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Attorneys for the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

<p>In re:</p> <p>PolarityTE, Inc., a Delaware corporation</p> <p style="text-align: center;">Debtor</p>	<p>Case No. 23-bk-22358-KRA</p> <p>Case No. 23-bk-22360-KRA</p> <p>Case No. 23-bk-22361-KRA</p>
<p>In re:</p> <p>PolarityTE, MD Inc., a Nevada corporation</p> <p style="text-align: center;">Debtor</p>	<p>Chapter 11</p> <p>Judge Kevin R. Anderson</p>
<p>In re:</p> <p>PolarityTE, Inc., a Nevada corporation</p> <p style="text-align: center;">Debtor</p>	<p style="text-align: center;">THIS FILING RELATES TO ALL DEBTORS¹</p>

**DEBTORS' EX PARTE MOTION FOR ORDER SHORTENING
TIME FOR HEARING ON DEBTORS' MOTION FOR ORDER
APPROVING KEY EMPLOYEE INCENTIVE PLAN**

¹ The Debtors in these jointly administered chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are PolarityTE, Inc. (9524); PolarityTE MD, Inc. (1555); and PolarityTE, Inc. (6882). The location of the Debtors' service address is 1960 S. 4250 W., Salt Lake City, UT 84104.



By this ex parte motion (the “**Ex Parte Motion**”), the above captioned debtors and debtors in possession PolarityTE, Inc., a Delaware corporation (“**PTE**”), PolarityTE MD, Inc., a Nevada corporation (“**PTE MD**”), and PolarityTE, Inc., a Nevada corporation (“**PTE NV**” and, together with PTE and PTE MD, the “**Debtors**” or each a “**Debtor**”), request expedited consideration and approval of Debtors’ Motion (the “**Motion**”) for entry of an order approving a key employee incentive plan (“**KEIP**”) as described in the Motion. In support of their Ex Parte Motion, the Debtors respectfully represent as follows:

I. JURISDICTION

1. The Bankruptcy Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. The Debtors’ principal offices and principal place of business are in Salt Lake City, Utah, within the District of Utah, and, therefore, venue is proper in this District under 28 U.S.C. §§ 1408(1) and 1409.

3. The bases for the relief requested herein are sections 105, 363, and 364 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and rules 9006(c) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

4. No trustee, examiner, or creditors’ committee has been appointed in the Debtors’ chapter 11 cases.

II. GENERAL BACKGROUND

5. PTE MD and PTE NV are each wholly owned subsidiaries of PTE, a publicly traded company.

6. The Debtors are a clinical stage biotechnology company with a promising product, SkinTE (“**SkinTE**”). SkinTE is a human cellular and tissue-based product derived and grown from a patient’s own skin to regenerate full-thickness skin with all its layers (epidermis, dermis

and hypodermis) and appendages (hair follicles and glands). SkinTE has been used to treat complex wounds, including both acute and chronic wounds, and can be used in addition to and/or in place of split-thickness skin grafting, full-thickness grafting, temporizing skin coverage and/or skin substitute products.

7. Previously the Debtors were selling SkinTE under the U.S. Food and Drug Administration's ("FDA") 361 HCT/P pathway governed by 21 C.F.R. 1271. SkinTE was earning revenue, which partially offset its operating expenses. However, based on FDA guidance, since May 2021, the Debtors have been conducting the first of two more-rigorous clinical trials under the FDA's 351 Biologic pathway, from which they derive no revenue. On this pathway, the Debtors' business will not be generating revenue again until obtaining FDA approval, which it anticipates in 2026.

8. Rather than abandon the clinical trials and their promising product, on the Petition Date, each of the Debtors filed a petition for relief under chapter 11 of the Bankruptcy Code (the "**Chapter 11 Cases**") in the United States Bankruptcy Court for the District of Utah (the "**Bankruptcy Court**"). The Debtors will seek to sell their assets, including the ongoing clinical trials, to the highest bidder who can maximize the value of the assets and, presumably, will have funding to allow the clinical trials to go forward and eventually monetize the SkinTE product. Without this relief, the Debtors will be forced to close the clinical trials due to lack of funding, which will greatly reduce the potential value of their assets and delay, perhaps for years, the availability of the SkinTE product.

III. BACKGROUND SPECIFIC TO THIS MOTION

9. To maintain the stability of their operations during the Chapter 11 Cases and to provide the critical expertise and support for the migration of the Debtors' assets and business

operations to the Purchaser, Debtors seek authority to implement the KEIP for the benefit of seven key employees.

10. Significantly, the Debtors’ assets are large and technically complex. Furthermore, the sale of these assets requires sophisticated scientific and regulatory compliance and coordination. The Employees could not, therefore, be replaced except through expensive outside contractors. The cost of such contractors would be significantly higher than the cost (including the cost of the Incentive Plan) of existing employees. Also, third party contactors do not possess the historical knowledge of Debtors’ operations and, as a result, would inherently be less efficient in the execution of the necessary work with respect to effectuating the Sale. The Debtors believe that the best efforts of the Employees are necessary to achieving the Sale, and that the best way to help ensure that such efforts are achieved is to motivate the Employees by instituting the KEIP.

11. The KEIP Employees and employment terms are as follows:

Employee Name and Position	Payment Terms
Matt Pheysey QC Lab Manager	In consideration of continued employment through the end of day on July 31, 2023, or at the time of the closing of the sale of Debtor’s assets to Purchaser, whichever occurs first, M. Pheysey shall receive a one-time payment of \$7,000.00.
Dan Greive Sr. Manager, Facilities	In consideration of continued employment through the end of day on July 31, 2023, or at the time of the closing of the sale of Debtor’s assets to Purchaser, whichever occurs first, D. Greive shall receive a one-time payment of \$7,000.00.
Dillon Hall IT Security Engineer	In consideration of continued employment through the end of day on July 31, 2023, or at the time of the closing of the sale of Debtor’s assets to Purchaser, whichever occurs first, D. Hall shall receive a one-time payment of \$7,000.00.

<p>Courtney Cushnir Executive Director of Corporate Operations</p>	<p>In consideration of continued employment through the end of day on July 31, 2023, or at the time of the closing of the sale of Debtor’s assets to Purchaser, whichever occurs first, C. Cushnir shall receive a one-time payment of \$10,000.00.</p>
<p>Gavin Smith Executive Assistant</p>	<p>In consideration of continued employment through the end of day on July 31, 2023, or at the time of the closing of the sale of Debtor’s assets to Purchaser, whichever occurs first, G. Smith shall receive a one-time payment of \$7,000.00.</p>
<p>Brandy Hill Director of QC</p>	<p>In consideration of continued employment through the end of day on July 31, 2023, or at the time of the closing of the sale of Debtor’s assets to Purchaser, whichever occurs first, B. Hill shall receive a one-time payment of \$10,000.00.</p>
<p>Alex Salinas Quality Associate III</p>	<p>In consideration of continued employment through the end of day on May 31, 2023, A. Salinas shall receive a one-time payment of \$2,000. A. Salinas shall be entitled to a second payment of \$6,000 in consideration of continued employment through the end of July 31, 2023, or at the time of the closing of the sale of Debtor’s assets to Purchaser, whichever occurs first.</p>

IV. ARGUMENTS AND AUTHORITIES

The Debtor seeks an expedited hearing on or before August 8, 2023 or a soon as practicable to hear and consider the Motion. Bankruptcy Rule 9006(c)(1) and (d) allow the Court to reduce the time for a hearing. Bankruptcy Rule 9006(d) permits parties to submit an ex parte motion shorten time for a hearing for cause. Local Rule 4001-1 allows the Court to grant relief in the absence of any objection.

V. NOTICE

The Debtors will provide immediate notice of this Ex Parte Motion, upon filing, by email to (a) the Office of the United States Trustee for the District of Utah, Attn: Melinda Wilden; (b) all

ECF notice parties; (c) all parties that have appeared and requested notice in this case. The Debtors submit that this notice is sufficient under the Local Rules under the circumstances of this Ex Parte Motion. The Debtor respectfully submits that no further notice is necessary.

VI. CONCLUSION

WHEREFORE, for the reasons set forth above, the Debtors respectfully request that the Court enter the Order submitted herewith granting the Ex Parte Motion.

DATED July 27, 2023.

PARSONS BEHLE & LATIMER

/s/ Darren Neilson

J. Thomas Beckett
Brian M. Rothschild
Darren Neilson

Attorneys for the Debtors.

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2023, I caused a true and correct copy of **DEBTORS' EX PARTE MOTION ORDER SHORTENING TIME FOR HEARING ON DEBTORS' MOTION FOR ORDER APPROVING KEY EMPLOYEE INCENTIVE PLAN** to be served by electronic mail to:

- J. Thomas Beckett tbeckett@parsonsbehle.com, ecf@parsonsbehle.com;brothschild@parsonsbehle.com
- Gary M. Freedman gary.freedman@nelsonmullins.com, sarah.castillo@nelsonmullins.com;francis.santelices@nelsonmullins.com
- Darren B. Neilson dneilson@parsonsbehle.com
- Ellen E. Ostrow eostrow@foley.com, lbailey@foley.com;ellen-ostrow-4512@ecf.pacerpro.com;rgledhill@foley.com;skamaya@foley.com;docketflow@foley.com;tschuman@foley.com;docketflow@foley.com
- Brian M. Rothschild brothschild@parsonsbehle.com, ecf@parsonsbehle.com;docket@parsonsbehle.com
- Rachel A. Sternlieb rachel.sternlieb@nelsonmullins.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov
- Melinda Willden tr melinda.willden@usdoj.gov, Lindsey.Huston@usdoj.gov;James.Gee@usdoj.gov;Rinehart.Peshell@usdoj.gov;Rachelle.D.Armstrong@usdoj.gov;Brittany.Eichorn@usdoj.gov

/s/ Darren Neilson

Darren Neilson

Proposed Order

Order prepared and submitted by:
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Brian M. Rothschild, USB #15316
Darren Neilson, USB #15005
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Attorneys for the Joint Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

<p>In re:</p> <p>PolarityTE, Inc., a Delaware corporation</p> <p style="text-align: center;">Debtor</p>	<p>Case No. 23-bk-22358-KRA</p> <p>Case No. 23-bk-22360-KRA</p> <p>Case No. 23-bk-22361-KRA</p>
<p>In re:</p> <p>PolarityTE, MD Inc., a Nevada corporation</p> <p style="text-align: center;">Debtor</p>	<p>Chapter 11</p> <p>Judge Kevin R. Anderson</p>
<p>In re:</p> <p>PolarityTE, Inc., a Nevada corporation</p> <p style="text-align: center;">Debtor</p>	<p style="text-align: center;">THIS FILING RELATES TO ALL DEBTORS²</p>

² The Debtors in these jointly administered chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are PolarityTE, Inc. (9524); PolarityTE MD, Inc. (1555); and PolarityTE, Inc. (6882). The location of the Debtors' service address is 1960 S. 4250 W., Salt Lake City, UT 84104.

ORDER GRANTING DEBTORS' EX PARTE ORDER SHORTENING TIME FOR HEARING ON DEBTORS' MOTION FOR ORDER APPROVING KEY EMPLOYEE INCENTIVE PLAN

Upon the ex parte motion (the “**Ex Parte Motion**”) filed by the above-captioned debtors and debtors in possession (the “**Debtors**”) for entry of an order (this “**Order**”) under Bankruptcy Rule 9006 requesting entry of an order shortening time for a hearing and consideration of the Debtor’s Motion for Order Approving Key Employee Incentive Plan (the “**Motion**”); and good cause appearing; and the Court having reviewed the Ex Parte Motion and the entire record before the Court in these Chapter 11 Cases, and under the Local Rules of Bankruptcy Practice for the District of Utah, the Federal Rules of Civil Procedure, and applicable law and for good cause shown, therefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Ex Parte Motion is GRANTED as set forth below.
2. The Court will hold a hearing (the “**Hearing**”) to consider the relief requested in the Motions on August 8, 2023, at 1:30 p.m., (Prevailing Utah Time), at the United States Bankruptcy Court using the following telephonic information:

Cases before Judge Anderson:
<https://www.zoomgov.com/j/16030076397>
Meeting ID: 160 3007 6397
Passcode/Participant ID: 6001201
CALL NOW or +1 669 254 5252

3. Objections, if any, to the relief requested in the Motion must be filed in the Court and served on counsel to the Debtors so that such objection is received no later than **August 7, 2023, at 5:00 p.m. (Prevailing Utah Time)** (the “**Objection Deadline**”). If no objections to the Motion are filed by the Objection Deadline, this Court may enter the Order on the Motion without holding the Hearing.

4. The Debtor will serve Notice of the hearing on the Motion by (a) filing the Notice on the docket giving notice to the ECF notice parties; (b) sending the Notice to the U.S. Trustee, attention Melinda Wilden; and (c) by sending the Notice to the Debtors' combined list of 20 largest unsecured creditors. The Court finds that under the circumstances, this constitutes adequate and appropriate notice of the Motion.

5. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

[END OF DOCUMENT]

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DESIGNATION OF PARTIES TO RECEIVE NOTICE

Service of the foregoing **ORDER GRANTING DEBTORS' EX PARTE MOTION FOR ORDER SHORTENING TIME FOR HEARING ON DEBTORS' MOTION FOR ORDER APPROVING KEY EMPLOYEE INCENTIVE PLAN** shall be served to the parties and in the manner designated below:

By Electronic Service: I certify that the parties of record in this case as identified below, are registered CM/ECF users.

- J. Thomas Beckett tbeckett@parsonsbehle.com, ecf@parsonsbehle.com;brothschild@parsonsbehle.com
- Gary M. Freedman gary.freedman@nelsonmullins.com, sarah.castillo@nelsonmullins.com;francis.santelices@nelsonmullins.com
- Darren B. Neilson dneilson@parsonsbehle.com
- Ellen E. Ostrow eostrow@foley.com, lbailey@foley.com;ellen-ostrow-4512@ecf.pacerpro.com;rgledhill@foley.com;skamaya@foley.com;docketflow@foley.com;tschuman@foley.com;docketflow@foley.com
- Brian M. Rothschild brothschild@parsonsbehle.com, ecf@parsonsbehle.com;docket@parsonsbehle.com
- Rachel A. Sternlieb rachel.sternlieb@nelsonmullins.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov
- Melinda Willden tr melinda.willden@usdoj.gov, Lindsey.Huston@usdoj.gov;James.Gee@usdoj.gov;Rinehart.Peshell@usdoj.gov;Rachelle.D.Armstrong@usdoj.gov;Brittany.Eichorn@usdoj.gov

The following parties in interest are not registered ECF users and must be notified manually:

Kurtzman Carson Consultants, LLC
222 N Pacific Coast Highway
3rd Floor
El Segundo, CA 90245

Rocky Mountain Advisory, LLC
15 W South Temple
Ste 500
Salt Lake City, UT 84101

Crowell & Moring LLP
Attn: Deborah Yellin
590 Madison Avenue
20th Floor
New York, NY 10022

Dated this 27th day of July, 2023.

/s/ Darren Neilson
Darren Neilson