Disclosure Statement on a final basis.² I have reviewed, and I am generally familiar with, the terms and provisions of the Plan, the Disclosure Statement, and the requirements for confirmation of the Plan under section 1129 of the Bankruptcy Code.

3. Except as otherwise set forth herein, all statements in this Declaration are based on my personal knowledge, my familiarity with the Debtors' operations, my discussions with the Debtors' legal professionals, and/or my review of relevant documents. If I were called upon to testify, I could and would, based on the foregoing, testify competently to the facts set forth herein.

The Plan Satisfies Section 1129 of the Bankruptcy Code

4. Based on my understanding of the Plan, the events that have occurred prior to and during the Debtors' Chapter 11 Cases, and discussions I have had with the Debtors' legal advisors regarding the requirements set forth in the Bankruptcy Code, I believe that the Plan satisfies all of the applicable requirements of section 1129 of the Bankruptcy Code.

5. Section 1129(a)(1). I understand that the Plan satisfies section 1129(a)(1) of the Bankruptcy Code because it complies with sections 1122 and 1123 of the Bankruptcy Code. In that regard, I understand that the Plan designates the classification of Claims and Interests in accordance with section 1122 of the Bankruptcy Code. I also understand that the Plan provides for the separate classification of Claims against and Interests in the Debtors based upon the differences in legal nature and/or priority of such Claims and Interests. I further believe that the Plan satisfies each

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Plan.

requirement set forth in section 1123(a) of the Bankruptcy Code regarding the required contents of a Chapter 11 plan.

6. I believe that valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Interests. I also understand that all Claims and Interests within each Class have the same or substantially similar rights as the other Claims and Interests in that Class and will receive the same treatment under the Plan for their respective Claims and Interests in the same Class.

7. I am aware that Article III of the Plan identifies that there are Classes of Claims that are not Impaired by the Plan, as required under section 1123(a)(2) of the Bankruptcy Code, and specifies the treatment of Impaired Classes of Claims and Interests as required by section 1123(a)(3) of the Bankruptcy Code. It is my understanding that the Plan provides for the same treatment by the Debtors for each Claim or Interest in each respective Class unless the Holder of a particular Claim or Interest has agreed to a less favorable treatment of such Claim or Interest, thereby satisfying section 1123(a)(4) of the Bankruptcy Code.

8. It is my understanding that Article V of the Plan satisfies the requirements of section 1123(a)(5) of the Bankruptcy Code by setting forth the means for implementation of the Plan. I am aware that Section 3.2 and 3.3 of the Plan provides for the limited consolidation of the Debtors for the purposes of, *inter alia*, administering Claims and any remaining assets, making Distributions, and winding down the Debtors' Estates; specifically, each of the Debtors and their Estates shall, for purposes of the Plan only, be treated as though they were merged and (a) all Assets and liabilities of the Debtors shall, for purposes of the Plan only, be treated as though they were merged,

(b) all guarantees of the Debtors of payment, performance, or collection of obligations of any other Debtor shall be eliminated and canceled, (c) all joint or duplicate obligations of two or more Debtors, and all multiple Claims against such Entities on account of such joint or duplicate obligations, shall be considered a single claim against the Debtors (including for purposes of Distributions and reserves) without the need for further action by the Debtors or the Wind Down Officer, and (d) any Claim filed in the Chapter 11 Cases shall be deemed filed against the consolidated Debtors and a single obligation of the consolidated Debtors on and after the Effective Date. I understand that Article V of the Plan includes further provisions with respect for implementation of the Plan, including: (a) the dissolution of the Debtors; (b) payments required pursuant to the Plan from the reserves and escrows established thereunder; and (c) and preservation of certain Causes of Action for the Liquidating Trustee to pursue in its discretion. I understand that pursuant to Sections 1.84 and 5.4 of the Plan, Saccullo Business Consulting, LLC ("SBC"), serving in its capacity as such by and through me, will be appointed as Liquidating Trustee, and I have been identified as the Wind Down Officer pursuant to Section 1.132 of the Plan.

9. It is my understanding that the Plan is a liquidating plan and does not provide for the issuance of equity or other securities by the Debtors, and that, accordingly, the requirements of section 1123(a)(6) of the Bankruptcy Code do not apply to the Plan.

10. I understand the Plan complies with section 1123(a)(7) as it contains only those provisions that are consistent with the interests of Holders of Claims and Interests and with public policy with respect to the manner of selection of the Liquidating Trustee and any successor(s) thereto. I am aware that the Debtors have disclosed the corporate governance structure of the liquidating Debtors in Article V of

the Plan and the Plan Supplement. Furthermore, I am aware that Section 5.3 of the Plan provides that, upon the Effective Date, the employment, retention, appointment and authority of all officers, directors, employees, and Professionals of the Debtors and Creditors' Committee (including the Wind Down Officer) shall terminate. Upon the Effective Date, and unless otherwise provided for in the Plan or the Confirmation Order, the Liquidating Trustee shall succeed to all rights, powers, and authority otherwise applicable to the Debtors' managers, officers, and directors in accordance with Section 5.4 of Plan. Accordingly, I understand control of the Debtors by the Liquidating Trustee will be consistent with public policy.

11. I understand that as contemplated by section 1123(b)(1) of the Bankruptcy Code, Article III of the Plan describes the treatment for Unimpaired Classes of Claims and Impaired Classes of Claims and Interests.

12. I understand that with respect to section 1123(b)(2) of the Bankruptcy Code, except as otherwise provided in the Confirmation Order, the Plan, Section 8.1 of the Plan, on the Effective Date, all remaining Executory Contracts of the Debtors still in effect shall be deemed rejected in accordance with sections 365 and 1123 of the Bankruptcy Code, unless such Executory Contract (a) has previously been assumed by order of the Bankruptcy Court in effect as of the Effective Date (which order may be the Sale Order or the Confirmation Order), (b) is the subject of a motion to assume filed on or before the Effective Date, or (c) has expired or terminated pursuant to its own terms prior to the Effective Date.

13. As I understand is permitted by section 1123(b)(5) of the Bankruptcy Code, Article III of the Plan modifies the rights of certain Holders of Claims and Interests.

14. As I understand is permitted by section 1123(b)(6) of the Bankruptcy Code, Article X of the Plan contains certain exculpation and injunction provisions that are consistent with applicable provisions of the Bankruptcy Code and relevant case law, and that no objections have been raised regarding same.

15. I am aware that Section 10.2 of the Plan exculpates the Exculpated Parties from, among other things, certain claims arising out of or relating to the Chapter 11 Cases and the agreements made in connection therewith (the "Exculpation"). I understand that this provision provides necessary and customary protections to those parties in interest (whether estate fiduciaries or otherwise) whose efforts were instrumental in facilitating the negotiation and confirmation of the Plan and the conclusion of the Chapter 11 Cases. I believe the Exculpation is an essential inducement to cause parties to participate collaboratively and constructively in the formulation and negotiation of the Plan and that the Exculpation is appropriately tailored to protect the Exculpated Parties from disgruntled, litigious stakeholders seeking an avenue for a recovery to which they are otherwise not entitled. I believe that the Exculpation is also supported by substantial consideration and was critical and indispensable to obtaining the support of the Exculpated Parties. As such, I believe the protections afforded by the Exculpation are, therefore, reasonable and appropriate, and the Exculpation is appropriate and should be approved.

16. I am aware that the injunction set forth in Section 10.4 of the Plan (the "Plan Injunction") provides that "all injunctions or stays arising under or entered during these Chapter 11 Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the closing of the Chapter 11 Cases." I believe the Plan Injunction is a necessary part of the Plan because it enforces the Exculpation and the public policy

underlying chapter 11 of the Bankruptcy Code. Further, I understand that the Plan Injunction is consensual as to any party that did not specifically object thereto. Thus, I believe the Plan Injunction is appropriate and should be approved.

17. I understand that there are no Executory Contracts being assumed under the Plan, except to the extent set forth in the Schedule of Assumed and Assigned Executory Contracts. Thus, I believe the Plan complies with section 1123(d) of the Bankruptcy Code.

18. Section 1129(a)(2). To the best of my knowledge and belief, based on discussions with the Debtors' legal advisors, and as evidenced by the Court's entry of the *Order (I) Approving Certain Key Dates Relating to Confirmation of the Debtors' Plan, Including Scheduling a Combined Hearing to Consider Approval of Debtors' Disclosure Statement and Plan; (II) Approving the Form and Manner of Combined Hearing Notice; (III) Approving Debtors' Disclosure Statement on a Provisional Basis; and (IV) Approving (A) Procedures for Solicitation; (B) Forms of Ballots and Notices; (C) Procedures for Tabulation of Votes; and (D) Procedures for Objections; and (V) Establishing a Bar Date for Filing Administrative Claims Arising From the Petition Date Through and Including August 31, 2022* dated as of August 22, 2022 [Docket No. 296] (the "Solicitation Procedures Order"), prior orders of the Court entered in the Chapter 11 Cases, and the filings submitted by the Debtors, I believe that the Debtors have complied with the applicable provisions of the Bankruptcy Code, including the provisions of sections 1125 and 1126 regarding disclosure and solicitation of the Plan.

19. I understand that, as set forth in the *Certificate of Leanne V. Rehder Scott with Respect to the Tabulation of Votes on the Modified Chapter 11 Plan of Liquidation for Pareteum Corporation and Certain of its Affiliates*, dated as of September 29, 2022 [Docket No. 358] (the "Voting Declaration"), each Holder of a Claim or Interest was sent the

solicitation materials required by the Solicitation Procedures Order. *See Certificate of Service*, dated as of September 7, 2022 [Docket No. 326] (the "Solicitation Declaration").

I understand that in accordance with the Solicitation Procedures Order, the Holders of Claims entitled to vote received the Solicitation Procedures Order, a letter from the Creditors' Committee, the Combined Hearing Notice (with instructions detailing how to access copies of the Disclosure Statement and Plan on the Debtors' case website), and an appropriate form of Ballot and return envelope. I understand that those Holders of Claims and Interests not entitled to vote received the Combined Hearing Notice.

20. To the best of my knowledge and belief, the Debtors solicited acceptances of the Plan in good faith and did not solicit acceptances of the Plan from any creditor prior to entry of the Solicitation Procedures Order. Based on the Voting Declaration, I believe the Debtors properly solicited votes with respect to the Plan in accordance with the Solicitation Procedures Order.

21. To the best of my knowledge and belief, good, sufficient, and timely notice of the Combined Hearing and all other hearings in these Chapter 11 Cases has been provided to all Holders of Claims and Interests, and all other parties in interest to whom notice was required to have been provided. *See Solicitation Declaration*. Accordingly, I believe that the Plan satisfies section 1129(a)(2) of the Bankruptcy Code.

22. Section 1129(a)(3). I believe the Debtors have proposed the Plan in good faith and not by any means forbidden by law. I believe the Plan is the product of extensive arm's-length negotiations between the Debtors and their creditors and equity holders. Furthermore, I understand that the Plan has been proposed in good faith and for the legitimate purpose of winding down the Estate of each of the Debtors and distributing the assets of the Estates in accordance with the priority scheme set forth in the Bankruptcy Code, thereby maximizing the recovery available to Holders of Claims.

Finally, I believe that the near-unanimous support of the Plan as demonstrated by the Voting Declaration is strong evidence that the Plan has a proper purpose. Accordingly, I believe that the Plan satisfies section 1129(a)(3) of the Bankruptcy Code.

23. Section 1129(a)(4). I understand that payments made or to be made by the Debtors for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases have been approved by, or are subject to the approval of, the Bankruptcy Court. Accordingly, the Plan satisfies section 1129(a)(4) of the Bankruptcy Code.

24. Section 1129(a)(5). I am aware that SBC, serving in its capacity as such by and through me, has been identified as the Liquidating Trustee. Accordingly, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

25. Section 1129(a)(6). I understand that because the Debtors are not charging rates that are the subject of any regulatory commission jurisdiction, section 1129(a)(6) of the Bankruptcy Code is inapplicable.

26. Section 1129(a)(7). I understand that the Bankruptcy Code requires that, with respect to each Impaired Class of Claims and Interests, each Holder of such Claim or Interest must either (a) accept the Plan or (b) receive or retain under the Plan on account of such Claim or Interest property of a value, as of the Effective Date, that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code.

27. Section 1129(a)(8). I understand that the Plan may be confirmed even though section 1129(a)(8) of the Bankruptcy Code is not satisfied with respect to Class 5 (Interests). Class 5 Interests are deemed to reject the Plan. Nevertheless, based on the advice of Debtors' counsel, I understand the Plan may still be confirmed under section 1129(b) of the Bankruptcy Code because (a) an Impaired class voted to accept

the Plan; and (b) the Plan does not discriminate unfairly and is fair and equitable with respect to the Interests in the class not accepting the Plan. As a result, the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code.

28. Section 1129(a)(9). I understand that, in accordance with section 1129(a)(9), the Plan provides that each Holder of an Allowed Administrative Claim will receive payment in full in Cash on, or as soon as reasonably practical after, the later of (a) the Effective Date, (b) the first Business Day after the date that is thirty (30) calendar days after the date on which such Administrative Claim becomes an Allowed Administrative Claim, or as soon thereafter as is practicable, or (c) the date that is thirty (30) calendar days after the date on which an Allowed Administrative Claim becomes payable under any agreements relating thereto. In addition, I am aware that the Plan provides that each Holder of an Allowed Priority Tax Claim shall receive (a) Cash equal to the amount of the Allowed Priority Tax Claim on the later of the Effective Date and the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon as reasonably practicable thereafter or (b) installment payments in accordance with section 1129(a)(9)(C) of the Bankruptcy Code. Furthermore, I am aware that the Plan provides that unless Holders of Allowed Other Priority Claims agree to less favorable treatment, on or as soon as reasonably practicable after the later of (A) the Effective Date if such Other Priority Claim is an Allowed Other Priority Claim on the Effective Date or (B) the date on which such Other Priority Claim becomes an Allowed Other Priority Claim, each Holder of an Allowed Other Priority Claim shall receive, in full and final satisfaction, settlement, and release, and in exchange for, such Allowed Other Priority Claim, Cash equal to the unpaid portion of such Allowed Other Priority Claim.

29. I understand that the Plan Reserve Account will be used to pay in full, in Cash, Allowed Administrative Claims (other than Professional Fee Claims which will be paid from the Professional Fee Escrow), Priority Tax Claims, Secured Claims, and Other Priority Claims that are (i) Allowed Claims as of the Effective Date, or (ii) Disputed Claims that subsequently become Allowed Claims.

30. Based on the information currently reflected in the Debtors' books and records, on the Effective Date the Debtors will have sufficient Cash to pay Administrative Claims, U.S. Trustee Fees, Priority Tax Claims, and Other Priority Claims, and to fund the Professional Fee Escrow and the Plan Reserve Account. I submit that such good faith projections and estimates, however, are only estimates and projections, which are subject to, *inter alia*, the Court's ultimate determination regarding the allowance of such Claims, including the applications by the Professionals for the Debtors and the Creditors' Committee for final allowance of fees and expenses and entry of an order regarding the same. The Creditors' Committee has agreed to the process by which the Debtors and/or Liquidating Trust will be able to satisfy Allowed Professional Fee Claims so that the Plan can be confirmed as set forth in the Plan and the Confirmation Order.

31. Section 1129(a)(10). I understand that section 1129(a)(10) of the Bankruptcy Code requires the affirmative acceptance of the Plan by at least one Class of Impaired Claims. I am aware that Exhibit A to the Voting Declaration includes a table setting forth each of the Debtors and the voting results with respect to each Voting Class for each Debtor. It is my understanding that more than 50% in number and 66.67% in amount of Class 4 General Unsecured Claims that have voted, have voted to accept the Plan. Thus, I believe section 1129(a)(10) of the Bankruptcy Code is satisfied.

32. Section 1129(a)(11). I understand that section 1129(a)(11) of the Bankruptcy Code permits a plan to be confirmed if it is feasible, *i.e.*, it is not likely to be followed by liquidation or the need for further financial reorganization. I understand that in the context of a liquidating plan, feasibility is established by demonstrating that the Debtors are able to satisfy the conditions precedent to the Effective Date and otherwise have sufficient funds to meet its post-confirmation obligations to pay for the costs of administering and fully consummating the Plan and closing the Chapter 11 Cases. I believe the Debtors will have sufficient funds to administer and consummate the Plan and to close these Chapter 11 Cases. Therefore, I believe that the Plan has more than a reasonable likelihood of success and satisfies the feasibility requirements of section 1129(a)(11) of the Bankruptcy Code.

33. Section 1129(a)(12). I am aware that Section 12.1 of the Plan provides for the payment of all statutory fees by the Debtors on the Effective Date or when such fees are due. Accordingly, I believe that the Plan satisfies section 1129(a)(12) of the Bankruptcy Code.

34. Sections 1129(a)(13)–(16). Based on discussions with Debtors' legal advisors, it is my understanding that sections 1129(a)(13)–(16) of the Bankruptcy Code are inapplicable to the Debtors. Therefore, I believe such requirements are deemed satisfied.

35. Section 1129(b). Based on discussions with Debtors' legal advisors, it is my understanding that, pursuant to section 1129(b) of the Bankruptcy Code, a plan may be confirmed notwithstanding the rejection or deemed rejection by a class of claims or interests so long as the plan does not discriminate unfairly and is "fair and equitable" as to such non-accepting class. Here, I am aware that Holders of Interests in Class 5 are

deemed to reject the Plan, and I understand that section 1129(b) of the Bankruptcy Code applies with respect to such Class.

36. I believe the Plan does not unfairly discriminate against Class 5 Interests. I understand that with respect to the Plan for each Debtor, there exists only one class of equity interests, and all such Interests are afforded the same treatment under the Plan. Therefore, I believe the Plan does not unfairly discriminate within the meaning of section 1129(b)(1) of the Bankruptcy Code.

37. Based on discussions with Debtors' legal advisors, I believe the "fair and equitable" requirement is satisfied as to Holders of Interests because (a) no Interest that is junior to such Interests will receive or retain any property under the Plan on account of such junior Interest and (b) no Class of Claims or Interests senior to Class 5 Interests is receiving more than full payment on account of the Claims or Interests in such Class. Therefore, I believe the requirements of section 1129(b) of the Bankruptcy Code are satisfied.

38. Sections 1129(c)–(e). The Plan is the only plan filed in these Chapter 11 Cases, and accordingly, it is my understanding that section 1129(c) of the Bankruptcy Code, which prohibits confirmation of multiple plans, is inapplicable in these Chapter 11 Cases. The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933. Thus, I understand that the Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code. Finally, I understand that none of the Chapter 11 Cases is a "small business case," as that term is defined in the Bankruptcy Code, and, accordingly, section 1129(e) of the Bankruptcy Code is inapplicable.

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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 and belief.

Dated: October 4, 2022
New York, New York

By: /s/Anthony M. Saccullo
Anthony M. Saccullo
Wind Down Officer