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

In re	
PolarityTE, Inc., a Delaware corporation	
Debtor.	Case No. 23-22358-KRA
In re	Case No. 23-22360-KRA
PolarityTE, MD Inc., a Nevada corporation	Case No. 23-22361-KRA
Debtor	Chapter 11
In re	Judge Kevin R. Anderson
PolarityTE, Inc., a Nevada corporation	THIS DOCUMENT RELATES TO ALL DEBTORS
Debtor	

**DECLARATION OF JOHN CURTIS IN SUPPORT OF DEBTORS'
MOTION UNDER SECTIONS 1122 AND 1129 OF THE BANKRUPTCY
CODE TO APPROVE AND CONFIRM PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODEL**

I, John Curtis, declares as follows:



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1. I am over the age of 18, and I am competent to make this declaration. I am the Senior Managing Director of Rocky Mountain Advisory, LLC (“**RMA**”). I make the declaration based on personal knowledge, my review of the books, records, and files of the Debtors provided to RMA, based on research done by me and information provided to me that I deem to be reliable, and upon my expertise, as applicable. If called as a witness, I could and would testify from my own personal knowledge regarding the matters set forth in this Declaration.

2. Pursuant to an Application with Court, RMA is employed as Accountants and Financial Advisors to the Debtors.

3. This declaration is submitted in support of confirmation of *Debtors’ Plan of Liquidation under Chapter 11 of the Bankruptcy Code dated August 15, 2024* (Docket No. 152) (the “**Plan**”). The Debtors are seeking confirmation of the Plan pursuant to Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”), and specifically pursuant to section 1191(a) of the Bankruptcy Code.

4. The Court has scheduled a hearing on December 19, 2024, at 10:00 a.m., to consider the Debtors’ request for confirmation of the Plan. All capitalized terms used herein shall have the meaning ascribed thereto in the Plan unless otherwise defined.

5. I am familiar with the Plan and actively assisted in formulating and preparing the Plan.

6. Plan Complies with Bankruptcy Code - § 1129(a)(1). The Plan complies with the applicable provisions of the Bankruptcy Code. Without limitation—

a. Proper Classification. As required by § 1123(a)(1), Article III of the Plan properly designated Classes of Claims and classifies only substantially similar Claims in the same classes pursuant to § 1122.

b. Specify Treatment of Impaired Classes. Article IV of the Plan specifies the treatment of the only impaired Class of Claims (Class 4), thereby satisfying § 1123(a)(3).

c. No Discrimination. The Plan provides for the same treatment for each Claim or Interest in each respective Class, unless the holder(s) of a particular Claim(s) has agreed to less favorable treatment with respect to such Claim, thereby satisfying § 1123(a)(4).

d. Implementation of Plan. The Plan provides adequate and proper means for its implementation, thereby satisfying § 1123(a)(5). The Plan is a liquidating plan, and so the means of liquidating and distributing the Debtors' remaining assets is the Liquidating Trust. The Liquidating Trust Agreement is attached as Exhibit A to the Plan. I have agreed to act as the Liquidating Trustee under the Liquidating Trust Agreement.

e. Corporate Charter Provision Inapplicable. Section 1123(a)(6) is satisfied as The Plan is a liquidating plan, and so the Debtors will merge into the Liquidating Trust upon the Effective Date. The Debtors will otherwise cease to exist as corporate entities, and so this provision is inapplicable in that the Plan does not provide for the issuance of nonvoting equity securities.

f. Selection of Manager(s). Article V of the Plan designates that I, John Curtis from RMA, shall be the Liquidating Trustee and as of the Effective Date, all officers of the Debtors will be deemed terminated. There are no provisions in the Plan regarding the manner of selection of the Reorganized Debtors' directors and officers. Thus, § 1123(a)(7) is satisfied.

g. Additional Plan Provisions. The Plan's provisions are appropriate and consistent with the applicable provisions of the Bankruptcy Code, including provisions regarding (a) the assumption and/or rejection of executory contracts and unexpired leases, (b) the retention and enforcement by the Debtors of claims under chapter 5 of the Bankruptcy Code and under

applicable non-bankruptcy law, and (c) modification of the rights of holders of secured claims. Thus, § 1123(b) is satisfied.

h. Bankruptcy Rule 3016(a). The Plan is dated and identifies the Debtors as its proponent, thereby satisfying Bankruptcy Rule 3016(a).

i. Contents of Plan – § 1190(1). The Plan includes (A) a brief history of the business operations of the Debtors, (B) liquidation of all assets, and (C) projections with respect to the ability of the Debtors to make payments under the Plan. Thus, the requirements of § 1190(1) are satisfied.

j. Contents of Plan – § 1190(2). The Plan dedicates all assets of the Debtors to be used for distributions under the Plan, to be distributed by me, as the Liquidating Trustee (if confirmed under § 1191(a)) or the Trustee (if confirmed under § 1191(b)). Because the Plan is anticipated to be confirmed under § 1191(a), and not pursuant to § 1191(b), §§ 1194(a) and 1194(b) should not apply. Accordingly, I, as Liquidating Trustee, shall be responsible for making distributions as called for under the Plan. Thus, the requirements of § 1190(2) are satisfied.

k. Contents of Plan – § 1190(3). § 1190(3) does not apply.

7. The Plan and the Proponent Comply with the Bankruptcy Code. The Plan complies with the applicable provisions of the Bankruptcy Code. Likewise, the Debtors have complied with the applicable provisions of the Bankruptcy Code. Thus, §§ 1129(a)(1) and (a)(2) are satisfied. Among other things:

- a. the Debtors are the proper proponent of the Plan under § 1189(a); and
- b. the Plan complies, and Debtors have complied, generally with applicable provisions of the Bankruptcy Code.

8. Good Faith. The Debtors filed the Bankruptcy Cases in good faith and for a valid bankruptcy purpose. Additionally, the Plan is proposed in good faith and not by any means forbidden by law, and therefore complies with the requirements of § 1129(a)(3). Among other things:

- a. the Debtors filed the Bankruptcy Cases, and the Debtor has proposed the Plan for a valid bankruptcy purpose;
- b. neither the Bankruptcy Cases nor the Plan were filed as a litigation tactic or for delay;
- c. the Debtors have been, and are, actively prosecuting the Bankruptcy Cases;
- d. the Debtors proposed the Plan with the legitimate and honest purpose of, among other things, providing the Debtors with a “breathing spell” to sell all of the Debtors’ assets, and providing a meaningful return to creditors;
- e. the Plan is the fruit of arms-length negotiations with creditors;
- f. the Plan contemplates that the Liquidating Trustee will liquidate all the Debtors’ assets to make distributions to the holders of Allowed Claims; and
- g. the Plan contemplates that the claims of creditors will be satisfied by cash distributions to the holders of Allowed Claims, to be paid directly by the Liquidating Trustee.

9. Payments for Services or Costs and Expenses. Any payment made or to be made under the Plan for services or for costs and expenses in or in connection with the Bankruptcy Cases prior to the Effective Date, including all fees and expenses incurred by Professionals, has been approved by, or is subject to the approval of, the Court as reasonable, thereby satisfying § 1129(a)(4).

10. Manager(s) of the Reorganized Debtor. The Plan and other filings of record identify me as the proposed Liquidating Trustee. The proposed service of the Liquidating Trustee is consistent with the interests of the holders of Claims and with public policy. My internal knowledge of the Debtors and my experience with bankruptcy and distressed companies and assets give the Reorganized Debtor the best chance to succeed under the Plan. Therefore, the Debtors have complied with § 1129(a)(5).

11. No Rate Changes. The Plan satisfies § 1129(a)(6) because the Plan does not provide for any change in rates over which a governmental regulatory commission has jurisdiction.

12. Best Interests of Creditors Test. The Plan was accepted by all Classes of Claims and Interests because there was not an impaired class that was required to vote on the Plan. Further and in any event, the Plan provides that each holder of a Claim will receive or retain under the Plan on account of its Claim property of a value, as of the Effective Date of the Plan, that is not less than the amount such holder would receive or retain if the Case were converted to chapter 7, and the Estate were liquidated by a chapter 7 trustee.

13. Acceptance by Certain Classes. All Classes of Claims and Interests have accepted the Plan as they are all unimpaired by the Plan, thereby satisfying § 1129(a)(8). No Class of Claims or Interests has rejected the Plan.

14. Treatment of Administrative Expense Claims and Priority Tax Claims. The Plan satisfies the requirements of §§ 1129(a)(9) and 1191(e). Except to the extent the holder of a particular Claim agrees to a different treatment, the Plan specifies that Administrative Expense Claims (including professional compensation) and Priority Tax Claims shall be paid as mandated by §§ 1129(a)(9) (except to the extent that a holder agrees otherwise).

15. Acceptance by at Least One Impaired Class. Section 1129(a)(10) is inapplicable because there are no voting impaired classes. All classes entitled to vote are unimpaired and therefore no vote was required.

16. Feasibility. The Plan is a liquidating plan and therefore complies with § 1129(a)(11).

17. Payment of Fees. The Debtors or the Liquidating Trust, as applicable, will pay all fees under 28 U.S.C. § 1930 as they come due as provided in the Plan. Thus, § 1129(a)(12) is satisfied.

18. Continuation of Retiree Benefits. The Plan complies with § 1129(a)(13). The Debtors are not obligated to pay any retiree benefits subject to § 1114.

19. No Domestic Support Obligations. The Debtors do not have any domestic support obligations. Therefore, § 1129(a)(14) is not applicable.

20. Section 1129(a)(15) Is Not Applicable. Section 1129(a)(15) does not apply to this Case because the Debtors are not individuals.

21. Transfers Will Comply with Non-bankruptcy Law. The Plan complies with § 1129(a)(16) because any transfers of assets to be made under the Plan will be made in accordance with applicable non-bankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.

22. Fair and Equitable; No Unfair Discrimination (11 U.S.C. § 1129(b)). There are no impaired voting classes and therefore, this provision does not apply. Equity Interests are being cancelled and will have no further interest under the Plan, and thus they are deemed to be rejected. Under section 1129(b)(2)(C), the Plan can be confirmed despite the deemed rejection by Equity Interests because no class junior to Equity Interests will receive anything under the Plan.

23. No Other Plan (11 U.S.C. § 1129(c)). No other Chapter 11 plan has been filed in connection with the Bankruptcy Case.

24. Principal Purpose of Plan (11 U.S.C. § 1129(d)). 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 (15 U.S.C. § 77e). There is no provision for tax relief or forgiveness in the Plan.

25. Confirmation Pursuant to § 1191(a). All Classes of Claims and Interest are deemed to accept the Plan because they are unimpaired. Further, as described above, all of the requirements of § 1129(a) are met or they are not applicable. Accordingly, the Debtors are asking the Court to confirm the Plan pursuant to § 1191(a).

26. Fair and Equitable; No Unfair Discrimination – § 1191(b). Confirmation pursuant to the “cram down” exception under § 1191(b) is not necessary.

27. In summary, I believe the Plan complies with, and the Debtors have satisfied, all applicable confirmation requirements, and request on behalf of the Debtors that the Plan be confirmed by the Court.

28. Notice Packages. As evidenced by the docket in this Case, including the Plan, the Notice(s), the Certificate(s) of Service, and other Motion(s), the Plan was disseminated to all creditors and interest holders. Further, the Plan and Notice(s) were transmitted and served on all parties entitled to copies of thereof in substantial compliance with the Bankruptcy Code, Bankruptcy Rules and relevant orders of the Court, as I understand them. To the best of my knowledge, all procedures used to distribute the Notice Packages, and the Plan were fair and conducted in accordance with the Bankruptcy Code, the Bankruptcy Rules, the local rules of the Court, and all other rules, laws, and regulations.

I, John Curtis, hereby declare, under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

DATED December 18, 2024.

/s/ John Curtis

John Curtis