IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
RELIZ TECHNOLOGY GROUP HOLDINGS INC., *et al.*,[1]	Case No. 26-10371 (TMH)
	(Jointly Administered)
Debtors.	**Related to Docket Nos. 488, 502, 503**

DEBTORS' MEMORANDUM OF LAW IN SUPPORT OF CONFIRMATION OF THE SECOND AMENDED JOINT CHAPTER 11 PLAN OF RELIZ TECHNOLOGY GROUP HOLDINGS INC. AND ITS DEBTOR AFFILIATES

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Dated: Wilmington, Delaware
July 8, 2026

[1] The Debtors in these chapter 11 cases, along with the last four digits of their respective federal tax identification numbers, are: Reliz Technology Group Holdings Inc. (6265); Reliz Technologies LLC (1968); Reliz LTD (N/A); and Reliz CI LTD (N/A). The Debtors' service address is 401 West Ontario St., Suite 400, Chicago, IL 60654.

TABLE OF CONTENTS

RELIEF REQUESTED....1
PRELIMINARY STATEMENT....1
BACKGROUND....3
I. The Chapter 11 Cases....3
A. General Background....3
B. The Plan and Disclosure Statement....4
II. Solicitation of the Plan....5
III. Plan Supplement....6
IV. Voting Results for the Plan....6
ARGUMENT....8
I. The Plan Complies with the Applicable Provisions of the Bankruptcy Code—Section 1129(a)(1)....8
A. The Plan Satisfies the Classification Requirements of Section 1122 of the Bankruptcy Code....8
B. The Plan Satisfies the Applicable Mandatory Plan Requirements of Section 1123(a) of the Bankruptcy Code....12
i. Designation of Classes of Claims and Interests—Section 1123(a)(1)....12
ii. Specification of Unimpaired Classes—Section 1123(a)(2)....13
iii. Treatment of Impaired Classes—Section 1123(a)(3)....13
iv. Equal Treatment of Similarly Situated Claims and Interests—Section 1123(a)(4)....13
v. Adequate Means for Implementation—Section 1123(a)(5)....14
vi. Prohibition of Issuance of Non-Voting Securities—Section 1123(a)(6)....15
vii. Selection of Directors and Officers—Section 1123(a)(7)....15
C. The Plan Complies with the Discretionary Provisions of Section 1123(b) of the Bankruptcy Code....16

i. Overview of the Plan's Compliance with Section 1123(b) of the Bankruptcy Code. 16

ii. The Plan's Release, Exculpation, and Injunction Provisions Satisfy Bankruptcy Code Section 1123(b). 17

1) The Debtor Release Complies with the Discretionary Provisions of Bankruptcy Code Section 1123(b) and Should be Approved. 17

2) The Third-Party Release Complies with the Discretionary Provisions of Section 1123(b) of the Bankruptcy Code and Should be Approved. 20

3) The Exculpation is Appropriate and Should be Approved. 22

4) The Injunction is Appropriate and Should be Approved. 22

iii. The Plan Modifies the Rights of Certain Classes—Section 1123(b)(5). 23

iv. The Plan Complies with Section 1123(d) of the Bankruptcy Code. 23

II. The Debtors Complied with the Applicable Provisions of the Bankruptcy Code—Section 1129(a)(2). 24

III. The Plan is Proposed in Good Faith and Not by Any Means Forbidden by Law—Section 1129(a)(3). 24

IV. The Plan Provides that the Debtors' Payment of Professional Fees and Expenses is Subject to Court Approval—Section 1129(a)(4). 25

V. The Debtors Disclosed All Necessary Information Regarding Directors, Officers, and Insiders—Section 1129(a)(5). 26

VI. The Plan Does Not Require Governmental Regulatory Approval—Section 1129(a)(6). 27

VII. The Plan is in the Best Interests of All the Debtors' Creditors—Section 1129(a)(7). 27

VIII. The Plan is Confirmable Notwithstanding the Requirements of Section 1129(a)(8) of the Bankruptcy Code. 29

IX. The Plan Provides for Payment in Full of All Allowed Priority Claims—Section 1129(a)(9). 30

X. At Least One Class of Impaired, Non-Insider Claims Accepted the Plan—Section 1129(a)(10). 31

XI. The Plan is Feasible—Section 1129(a)(11). 31

XII. All Statutory Fees Have Been or Will Be Paid—Section 1129(a)(12). 33

XIII. Sections 1129(a)(13)-(16) of the Bankruptcy Code Do Not Apply to the Plan. 33

XIV. The Plan Satisfies the "Cram Down" Requirements of Section 1129(b) of the Bankruptcy Code. 34

A. The Plan Does Not Discriminate Unfairly with Respect to Impaired Classes that Have Not Voted to Accept the Plan—Section 1129(b)(1). 34

B. The Plan is Fair and Equitable—Section 1129(b)(2)(B)(ii). 36

XV. The Plan Complies with the Other Provisions of Section 1129 of the Bankruptcy Code—Section 1129(c)-(e). 37

MODIFICATIONS TO THE PLAN 37

GOOD CAUSE EXISTS TO WAIVE THE STAY OF THE CONFIRMATION ORDER 38

CONCLUSION 39

TABLE OF AUTHORITIES

Cases

Beal Bank, S.S.B. v. Way Apts., D.T. (In re Way Apts., D.T.), 201 B.R. 444, 451, 451 n.6 (N.D. Tex. 1996) 11

Fin. Sec. Assurance Inc. v. T-H New Orleans Ltd. P'ship (In re T-H New Orleans Ltd. P'ship), 116 F.3d 790 (5th Cir. 1997) 26

In re Abeinsa Holding, Inc., 562 B.R. 265, 274–75 (Bankr. D. Del. 2016) 11

In re Adelphia Commc'ns Corp., 361 B.R. 337 (S.D.N.Y. 2007) 29

In re Adelphia Commc'ns Corp., 368 B.R. 140 (Bankr. S.D.N.Y. 2007) 18, 29

In re Aleris Int'l, Inc., Case No. 09-10478 (BLS), 2010 WL 3492664 (Bankr. D. Del. May 13, 2010) 19

In re Ambanc La Mesa L.P., 115 F.3d 650 (9th Cir. 1997) 35

In re American-CV Station Grp., Inc., 56 F.4th 1302, 1308 (11th Cir. 2023) 39

In re Armstrong World Indus., Inc., 348 B.R. 111, 120 (D. Del. 2006) 9

In re Armstrong World Indus., Inc., 348 B.R. 111, 121 (D. Del. 2006) 36

In re Buttonwood Partners, Ltd., 111 B.R 57, 63 (Bankr. S.D.N.Y. 1990) 36

In re Cent. Med. Ctr., Inc., 122 B.R. 568 (Bankr. E.D. Mo. 1990) 15

In re Dow Corning Corp., 244 B.R. 634, 645 n.5 (Bankr. E.D. Mich. 1999) 11

In re Exide Techs., 303 B.R. 48 (Bankr. D. Del. 2003) 20

In re Future Energy Corp., 83 B.R. 470 (Bankr. S.D. Ohio 1988) 26

In re Greate Bay Hotel & Casino, Inc., 251 B.R. 213, 224 (Bankr. D.N.J. 2000) 10

In re Heritage Org., L.L.C., 375 B.R. 230, 302 (Bankr. N.D. Tex. 2007) 10

In re Indianapolis Downs, LLC, 486 B.R. 286 (Bankr. D. Del. 2013) 20, 22

In re Jersey City Med. Ctr., 817 F.2d 1055, 1061 (3d Cir. 1987) 10

In re Johns-Manville Corp., 68 B.R. 618, 636 (Bankr. S.D.N.Y. 1986) 36

In re Johns-Manville Corp., 78 B.R. 407 (S.D.N.Y. 1986) 36

In re Lernout & Hauspie Speech Prod., N.V., 301 B.R. 651, 660 (Bankr. D. Del. 2003) *aff'd*, 308 B.R. 672 (D. Del. 2004) 36

In re Lisanti Foods, Inc., 329 B.R. 491 (D.N.J. 2005), *aff'd*, 241 F. App'x 1 (3d Cir. 2007) 26

In re Machne Menachem, Inc., 233 F. App'x 119 (3d Cir. 2007) 9

In re Marvel Entm't Grp., Inc., 273 B.R. 58 (D. Del. 2002) 19

In re Master Mortg. Inv. Fund, Inc., 168 B.R. 930 (Bankr. W.D. Mo. 1994) 20

In re New Midland Plaza Assocs., 247 B.R. 877, 892 (Bankr. S.D. Fla. 2000) 10

In re NII Holdings, Inc., 288 B.R. 356 (Bankr. D. Del. 2002) 25

In re Nutritional Sourcing Corp., 398 B.R. 816 (Bankr. D. Del. 2008) 9

In re Nuverra Envtl. Solutions, Inc., 590 B.R. 75, 98–99 (D. Del. 2018) 11

In re Premier Int'l Holdings, Inc., No. 09-12019 (CSS), 2010 WL 2745964 (Bankr. D. Del. Apr. 29, 2010) 9

In re Prussia Assocs., 322 B.R. 572 (Bankr. E.D. Pa. 2005) 33

In re PWS Holding Corp., 228 F.3d 224 (3d Cir. 2000). 23

In re Resorts Int'l, Inc., 145 B.R. 412 (Bankr. D.N.J. 1990) 26

In re S & W Enter., 37 B.R. 153 (Bankr. N.D. Ill. 1984) 9

In re TCI 2 Holdings, LLC, 428 B.R. 117 (Bankr. D.N.J. 2010) 9

In re Tribune Co., 476 B.R. 843, 854–55 (Bankr. D. Del. 2012) 10

In re W.R. Grace & Co., 729 F.3d 311 (3d Cir. 2013) 15

In re WorldCom, Inc., No. 02-13533 (AJG), 2003 WL 23861928, at *59 (Bankr. S.D.N.Y. Oct. 31, 2003) 36

JPMorgan Chase Bank, N.A. v. Charter Commc'ns Operating, LLC (In re Charter Commc'ns), 419 B.R. 221 (Bankr. S.D.N.Y. 2009) 18

Kane v. Johns-Manville Corp., 843 F.2d 636 (2d Cir. 1988) 28, 36

Mercury Capital Corp. v. Milford Conn. Assocs., L.P., 354 B.R. 1, 10 (D. Conn. 2006) 36

U.S. Bank Nat'l Assoc. v. Wilmington Tr. Co. (In re Spansion, Inc.), 426 B.R. 114 (Bankr. D. Del. 2010), *appeal dismissed*, 2011 WL 3420441 (D. Del. Aug. 4, 2011) 19, 22

Statutes

11 U.S.C. § 1122(a) 10
11 U.S.C. § 1122(b) 11
11 U.S.C. § 1123(a)(1) 13
11 U.S.C. § 1123(a)(2) 14
11 U.S.C. § 1123(a)(3) 14
11 U.S.C. § 1123(a)(4) 15
11 U.S.C. § 1123(a)(5) 15
11 U.S.C. § 1123(a)(7) 17
11 U.S.C. § 1123(b) 17
11 U.S.C. § 1123(b)(3)(A) 18
11 U.S.C. § 1123(b)(5) 24
11 U.S.C. § 1123(d) 24
11 U.S.C. § 1127(a) 38
11 U.S.C. § 1129(a)(1) 9
11 U.S.C. § 1129(a)(10) 32
11 U.S.C. § 1129(a)(11) 32, 33
11 U.S.C. § 1129(a)(12) 34
11 U.S.C. § 1129(a)(3) 25
11 U.S.C. § 1129(a)(4) 26
11 U.S.C. § 1129(a)(5)(A)(i) 27
11 U.S.C. § 1129(a)(5)(B) 27
11 U.S.C. § 1129(a)(7) 28
11 U.S.C. § 1129(a)(8) 30
11 U.S.C. § 1129(a)(9) 31

11 U.S.C. § 1129(b)(1) 35

11 U.S.C. § 1129(b)(2)(B)-(C) 37

11 U.S.C. § 1129(c) 38

11 U.S.C. § 1129(d) 38

11 U.S.C. § 1129(e) 38

11 U.S.C. § 507(a)(2) 34

Other Authorities

Bankruptcy Code section 1123(a)(8) 14

H.R. Rep. No. 95-595, at 412, *reprinted in* 1978 U.S.C.C.A.N. 5963, 6368 9

S. Rep. No. 95-989, at 126 *reprinted in* 1978 U.S.C.C.A.N. 5787, 5912 9

Rules

Fed. R. Bankr. P. 3019 41

Fed. R. Bankr. P. 3020(e) 41

Fed. R. Bankr. P. 6004(h) 42

Fed. R. Bankr. P. 6006(d) 42

Fed. R. Bankr. P. 9019(a) 19

RELIEF REQUESTED

Reliz Technology Group Holdings Inc. and certain of its affiliates, as debtors and debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases, hereby submit this memorandum of law in support of entry of an order confirming the *Second Amended Joint Chapter 11 Plan of Reliz Technology Group Holdings Inc. and Its Debtor Affiliates* [Docket No. 488-1] (as modified, amended, or supplemented from time to time, the "Plan"),[2] pursuant to section 1129 of the Bankruptcy Code, (this "Confirmation Brief"). This Confirmation Brief is supported by (i) the *Declaration of Mark Renzi in Support of Confirmation of the Second Amended Joint Chapter 11 Plan of Reliz Technology Group Holdings Inc. and Its Debtor Affiliates* [Docket No. 503] (the "Renzi Declaration"); and (ii) the *Declaration of Michael Paque With Respect to the Tabulation of Votes on the Joint Chapter 11 Plan of Reliz Technology Group Holdings Inc. and Its Debtor Affiliates* [Docket No. 502] (the "Voting Declaration"). In further support of confirmation of the Plan, the Debtors respectfully state as follows:

PRELIMINARY STATEMENT

1. The Debtors commenced these Chapter 11 Cases amidst a liquidity crunch to effectuate a value-maximizing transaction that would either allow the business to be recapitalized and continue as a going concern or the Debtors to sell substantially all of their assets for the benefit of their stakeholders. Following an intensive marketing process, the Debtors completed a sale transaction resulting in $2,150,000 in cash proceeds to the Debtors' estates with an additional $1,100,000 upon the completion of a second closing. Now, four months after the Petition Date, the Debtors seek to confirm a chapter 11 plan in support of the sale process, providing a path to wind down the Debtors in an efficient manner. As a testament to the Debtors' rigorous sale process

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

and the value-maximizing transaction embodied in the Plan, the Plan has been accepted by nearly all creditors voting on the Plan.

2. The path to confirmation has been challenging but fruitful. In the lead up to the Petition Date, the Debtors, facing dwindling liquidity, sought alternative strategic transactions, including a sale of their assets or a broader capital restructuring. As part of the efforts, the Debtors negotiated a term sheet with an ad hoc group of certain of their largest customers that contemplated that the Debtors would reorganize into a newly-formed entity through a chapter 11 plan or sale process.

3. Once in chapter 11, the Debtors continued to market their assets. While the framework proposed under the term sheet provided optionality going into the sale process for the Debtors, the Debtors were committed to exploring alternative transactions that would maximize value for the benefit of their stakeholders. As of the bid deadline set forth in the Bidding Procedures, the Debtors identified one qualified bid. The bid, which was submitted by Keyrock S.A., contemplated the acquisition of substantially all of the Debtors' assets, including the Debtors' proprietary technology and intellectual property, customer list, and equity interests in certain non-Debtor entities, in exchange for a purchase price of up to $3,250,000 and the assumption of certain liabilities. On June 22, 2026, the sale of the Debtors' assets to Keyrock closed.

4. Following the consummation of the sale transaction, the final step to achieve a value-maximizing outcome for all parties is to confirm a liquidating chapter 11 plan and wind down the Debtor entities. As discussed further herein, all voting classes voted in favor of the Plan and the Plan enjoys broad support across the Debtors' capital structure. The Plan is consistent with the Bankruptcy Code and maximizes the value of the Debtors and their Estates, for the benefit all constituencies affected by these Chapter 11 Cases.

5. Accordingly, for the reasons stated herein and in light of the Debtors' evidentiary support for confirmation of the Plan, the Debtors respectfully request that the Plan be confirmed.

BACKGROUND

I. The Chapter 11 Cases

A. General Background

6. On March 15, 2026 (the "Petition Date"), each Debtor commenced a case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code (collectively, the "Chapter 11 Cases"). The Debtors remain in possession of their property and continue to operate and manage their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

7. The Chapter 11 Cases are being jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b) and the *Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* [Docket No. 58] entered by the Bankruptcy Court on March 18, 2026 in each of the Chapter 11 Cases.

8. On March 27, 2026, the United States Trustee for the District of Delaware (the "U.S. Trustee") appointed the Committee pursuant to section 1102 of the Bankruptcy Code. *See* Docket No. 104.

9. Additional information regarding the Debtors and these Chapter 11 Cases, including the Debtors' business, capital structure, financial condition, and the reasons for and objectives of these Chapter 11 Cases, is set forth in the *Declaration of Mark Renzi in Support of Chapter 11 Petitions and First Day Motions* [Docket No. 3].

B. The Plan and Disclosure Statement

10. On April 7, 2026, the Debtors filed (a) initial versions of the Plan [Docket No. 128] and Disclosure Statement [Docket No. 129] and (b) the *Motion of Debtors for Entry of Order (A) Approving Disclosure Statement; (B) Scheduling Hearing on Confirmation of Plan; (C) Establishing Deadlines and Procedures for (I) Filing Objections to Confirmation of the Plan, (II) Claim Objections, and (III) Temporary Allowance of Claims for Voting Purposes; (D) Determining Treatment of Certain Unliquidated, Contingent, or Disputed Claims for Notice, Voting, and Distribution Purposes; (E) Setting Record Date; (F) Approving (I) Solicitation Packages and Procedures for Distribution, (II) Form of Notice of Hearing on Confirmation and Related Matters, and (III) Forms of Ballots; (G) Establishing Voting Deadline and Procedures for Tabulation of Votes; and (H) Granting Related Relief* [Docket No. 130] (the "Solicitation Motion").

11. On May 28, 2026, the Bankruptcy Court entered the *Order (A) Approving Disclosure Statement; (B) Scheduling Hearing on Confirmation of Plan; (C) Establishing Deadlines and Procedures for (I) Filing Objections to Confirmation of Plan, (II) Claim Objections, and (III) Temporary Allowance of Claims for Voting Purposes; (D) Determining Treatment of Certain Unliquidated, Contingent, or Disputed Claims for Notice, Voting, and Distribution Purposes; (E) Setting Record Date; (F) Approving (I) Solicitation Packages and Procedures for Distribution, (II) Form of Notice of Hearing on Confirmation and Related Matters, and (III) Forms of Ballots; (G) Establishing Voting Deadline and Procedures for Tabulation of Votes; and (H) Granting Related Relief* [Docket No. 388] (the "Solicitation Order"). Among other things, the Solicitation Order (a) approved the Disclosure Statement as containing adequate information in compliance with section 1125 of the Bankruptcy Code for the purpose of soliciting votes to

reject or accept the Plan; (b) approved the procedures for the Debtors to solicit votes to accept or reject the Plan; (c) approved the forms of Ballots, Solicitation Packages, and other related notices; (d) authorized the Debtors to solicit votes to accept or reject the Plan in accordance with the Solicitation Order in compliance with the Bankruptcy Code and Bankruptcy Rules; (e) set July 13, 2026, at 10:00 a.m. (prevailing Eastern Time) as the date and time for the commencement of the Confirmation Hearing; and (f) established the (i) Voting Record Date, (ii) deadline to file Rule 3018 Motions, (iii) Voting Deadline, (iv) deadline to file the Plan Supplement, and (v) Plan Objection Deadline.

II. Solicitation of the Plan.

12. With the goal of emerging from the Chapter 11 Cases as quickly as possible, promptly following entry of the Solicitation Order, the Debtors (including through the Claims, Noticing, and Solicitation Agent) effectuated the timely and proper:

a. Filing and service of the Confirmation Hearing Notice (which included the Voting Deadline, the Plan Objection Deadline, the date, time, and location of the Confirmation hearing, information relating to the Plan's release, exculpation, and injunction provisions, and various procedures regarding Plan solicitation, objecting to Confirmation of the Plan and opting out of the third-party release contained in Article VIII.B of the Plan (the "Third-Party Release")) on all of the Debtors' known creditors, equity security holders as of the Voting Record Date, and all other entities required to be served under Bankruptcy Rules 2002 and 3017;

b. Service of (i) the Solicitation Packages on each Holder of a Claim in a Voting Class (*i.e.*, Class 4 (Celsius Secured Claim), Class 5 (Convenience Claims), Class 6A (General Unsecured Claims Against TopCo), Class 6B (General Unsecured Claims Against Reliz Tech), Class 6C (General Unsecured Claims Against Reliz CI), and Class 6D (General Unsecured Claims against Reliz LTD)), which included (i) the Disclosure Statement and exhibits thereto, including a copy of the Plan, (ii) the Solicitation Order, (iii) the Confirmation Hearing Notice, and (iv) the applicable Ballot (which included a conspicuous opt-out box and pertinent information and instructions), and (v) a pre-addressed, postage prepaid reply envelope, as applicable; and

c. Publication of the Confirmation Hearing Notice in the *New York Times*, national edition.

See Docket Nos. 417, 438, 477.

III. Plan Supplement.

13. On June 24, 2026, the Debtors filed the *Plan Supplement to Amended Joint Chapter 11 Plan of Reliz Technology Group Holdings Inc. and Its Debtor Affiliates* [Docket No. 464] (the "Plan Supplement"), which included (a) the Schedule of Assumed Executory Contracts and Unexpired Leases, (b) the Schedule of Retained Causes of Action, (c) the Liquidating Trust Agreement, (d) the identities of the GUC Trustee and the members of the GUC Trust Oversight Committee, and (e) the GUC Trust Budget.

IV. Voting Results for the Plan.

14. Following the Voting Deadline established by the Solicitation Order, the Debtors, through the Claims, Noticing, and Solicitation Agent, conducted an audit of all Ballots received and completed a final tabulation of votes (the "Voting Results").

15. In compliance with the Bankruptcy Code and the Solicitation Order, only Holders of Claims in Impaired Classes entitled to receive or retain property on account of such Claims were permitted to vote to accept or reject the Plan. Holders Claims and Interests were not entitled to vote if their rights were (a) Unimpaired under the Plan (in which case such Holders were conclusively presumed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code) or (b) Impaired and such Holders were not entitled to receive any distribution under the Plan (in which case such Holders were conclusively deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code).

16. The deadline to file objections to Confirmation of the Plan was July 1, 2026, at 4:00 p.m. (prevailing Eastern Time), which was extended for certain parties in interest until

July 6, 2026. There were no objections filed to the Confirmation of the Plan, and the informal objections to the Plan raised by the U.S. Trustee have been resolved. As such, confirmation of the Debtors' Plan will proceed on a fully-consensual basis.

17. As set forth above and in the Voting Declaration, Holders of Claims in Classes 4, 5, 6A, 6B, 6C, and 6D were entitled to vote to accept or reject the Plan (each, a "Voting Class" and, collectively, the "Voting Classes"). The voting results, as reflected in the Voting Declaration, as summarized as follows:

Voting Class	Accept		Reject	
	Amount	Number	Amount	Number
Reliz Technology Group Holdings Inc.				
Class 4 (Celsius Secured Claim)	$5,572,806.00 100%	1 100%	$0 0%	0 0%
Class 5 (Convenience Claims)	$114,424.82 100%	4 100%	$0 0%	0 0%
Class 6A (GUC Claims Against TopCo)	$14,280,509.02 98.09%	8 80%	$277,500.00 1.91%	2 20%
Reliz Technologies LLC				
Class 4 (Celsius Secured Claim)	$5,572,806.00 100%	1 100%	$0 0%	0 0%
Class 5 (Convenience Claims)[3]	N/A	N/A	N/A	N/A
Class 6B (GUC Against Reliz Tech)	$12,785,095.42 98.97%	4 80%	$132,500.00 1.03%	1 20%
Reliz CI LTD				
Class 4 (Celsius Secured Claim)	$5,572,806.00 100%	1 100%	$0 0%	0 0%
Class 5 (Convenience Claims)	N/A	N/A	N/A	N/A
Class 6C (GUC Against Reliz CI)	$12,785,095.42 98.97%	4 80%	$132,500.00 1.03%	1 20%
Reliz LTD				
Class 4 (Celsius Secured Claim)	$5,572,806.00 100%	1 100%	$0 0%	0 0%
Class 5 (Convenience Claims)	$504,106.68 100%	23 100%	$0 0%	0 0%
Class 6D (GUC Against Reliz LTD)	$100,847,043.70 94.2%	39 90.7%	$6,211,110.15 5.8%	4 9.3%

[3] No Holders of Claims in Class 5 (Convenience Claims) with respect to Reliz Technologies LLC or Reliz CI LTD submitted votes to accept or reject the Plan.

ARGUMENT

18. A proponent of a plan must prove by a preponderance of the evidence that each element of sections 1129(a) and 1129(b) of the Bankruptcy Code has been satisfied.[4] The Debtors are prepared to demonstrate, and will do so through this Confirmation Brief, the Renzi Declaration, the Voting Declaration, and through testimony and argument at the Confirmation Hearing, that the Plan satisfies each element of sections 1129(a) and 1129(b) of the Bankruptcy Code.

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

19. Under section 1129(a)(1) of the Bankruptcy Code, a plan must "compl[y] with the applicable provisions of [the Bankruptcy Code]."[5] The legislative history of section 1129(a)(1) of the Bankruptcy Code explains that this provision also encompasses the requirements of sections 1122 and 1123 of the Bankruptcy Code, which govern the classification of claims and the content of a plan of reorganization, respectively.[6] As explained below, the Plan complies with the requirements of sections 1122, 1123, and 1129 of the Bankruptcy Code, as well as other applicable provisions.

A. The Plan Satisfies the Classification Requirements of Section 1122 of the Bankruptcy Code.

20. The classification requirements of section 1122(a) of the Bankruptcy Code provide, in pertinent part, that "[e]xcept as provided in subsection (b) of this section, a plan may place a

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[4] *See e.g.*, *In re Machne Menachem, Inc.*, 233 F. App'x 119, 120 (3d Cir. 2007); *In re Armstrong World Indus., Inc.*, 348 B.R. 111, 120 (D. Del. 2006) ("[T]he debtors' standard of proof that the requirements of § 1129 are satisfied is preponderance of the evidence."); *In re Premier Int'l Holdings, Inc.*, No. 09-12019 (CSS), 2010 WL 2745964, at *4 (Bankr. D. Del. Apr. 29, 2010); *In re TCI 2 Holdings, LLC*, 428 B.R. 117, 148 (Bankr. D.N.J. 2010).

[5] 11 U.S.C. § 1129(a)(1).

[6] S. Rep. No. 95-989, at 126 *reprinted in* 1978 U.S.C.C.A.N. 5787, 5912; H.R. Rep. No. 95-595, at 412, *reprinted in* 1978 U.S.C.C.A.N. 5963, 6368; *In re Nutritional Sourcing Corp.*, 398 B.R. 816, 824 (Bankr. D. Del. 2008); *In re S & W Enter.*, 37 B.R. 153, 158 (Bankr. N.D. Ill. 1984) (determining that the provisions of section 1129(a)(1) of the Bankruptcy Code are aimed most directly at Bankruptcy Code sections 1122 and 1123).

claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class."[7] The Third Circuit "permits the grouping of similar claims in different classes[]" as long as those classifications are reasonable.[8] The classifications, however, cannot be "arbitrarily designed" to secure the approval of an impaired class when "the overwhelming sentiment of the impaired creditors [is] that the proposed reorganization of the debtor would not serve any legitimate purpose."[9] Accordingly, the Third Circuit has held that the only requirement for classification is that it be "reasonable."[10]

21. Separate classes of similar claims are reasonable when each class represents "a voting interest that is sufficiently distinct and weighty to merit a separate voice in the decision whether the proposed reorganization should proceed."[11] Courts have recognized that this gives both the debtor and the bankruptcy court considerable discretion in determining whether similar claims may be separately classified.[12] Further, if it is evident based on the voting results that the debtor would have an impaired accepting class regardless of the chosen classification scheme, then any challenge to the classification scheme is moot because the plan would have been accepted even if the classes were constituted differently.[13]

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7 11 U.S.C. § 1122(a).

8 *In re Jersey City Med. Ctr.*, 817 F.2d 1055, 1061 (3d Cir. 1987); *see also In re Tribune Co.*, 476 B.R. 843, 854–55 (Bankr. D. Del. 2012).

9 *John Hancock Mut. Life Ins. Co. v. Route 37 Bus. Park Assocs.*, 987 F.2d 154, 158 (3d Cir. 1993).

10 *In re Coastal Broad. Sys., Inc.*, 570 F. App'x 188, 193 (3d Cir. 2014) ("Although not explicit in § 1122, a corollary to that rule is that the 'grouping of similar claims in different classes' is permitted so long as the classification is 'reasonable.'") (internal citation omitted).

11 *John Hancock*, 987 F.2d. at 159.

12 *See In re Greate Bay Hotel & Casino, Inc.*, 251 B.R. 213, 224 (Bankr. D.N.J. 2000).

13 *See, e.g.*, *In re Heritage Org., L.L.C.*, 375 B.R. 230, 302 (Bankr. N.D. Tex. 2007) (rejecting challenge to classification scheme where voting results would be the same regardless of whether classes were combined or separate); *In re New Midland Plaza Assocs.*, 247 B.R. 877, 892 (Bankr. S.D. Fla. 2000) ("The Court holds that because the City, like the general trade creditors, voted in favor of the Plan, the issue of gerrymandering is moot,

22. Section 1122 of the Bankruptcy Code also expressly permits a plan to "designate a separate class of claims consisting only of every unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience."[14]

23. The Plan's classification of Claims and Interests into ten Classes for each Debtor satisfies the requirements of section 1122 of the Bankruptcy Code because the Plan places Claims and Interests in each Class based on relevant criteria, including legal or factual distinctions. Specifically, the Plan provides for the separate classification of Claims and Interests into the following Classes:

Class	Claim or Interest
Class 1	Secured Tax Claims
Class 2	Other Secured Claims
Class 3	Other Priority Claims
Class 4	Celsius Secured Claim
Class 5	Convenience Claims
Class 6A	General Unsecured Claims Against TopCo
Class 6B	General Unsecured Claims Against Reliz Tech
Class 6C	General Unsecured Claims Against Reliz CI
Class 6D	General Unsecured Claims Against Reliz LTD
Class 7	Section 510(b) Claims
Class 8	Intercompany Claims
Class 9	Intercompany Interests
Class 10	Existing Equity Interests

i.e., if the classes were combined, the Debtor would still have an impaired accepting class, and only one such class is necessary under § 1129(a)(10)."); *In re Dow Corning Corp.*, 244 B.R. 634, 645 n.5 (Bankr. E.D. Mich. 1999) (noting that a conclusion of gerrymandering would be counterintuitive where 24 of 33 classes had voted to accept a plan, most by overwhelming margins); *Beal Bank, S.S.B. v. Way Apts., D.T. (In re Way Apts., D.T.)*, 201 B.R. 444, 451, 451 n.6 (N.D. Tex. 1996) (finding that separation of claims of large trade creditors and small trade creditors into two separate classes did not constitute gerrymandering because the "votes of the combined class would have resulted in acceptance"); *see also In re Abeinsa Holding, Inc.*, 562 B.R. 265, 274–75 (Bankr. D. Del. 2016) (rejecting challenge to separate classification in part on the basis that, even without the challenged classification, the voting results would not change); *In re Nuverra Envtl. Solutions, Inc.*, 590 B.R. 75, 98–99 (D. Del. 2018) (district court dismissing claimants' appeal, determining the overwhelming acceptance within the claimant's class rendered argument moot).

[14] 11 U.S.C. § 1122(b).

24. Claims and Interests assigned to each particular Class listed above are substantially similar to the other Claims or Interests, as applicable, in such Class. In addition, valid business, legal, and factual reasons justify the separate classification of the particular Claims or Interests into the Classes created under the Plan, and no unfair discrimination exists between or among Holders of Claims and Interests. Namely, the Plan separately classifies the Claims and Interests because each Holder of such Claims or Interests may hold rights in the Debtors' Estates legally dissimilar to the Claims or Interests in other Classes or because substantial administrative convenience resulted from such classification.

25. For example, the classification scheme distinguishes Holders of Secured Tax Claims (Class 1) and Other Secured Claims (Class 2) based on differing statutory or other underlying entitlements in collateral. Other Priority Claims (Class 3) are classified separately due to their required treatment and specific priority under the Bankruptcy Code. Holders of General Unsecured Claims Against TopCo (Class 6A), General Unsecured Claims Against Reliz Tech (Class 6B), General Unsecured Claims Against Reliz CI (Class 6C), and General Unsecured Claims Against Reliz LTD (Class 6D) are classified separately due to the distinct recourse they have against separate Debtors.

26. Further, Convenience Claims (Class 5) are separately classified because of the substantial administrative simplicity that results from addressing Holders of Claims in an amount less than or equal to $45,000 in a uniform, expeditious, and cost-effective manner before the claims administration process begins in earnest. Importantly, the Plan does not provide for the substantive consolidation of the Debtors because most creditors hold Claims against Reliz LTD.

27. Intercompany Claims (Class 8) are Claims or Causes of Action by a Debtor against another Debtor, and Intercompany Interests (Class 9) are the equity interests of a Debtor held by

another Debtor. Finally, Existing Equity Interests (Class 10) represent equity Interests in the Debtors, and as such, are classified separately from Claims in Classes 1 through 9.[15] In addition, the treatment of each Claim or Interest within a Class is the same as the treatment of each other Claim or Interest in such Class, unless the Holder of a Claim or Interest agrees to less favorable treatment on account of its Claim or Interest.

28. Accordingly, the Claims or Interests assigned to each particular Class described above are substantially similar to the other Claims or Interests in each such Class and the distinctions among Classes are based on valid business, factual, and legal factors. Thus, the Debtors submit that the Plan fully complies with and satisfies the classification requirements of section 1122 of the Bankruptcy Code.

B. The Plan Satisfies the Applicable Mandatory Plan Requirements of Section 1123(a) of the Bankruptcy Code.

29. Section 1123(a) of the Bankruptcy Code sets forth eight criteria that every chapter 11 plan must satisfy.[16] As set forth below, the Plan satisfies each of these requirements.

i. Designation of Classes of Claims and Interests—Section 1123(a)(1).

30. Section 1123(a)(1) of the Bankruptcy Code requires a plan to "designate, subject to section 1122 of this title, classes of claims, other than claims of a kind specified in section 507(a)(2), 507(a)(3), or 507(a)(8) of this title, and classes of interests[.]"[17] As discussed in the previous section, Article III of the Plan designates ten separate Classes for each Debtor and each

[15] As noted above, Class 7 (Section 510(b) Claims) is vacant and therefore not considered for purposes of this analysis.

[16] However, Bankruptcy Code section 1123(a)(8) is inapplicable to the Plan because the Debtors are not "individuals" (as that term is defined in the Bankruptcy Code).

[17] 11 U.S.C. § 1123(a)(1).

Class contains Claims or Interests that are substantially similar, thus satisfying section 1123(a)(1) of the Bankruptcy Code.

ii. Specification of Unimpaired Classes—Section 1123(a)(2).

31. Section 1123(a)(2) of the Bankruptcy Code requires a plan to "specify any class of claims or interests that is not impaired under the plan[.]"[18] Article III of the Plan identifies each Class that is Unimpaired, including Class 1 (Secured Tax Claims), Class 2 (Other Secured Claims), and Class 3 (Other Priority Claims), thereby satisfying section 1123(a)(2) of the Bankruptcy Code.

iii. Treatment of Impaired Classes—Section 1123(a)(3).

32. Section 1123(a)(3) of the Bankruptcy Code requires that the Plan "specify the treatment of any class of claims or interests that is impaired under the plan[.]"[19] Article III of the Plan identifies each Class that is Impaired or potentially Impaired, including Class 4 (Celsius Secured Claim), Class 5 (Convenience Claims), Class 6A (General Unsecured Claims Against TopCo), Class 6B (General Unsecured Claims Against Reliz Tech), Class 6C (General Unsecured Claims Against Reliz CI), Class 6D (General Unsecured Claims Against Reliz LTD), Class 8 (Intercompany Claims), Class 9 (Intercompany Interests), and Class 10 (Existing Equity Interests) and specifies the treatment of these Impaired Classes, thereby satisfying section 1123(a)(3) of the Bankruptcy Code.

iv. Equal Treatment of Similarly Situated Claims and Interests—Section 1123(a)(4).

33. Section 1123(a)(4) of the Bankruptcy Code requires that the Plan "provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or

[18] 11 U.S.C. § 1123(a)(2).

[19] 11 U.S.C. § 1123(a)(3).

interest agrees to a less favorable treatment of such particular claim or interest."[20] Although neither the Bankruptcy Code nor the legislative history defines the standards of equal treatment, courts have interpreted the "same treatment" requirement under section 1123(a)(4) of the Bankruptcy Code to mean that all claimants in a class must have "the same opportunity for recovery."[21]

34. Here, Article III of the Plan provides that Holders of Allowed Claims or Interests in each Class will receive the same rights and treatment as other Holders of Allowed Claims or Interests within such Holder's respective Class, except as otherwise agreed to by a Holder of a particular Claim or Interest. Therefore, the Plan satisfies section 1123(a)(4) of the Bankruptcy Code.

v. Adequate Means for Implementation—Section 1123(a)(5).

35. Section 1123(a)(5) of the Bankruptcy Code requires that the Plan provide "adequate means" for its implementation.[22] "Adequate means" includes but is not limited to, "transfer of all or any part of the property of the estate to one or more entities," "sale of all or any part of the property of the estate," and "issuance of securities of the debtor . . . in exchange for claims or interests, or for any other appropriate purpose."[23] Article IV of the Plan (Provisions for Implementation of the Plan), as well as other provisions thereof, provide adequate means for the Plan's implementation, including, among other things:

(a) the general settlement of Claims and Interests;

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[20] 11 U.S.C. § 1123(a)(4).

[21] *In re W.R. Grace & Co.*, 729 F.3d 311, 327 (3d Cir. 2013) (citing *In re Dana Corp.*, 412 B.R. 53, 62 (S.D.N.Y. 2008)); *see also In re Cent. Med. Ctr., Inc.*, 122 B.R. 568, 575 (Bankr. E.D. Mo. 1990) (concluding that a plan that "subjects all members of the same class to the same process for claim payment" is "sufficient to satisfy the requirements of section 1123(a)(4)").

[22] 11 U.S.C. § 1123(a)(5).

[23] *Id.*

(b) the sources of consideration required for distributions to be made under the Plan on the Effective Date;

(c) the establishment of the GUC Trust, the appointment of the GUC Trustee, and the funding of the GUC Trust Budget;

(d) the vesting of the GUC Trust Assets in the GUC Trust;

(e) the cancellation of certain existing securities and other documents evidencing or creating any indebtedness or obligation or ownership in the Debtors, and the release and discharge of all obligations thereunder or in any way related thereto (subject to certain exceptions as set forth in the Plan);

(f) the continued existence of the Debtors as separate entities;

(g) the amendment of the governing documents of the Debtors as required to be consistent with the provisions of the Plan and the Bankruptcy Code;

(h) the actions necessary to effectuate or implement certain contracts, securities, instruments, releases, indentures, and other agreements or documents;

(i) the preservation of Vested Causes of Action; and

(j) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law in connection with the Plan.

36. Additionally, various other provisions of the Plan, including Article V (Treatment of Executory Contracts and Unexpired Leases) and Article VI (Provisions Governing Distributions), also provide adequate means for the Plan's implementation. The Debtors, therefore, believe that the Plan satisfies section 1123(a)(5) of the Bankruptcy Code.

vi. Prohibition of Issuance of Non-Voting Securities—Section 1123(a)(6).

37. The Plan does not contemplate the issuance of non-voting equity securities and thus satisfies section 1123(a)(6) of the Bankruptcy Code.

vii. Selection of Directors and Officers—Section 1123(a)(7).

38. Section 1123(a)(7) of the Bankruptcy Code requires that plan provisions with respect to 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."[24] Pursuant to Article IV.G of the Plan, each of the directors, officers, managers, and managing members will be deemed to have resigned on the Effective Date and the GUC Trustee[25] will serve as the sole officer and director of the Post Effective Date Debtors. The Debtors therefore submit that the Plan satisfies section 1123(a)(7) of the Bankruptcy Code.

C. The Plan Complies with the Discretionary Provisions of Section 1123(b) of the Bankruptcy Code.

i. Overview of the Plan's Compliance with Section 1123(b) of the Bankruptcy Code.

39. Section 1123(b) of the Bankruptcy Code sets forth various discretionary provisions that may be incorporated into a chapter 11 plan. Among other things, section 1123(b) of the Bankruptcy Code provides that a plan may (a) impair or leave unimpaired any class of claims or interests; (b) provide for the assumption or rejection of executory contracts and unexpired leases; (c) provide for the settlement or adjustment of any claim or interest belonging to the debtor or the estate; and (d) include any other appropriate provision not inconsistent with the applicable provisions of chapter 11.[26]

40. The Plan complies with section 1123(b) of the Bankruptcy Code. Specifically, under Article III of the Plan, Classes 1, 2, and 3 are Unimpaired because the Plan leaves unaltered the legal, equitable, and contractual rights of the Holders of Claims and Interests in such Classes. On the other hand, Classes 4 through 7 are Impaired because the Plan modifies the rights of the Holders of Claims in such Classes as contemplated by section 1123(b)(1) of the Bankruptcy

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[24] 11 U.S.C. § 1123(a)(7).

[25] The Plan Supplement provides that David Dunn will serve as the GUC Trustee. *See* Docket No. 464.

[26] 11 U.S.C. § 1123(b).

Code. In addition, Article V of the Plan provides for the rejection of all Executory Contracts and Unexpired Leases, except to the extent set forth in the Plan and Plan Supplement. As part of the Plan Supplement, the Debtors filed the Schedule of Assumed Executory Contracts and Unexpired Leases that reflects the executory contracts that will be assumed in connection with the Plan. Therefore, the Plan satisfies section 1123(b)(2) of the Bankruptcy Code.

41. Finally, as discussed below, the release, exculpation, and injunction provisions contained in the Plan satisfy are permissible under section 1123 of the Bankruptcy Code, consistent with applicable precedent, and should be approved.

ii. The Plan's Release, Exculpation, and Injunction Provisions Satisfy Bankruptcy Code Section 1123(b).

42. The Plan includes certain release, exculpation, and injunction provisions, including the Debtor Release, the Third-Party Release, the Exculpation, and the Injunction, each as defined below. These discretionary provisions are proper because, among other things, they (a) are the product of extensive good faith, arm's-length negotiations, (b) were a material and necessary precondition for parties to support the Plan, and (c) are supported by the Debtors and the Committee. Further, these provisions were fully and conspicuously disclosed to all Voting Classes (through the Ballots), and Non-Voting Classes through the Non-Voting Notices.

1) The Debtor Release Complies with the Discretionary Provisions of Bankruptcy Code Section 1123(b) and Should be Approved.

43. A debtor's authority under section 1123(b)(3)(A) of the Bankruptcy Code to settle or adjust "any claim or interest belonging to the debtor or to the estate" necessarily includes the debtor's right to settle or release claims against third parties belonging to the estate.[27] Bankruptcy

[27] 11 U.S.C. § 1123(b)(3)(A); *JPMorgan Chase Bank, N.A. v. Charter Commc'ns Operating, LLC (In re Charter Commc'ns)*, 419 B.R. 221, 257 (Bankr. S.D.N.Y. 2009) ("Debtors are authorized to settle or release their claims in a chapter 11 plan."); *In re Adelphia Commc'ns Corp.*, 368 B.R. 140, 263 n.289 (Bankr. S.D.N.Y. 2007).

Rule 9019(a) further provides, in relevant part, that "[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement."[28] Courts in the Third Circuit generally approve settlements proposed by a debtor if the settlement "exceed[s] the lowest point in the range of reasonableness."[29] To that end, a debtor may release claims under section 1123(b)(3)(A) "if the release is a valid exercise of the debtor's business judgment, is fair, reasonable, and in the best interests of the estate."[30] As an exercise of its business judgment, a debtor's decision to release claims against third parties under a plan is afforded deference.[31]

44. In addition to analyzing debtor releases under the business judgment standard, some courts in the Third Circuit apply the following factors—otherwise known as the *Zenith* factors—in the context of a debtor release in a chapter 11 plan:

(a) Whether the non-debtor has made a substantial contribution to the debtor's reorganization;

(b) Whether the release is critical to the debtor's reorganization;

(c) Agreement by a substantial majority of creditors to support the release;

(d) Identity of interest between the debtor and the third party; and

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[28] Fed. R. Bankr. P. 9019(a).

[29] *In re Exaeris, Inc.*, 380 B.R. 741, 746-47 (Bankr. D. Del. 2008) (*In re Coram Healthcare Corp.*, 315 B.R. 321, 334 (Bankr. D. Del. 2004)).

[30] *U.S. Bank Nat'l Assoc. v. Wilmington Tr. Co. (In re Spansion, Inc.)*, 426 B.R. 114, 143 (Bankr. D. Del. 2010), *appeal dismissed*, 2011 WL 3420441 (D. Del. Aug. 4, 2011); *see also In re Aleris Int'l, Inc.*, Case No. 09-10478 (BLS), 2010 WL 3492664, at *20 (Bankr. D. Del. May 13, 2010) (finding that where a debtor release is "an active part of the plan negotiation and formulation process, it is a valid exercise of the debtor's business judgment to include a settlement of any claims a debtor might own against third parties as a discretionary provision of a plan").

[31] *See, e.g.*, *In re Spansion, Inc.*, 426 B.R. at 140 ("It is not appropriate to substitute the judgment of the objecting creditors over the business judgment of the Debtors . . . ."); *In re Marvel Entm't Grp., Inc.*, 273 B.R. 58, 78 (D. Del. 2002) ("[U]nder the business judgment rule . . . a court will not interfere with the judgment of a board of directors unless there is a showing of gross and palpable overreaching. Thus, under the business judgment rule, a board's decisions will not be disturbed if they can be attributed to any rational purpose and a court will not substitute its own notions of what is or is not sound business judgment.") (internal quotation marks and citations omitted).

(e) Whether a plan provides for payment of all or substantially all of the classes of claims in the class or classes affected by the release.[32]

45. Not all of the above factors need to be satisfied for a court to approve a debtor release, nor do these factors comprise a rigid test; rather, the court should "engage[] in a fact specific review, weighing the equities of [the individual] case."[33]

46. Article VIII.A of the Plan provides for releases by the Debtors, as of the Effective Date, of, among other things, certain Claims and Causes of Action that the Debtors and their Estates may have against the Released Parties (the "Debtor Release").

47. The Debtor Release is an integral component of the Plan and complies with the Bankruptcy Code and applicable law. As discussed below, the Debtor Release is the product of arms'-length negotiations between the Debtors and the Committee. Further, the Debtor Release is being given in exchange for significant contributions, concessions, and compromises made by the Released Parties in the process of formulating and supporting the Plan, and is consistent with applicable law. Each of the categories of the Released Parties has contributed significantly to the Debtors' chapter 11 efforts, including negotiating and formulating the Plan and facilitating the progress made during these Chapter 11 Cases.

48. In short, the Debtor Release is necessary, appropriate, and critical to the Plan as a whole and is the product of valid and appropriate settlements of Claims and Causes of Action reached after extensive arm's-length negotiations between the Debtors and the Committee. Absent the releases described herein, the Plan may not have garnered the necessary support of the requisite

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[32] *See In re Zenith Elecs. Corp*., 241 B.R. 92, 110 (Bankr. D. Del. 1999) (citing *In re Master Mortg. Inv. Fund, Inc.*, 168 B.R. 930, 935 (Bankr. W.D. Mo. 1994)); *Spansion*, *Inc.*, 426 B.R. at 143 n.47 (citing the *Zenith* factors).

[33] *See In re Indianapolis Downs, LLC*, 486 B.R. 286, 303-04 (Bankr. D. Del. 2013) ("These factors are neither exclusive nor are they a list of conjunctive requirements."); *In re Wash. Mut., Inc.*, 442 B.R. at 346 ("These factors are neither exclusive nor conjunctive requirements, but simply provide guidance in the [c]ourt's determination of fairness."); *In re Exide Techs.*, 303 B.R. 48, 72 (Bankr. D. Del. 2003) (finding that these factors are not exclusive or conjunctive requirements); *In re Master Mortg. Inv. Fund, Inc.*, 168 B.R. 930, 935 (Bankr. W.D. Mo. 1994).

parties, making it impossible for the Debtors to have achieve a value-maximizing transaction in these Chapter 11 Cases.

49. Moreover, the Debtor Release is narrowly tailored to the circumstances of the Chapter 11 Cases. The Released Parties are a finite universe of identifiable parties: (a) the Debtors; (b) the Committee, and each of the members thereof in their capacity as such; (c) the Debtor Professionals; (d) the Committee Professionals; (e) Joseph Perry, Interim Chief Executive Officer; (f) the Interim CFO and CRO; (g) the Independent Director; (h) the Other Officers, *provided,* that such Other Officers enter into a Cooperation Agreement or otherwise agree to cooperate with the Committee and/or GUC Trustee in a form acceptable to the Committee and/or the GUC Trustee; and (i) employees of the Debtors as of the Petition Date, *provided, however,* that any such employee (1) was not and is not an officer or a director of any of the Debtors, and (2) did not receive a bonus payment exceeding $300,000 in the aggregate between 2023-2026.[34] Further, as is customary, the releases do not extend to claims arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct, actual fraud, or gross negligence.

50. Significantly, all Voting Classes (and the large majority of individual creditors) voted in favor of the Plan, including its release provisions, and none of the Debtors' various stakeholders objected to the Debtor Release. Accordingly, for the foregoing reasons, the Debtor Release should be approved.

2) The Third-Party Release Complies with the Discretionary Provisions of Section 1123(b) of the Bankruptcy Code and Should be Approved.

51. Article VIII.B of the Plan also provides for a consensual third-party release (the "Third-Party Release") that is an essential component of the Plan. As a general matter,

[34] *See* Plan, Art. I.109.

third-party releases are consensual when a creditor affected by the release contractually agrees to the release or votes in favor of a plan.[35] Courts in the Third Circuit routinely approve consensual third-party releases contained in plans.[36]

52. Here, the Third-Party Release is a limited consensual release in favor of the Released Parties by the Releasing Parties. Notably, and in addition to the Debtors and the Committee, the Releasing Parties are limited to the Holders of Claims who voted for or against the Plan, and declined to opt out of the release and did not timely object to the Third Party Release.

53. Here, the Releasing Parties had ample opportunity to evaluate and opt out of the Third-Party Release. The Ballots for Holders of Claims in the Voting Classes included the entirety of the Third-Party Release, the definitions of Releasing Parties and Released Parties, and links to the Debtors' case website, and clearly informed such Holders of the steps they should take if they disagreed with the scope of the Third-Party Release or otherwise desired to opt out. In fact, as seen in the Voting Declaration, the majority of Holders of Claims that voted on the Plan elected to opt out of the Third-Party Release. As such, it is apparent that Holders of Claims received adequate notice of the release and an opportunity to consent thereto.

54. In short, the Third-Party Release is sufficiently narrow, is being granted consensually, does not provide a blanket immunity, and provides a specific carve-out for acts or omissions that constitute fraud, gross negligence, or willful misconduct. Accordingly, this Court should approve the Third-Party Release.

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[35] *See In re Wash. Mut. Inc.*, 442 B.R. at 352 (finding that creditors may consent to third-party releases "by contract or the mechanism of voting in favor of the plan"); *In re Spansion, Inc.*, 426 B.R. at 144 (finding that a third-party release "binds . . . creditors voting in favor of the plan").

[36] *See In re Indianapolis Downs, LLC*, 486 B.R. at 305–06; *In re Wash. Mut. Inc.*, 442 B.R. at 355; *In re Spansion, Inc.*, 426 B.R. at 144.

3) The Exculpation is Appropriate and Should be Approved.

55. Article VIII.C of the Plan contains an exculpation provision (the "Exculpation"), which exculpates only certain estate fiduciaries. The Exculpation exculpates the Exculpated Parties[37] from claims arising out of or related to, among other things, the administration of these Chapter 11 Cases, the Special Committee Investigation, the Sale Transaction, the formulation and negotiation of the Plan and Disclosure Statement, and the solicitation and prosecution thereof.

56. The Exculpation seeks exculpation solely for Estate fiduciaries, consistent with applicable Third Circuit law.[38] Thus, the scope of the Exculpation is appropriate under both the applicable law and the facts of these Chapter 11 Cases. Courts in this District have approved similar exculpation provisions for Estate fiduciaries in connection with acts taken in connection with a debtor's restructuring efforts where such acts were not the product of fraud, gross negligence, or willful misconduct.[39]

57. Therefore, the Debtors submit that the Exculpation set forth in Article VIII.C of the Plan should be approved.

4) The Injunction is Appropriate and Should be Approved.

58. The injunction provision set forth in Article VIII.D of the Plan merely implements the Plan's distribution provisions by enjoining Holders of Claims and Interests from interfering

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[37] "Exculpated Parties" means, collectively, and in each case in its capacity as such: (a) each of the Debtors and their current directors and officers; (b) the Committee, and each of the members thereof, solely in their capacity as such; (c) each Professional employed in the Chapter 11 Cases pursuant to an order of the Bankruptcy Court in accordance with section 327, 363, or 1103 of the Bankruptcy Code; and (d) the Independent Director.

[38] *See In re PWS Holding Corp.,* 228 F.3d 224 (3d Cir. 2000).

[39] *See, e.g.*, *In re Legacy FSRD, Inc.*, No. 22-11051 (JKS) (Bankr. D. Del. Feb. 23, 2023) [Docket No. 322] (confirming a bankruptcy plan that included debtors, the unsecured creditors' committee, and their professionals as exculpated parties); *In re Legacy Ejy, Inc.*, No. 22-10580 (JKS) (Bankr. D. Del. Dec. 14, 2022) [Docket No. 689] (same).

with the use and distribution of the Debtors' assets in the manner contemplated by the Plan. Thus, the Injunction is necessary to effectuate the Plan.

59. As such, to the extent the Bankruptcy Court finds that the exculpation and release provisions are appropriate, the Debtors respectfully submit that the Injunction must also be appropriate.

iii. The Plan Modifies the Rights of Certain Classes—Section 1123(b)(5).

60. Section 1123(b)(5) of the Bankruptcy Code provides that a plan may "modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims."[40] Article III of the Plan modifies the rights of Holders of Claims in Classes 4, 5, 6A, 6B, 6C, 6D, 7, and 10, and may modify the rights of Holders of Claims and Interests in Classes 8 and 9. The Plan leaves unaffected the rights of Holders of Claims in Classes 1 through 3. Therefore, the Plan satisfies section 1123(b)(5) of the Bankruptcy Code.

iv. The Plan Complies with Section 1123(d) of the Bankruptcy Code.

61. Section 1123(d) of the Bankruptcy Code provides that "if it is proposed in a plan to cure a default the amount necessary to cure the default shall be determined in accordance with the underlying agreement and nonbankruptcy law."[41] The Plan provides for the satisfaction of monetary defaults under each Executory Contract and Unexpired Lease to be assumed under the Plan by payment of the default amount in Cash on the Effective Date, in the ordinary course of business, or on such other terms as the parties may otherwise agree, subject to the limitations

[40] 11 U.S.C. § 1123(b)(5).

[41] 11 U.S.C. § 1123(d).

described in Article V of the Plan. Further, pursuant to the Plan, unless the Debtors listed an Executory Contract or Unexpired Lease on the Schedule of Assumed Executory Contracts and Unexpired Leases, Executory Contracts or Unexpired Leases will be automatically rejected on the Effective Date.[42] The Plan therefore satisfies section 1123(d) of the Bankruptcy Code.

II. The Debtors Complied with the Applicable Provisions of the Bankruptcy Code—Section 1129(a)(2).

62. The Debtors have complied with the applicable provisions of the Bankruptcy Code in accordance with section 1129(a)(2) of the Bankruptcy Code. A principal purpose of section 1129(a)(2) is to ensure that plan proponents have complied with the disclosure and solicitation requirements set forth in sections 1125 and 1126 of the Bankruptcy Code.[43] The Debtors have complied with all applicable notice, solicitation, and disclosure requirements set forth in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and the Solicitation Approval Order, and therefore, the Debtors submit that the Plan satisfies section 1129(a)(2) of the Bankruptcy Code.

III. The Plan is Proposed in Good Faith and Not by Any Means Forbidden by Law—Section 1129(a)(3).

63. Section 1129(a)(3) of the Bankruptcy Code requires that a chapter 11 plan be "proposed in good faith and not by any means forbidden by law."[44] The Third Circuit has held that for a plan to be proposed in good faith, it must "fairly achieve a result consistent with the objectives and purposes of the Bankruptcy Code."[45] To determine whether a plan seeks relief

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42 *See* Plan, Art. V.

43 S. Rep. No. 95-989, at 126 (1978); H.R. Rep. No. 95-595, at 412 (1977) ("Paragraph (2) [of section 1129(a)] requires that the proponent of the plan comply with the applicable provisions of chapter 11, such as section 1125 regarding disclosure.").

44 11 U.S.C. § 1129(a)(3).

45 *See In re PWS Holding Corp.*, 228 F.3d at 242; *In re NII Holdings, Inc.*, 288 B.R. 356, 362 (Bankr. D. Del. 2002).

consistent with the Bankruptcy Code, courts consider the totality of the circumstances surrounding the development of the plan.[46] Accordingly, the examination must be done on a case-by-case basis and the court is given "considerable discretion in finding good faith."[47]

64. Here, the Plan was negotiated, developed, and proposed in good faith by the Debtors with the legitimate and honest purpose of preserving the value of the Debtors' assets, subsequently winding down the Debtors' affairs, and maximizing both the value of the Debtors' Estates and recoveries to the Debtors' creditors on account of their Allowed Claims. The Plan was not proposed by any means forbidden by law, has a high likelihood of success, and will achieve a result consistent with the objectives of the Bankruptcy Code. Moreover, throughout the negotiation of the Plan and these cases, the Debtors have upheld their fiduciary duties to stakeholders and protected the interests of all constituents with an even hand. Accordingly, the Plan and the Debtors' conduct satisfy section 1129(a)(3) of the Bankruptcy Code.

IV. The Plan Provides that the Debtors' Payment of Professional Fees and Expenses is Subject to Court Approval—Section 1129(a)(4).

65. Section 1129(a)(4) of the Bankruptcy Code requires that certain fees and expenses paid by the plan proponent or by the debtor be subject to approval by the Bankruptcy Court as reasonable.[48] Courts have construed this section to require that all payments of professional fees paid out of estate assets be subject to review and approval by the court as to their reasonableness.[49]

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[46] *See, e.g.*, *In re W.R. Grace & Co.*, 475 B.R. at 87; *Fin. Sec. Assurance Inc. v. T-H New Orleans Ltd. P'ship (In re T-H New Orleans Ltd. P'ship)*, 116 F.3d 790, 802 (5th Cir. 1997).

[47] *In re W.R. Grace & Co.*, 475 B.R. at 87 (citing *In re Coram Healthcare Corp.*, 271 B.R. 228, 234 (Bankr. D. Del. 2001)).

[48] *See* 11 U.S.C. § 1129(a)(4).

[49] *See In re Lisanti Foods, Inc.*, 329 B.R. 491, 503 (D.N.J. 2005), *aff'd*, 241 F. App'x 1 (3d Cir. 2007) ("Pursuant to § 1129(a)(4), a [p]lan should not be confirmed unless fees and expenses related to the [p]lan have been approved, or are subject to the approval, of the Bankruptcy Court."); *In re Resorts Int'l, Inc.*, 145 B.R. 412, 475-76 (Bankr. D.N.J. 1990); *In re Future Energy Corp.*, 83 B.R. 470, 488 (Bankr. S.D. Ohio 1988).

66. The Plan satisfies section 1129(a)(4) of the Bankruptcy Code. The Debtors submit that payment of Professional Fee Claims is the only category of payments that falls within the ambit of section 1129(a)(4) of the Bankruptcy Code. Pursuant to Article II.B.1 of the Plan, payment of all Professional Fee Claims is subject to prior Court approval and the reasonableness requirements under sections 328 and 330 of the Bankruptcy Code. Moreover, Article II.B.1 of the Plan provides that all final requests for payment of Professional Fee Claims must be filed no later than 45 days after the Effective Date, thereby providing an adequate period of time for interested parties to review such Professional Fee Claims.[50] Finally, as of the Effective Date, funds in the Professional Fee Escrow Account will be held in trust solely for the Allowed Professional Fee Claims and maintained by the GUC Trust.[51] Therefore, the Plan complies with the requirements of section 1129(a)(4) of the Bankruptcy Code.

V. The Debtors Disclosed All Necessary Information Regarding Directors, Officers, and Insiders—Section 1129(a)(5).

67. Section 1129(a)(5)(A)(i) of the Bankruptcy Code requires that the proponent of a plan disclose the identity and affiliations of the proposed officers and directors of a reorganized debtor.[52] Section 1129(a)(5)(B) of the Bankruptcy Code requires a plan proponent to disclose the identity of any "insider" (as defined by section 101(31) of the Bankruptcy Code) to be employed or retained by the reorganized debtor and the nature of any compensation for such insider.[53]

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[50] *See* Plan, Art. II.B.

[51] *See* Plan, Art. II.B.2.

[52] *See* 11 U.S.C. § 1129(a)(5)(A)(i).

[53] *See* 11 U.S.C. § 1129(a)(5)(B).

68. The Plan satisfies section 1129(a)(5) of the Bankruptcy Code. In accordance with Article IV.G of the Plan, on the Effective Date, the existing board of directors or managers, as applicable, of each of the Debtors will be dissolved and the GUC Trustee will serve as the sole shareholder of TopCo, and as the sole officer, director, and manager, as applicable, of each of the Post Effective Date Debtors.[54] Further, the Debtors have disclosed, as part of the Plan Supplement, the identities of the GUC Trustee and the members of the GUC Trust Oversight Committee. The Plan therefore satisfies section 1129(a)(5) of the Bankruptcy Code.

VI. The Plan Does Not Require Governmental Regulatory Approval—Section 1129(a)(6).

69. Section 1129(a)(6) of the Bankruptcy Code permits confirmation only if any regulatory commission that has or will have jurisdiction over a debtor after confirmation has approved any rate change (*e.g.*, the price of utility services) provided for in the plan. No rate changes are provided for in the Plan, meaning that section 1129(a)(6) of the Bankruptcy Code is inapplicable to the Chapter 11 Cases.

VII. The Plan is in the Best Interests of All the Debtors' Creditors—Section 1129(a)(7).

70. Section 1129(a)(7) of the Bankruptcy Code, commonly known as the "best interests test," requires that, with respect to each impaired class of claims or interests, each individual holder of a claim or interest has either (a) accepted the plan, or (b) will receive or retain property having a value not less than the value such holder would receive if the debtor were liquidated under chapter 7 of the Bankruptcy Code.[55]

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[54] *See* Plan, Art. IV.G.

[55] *See* 11 U.S.C. § 1129(a)(7); *In re PWS Holding Corp.*, 228 F.3d 224, 230 (3d Cir. 2000); *Kane v. Johns-Manville Corp.*, 843 F.2d 636, 649 (2d Cir. 1988).

71. Under the best interests test, "the court must measure what is to be received by rejecting creditors . . . under the plan against what would be received by them in the event of liquidation under chapter 7."[56] Therefore, a plan proponent satisfies its evidentiary burden with respect to the best interests test by providing "a liquidation analysis of some type that is based on evidence and not mere assumptions or assertions."[57]

72. As an initial matter, the best interests test does not apply to Class 1 (Secured Tax Claims), Class 2 (Other Secured Claims), or Class 3 (Other Priority Claims) because such Classes are Unimpaired under the Plan. Class 7 (Section 510(b) Claims) is vacant, and Class 5 (Convenience Claims) with respect to Debtors Reliz Tech and Reliz CI is vacant as well.[58] As reflected in the Liquidation Analysis, Class 6A (General Unsecured Claims Against Topco), 6B (General Unsecured Claims Against Reliz Tech), 6C (General Unsecured Claims Against Reliz CI), Class 8 (Intercompany Claims), Class 9 (Intercompany Interests), and Class 10 (Existing Equity Interests) will not receive or retain any property under either the Plan or in a chapter 7 liquidation.

73. As such, in order to confirm the Plan, the Debtor must establish that all of the Holders of Claims in Class 5 (Convenience Claims) with respect to Debtors TopCo and Reliz LTD and Class 6D (General Unsecured Claims Against Reliz LTD) voted in favor of the Plan, or that such Holders will receive at least as much value under the Plan as they would in a chapter 7

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[56] *In re Adelphia Commc'ns Corp.*, 368 B.R. at 252; *In re W.R. Grace & Co.*, 475 B.R. 34, 141 (D. Del. 2012), *aff'd sub nom. In re WR Grace & Co.*, 729 F.3d 332 (3d Cir. 2013), and *aff'd*, 532 F. App'x 264 (3d Cir. 2013), and *aff'd sub nom. In re WR Grace & Co.*, 729 F.3d 332 (3d Cir. 2013), and *aff'd*, 729 F.3d 311 (3d Cir. 2013) (finding that the best interests test requires that "every creditor to a Chapter 11 reorganization receive at least the liquidation value of its claim under the plan as it would in a Chapter 7 proceeding against the debtor").

[57] *In re Adelphia Commc'ns Corp.*, 361 B.R. 337, 366 (S.D.N.Y. 2007).

[58] Pursuant to Article III.E of the Plan, Class 7 and Class 5 (solely with respect to Debtors Reliz Tech and Reliz CI) were eliminated because these Classes had no Holders of Claims entitled to vote for the Plan.

liquidation. As demonstrated in the Liquidation Analysis, the Plan provides for a greater recovery to Holders of Claims in Classes 5 and 6D than such Holders would receive in a chapter 7 liquidation. Therefore section 1129(a)(7) is satisfied with respect to these Classes.

74. The Debtor therefore has concluded that Holders of Claims and Interests in Impaired Classes will receive at least as much value under the Plan as they would in a chapter 7 liquidation. For this reason, the Plan satisfies the "best interests" test of section 1129(a)(7) of the Bankruptcy Code.

VIII. The Plan is Confirmable Notwithstanding the Requirements of Section 1129(a)(8) of the Bankruptcy Code.

75. Section 1129(a)(8) of the Bankruptcy Code requires that each class of claims or interests under a plan must either accept a plan or be unimpaired under a plan.[59] As discussed above, Class 4 (Celsius Secured Claim), Class 5 (Convenience Claims), Class 6A (General Unsecured Claims against TopCo), Class 6B (General Unsecured Claims against Reliz Tech), (e) Class 6C (General Unsecured Claims against Reliz CI), and (f) Class 6D (General Unsecured Claims against Reliz LTD) are Impaired and entitled to vote. As detailed in the Voting Declaration, each of these Classes voted to accept the Plan. Additionally, the Holders of Claims in Class 1 (Secured Tax Claims), Class 2 (Other Secured Claims), and Class 3 (Other Priority Claims) are Unimpaired under the Plan within the meaning of section 1124 of the Bankruptcy Code and are conclusively presumed to have accepted the Plan. As noted above, Class 7 (Section 510(b) Claims) is vacant and therefore not considered for purposes of this analysis.

76. However, Holders of Claims and Interests in Classes 8 and 9 are either Unimpaired and deemed to accept the Plan or Impaired and deemed to reject. In addition, Holders of Interests in Class 10 are Impaired and deemed to reject the Plan. Accordingly, while the requirements of

[59] *See* 11 U.S.C. § 1129(a)(8).

section 1129(a)(8) of the Bankruptcy Code have not been met with respect to these classes, the Bankruptcy Court may "cram down" the Plan over the deemed rejection by such Classes. As discussed below, the Bankruptcy Code's "cram down" requirements are satisfied for these Classes.

IX. The Plan Provides for Payment in Full of All Allowed Priority Claims—Section 1129(a)(9).

77. Section 1129(a)(9) of the Bankruptcy Code requires that certain priority claims be paid in full on the effective date of a plan and that the holders of certain other priority claims receive deferred cash payments.[60] In particular, pursuant to section 1129(a)(9)(A) of the Bankruptcy Code, holders of claims of a kind specified in section 507(a)(2) of the Bankruptcy Code—administrative claims allowed under section 503(b) of the Bankruptcy Code—must receive on the effective date cash equal to the allowed amount of such claims.[61] Section 1129(a)(9)(B) of the Bankruptcy Code requires that each holder of a claim of a kind specified in section 507(a)(1) of the Bankruptcy Code or (4) through (7)—generally wage, employee benefit, and deposit claims —must receive deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim (if such class has accepted the plan), or cash of a value equal to the allowed amount of such claim on the effective date of the plan (if such class has not accepted the plan).[62] Finally, section 1129(a)(9)(C) of the Bankruptcy Code provides that the holder of a claim of a kind specified in section 507(a)(8) of the Bankruptcy Code—*i.e.*, priority tax claims—must receive cash payments over a period not to exceed five years from the petition date, the present value of which equals the allowed amount of the claim.[63]

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60 *See* 11 U.S.C. § 1129(a)(9).

61 *See* 11 U.S.C. § 1129(a)(9)(A).

62 *See* 11 U.S.C. § 1129(a)(9)(B).

63 *See* 11 U.S.C. § 1129(a)(9)(C).

78. The Plan satisfies section 1129(a)(9) of the Bankruptcy Code. *First*, Article II.A of the Plan provides that each Holder of an Allowed Administrative Claim will receive Cash equal to the amount of such Allowed Administrative Claim on the later of the Effective Date and the date on which such Claim becomes an Allowed Claim (or as soon as reasonably practicable thereafter). *Second*, the Plan satisfies section 1129(a)(9)(B) of the Bankruptcy Code because no Holders of the Claims specified in section 1129(a)(9)(B) of the Bankruptcy Code are Impaired under the Plan. *Third*, Article II.C of the Plan provides that Holders of Allowed Priority Tax Claims will be treated in accordance with the terms of section 1129(a)(9)(C) of the Bankruptcy Code. The Plan thus satisfies each of the requirements of section 1129(a)(9) of the Bankruptcy Code.

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

79. Section 1129(a)(10) of the Bankruptcy Code provides that, to the extent there is an impaired class of claims, at least one impaired class of claims must accept the plan, "without including any acceptance of the plan by any insider."[64] Here, Holders of Claims in Classes 4, 5 (with respect to TopCo and Reliz LTD), 6A, 6B, 6C, and 6D—which are Impaired Classes entitled to vote on the Plan—voted to accept the Plan independent of any votes cast by insiders (within the meaning of section 101(31) of the Bankruptcy Code), satisfying section 1129(a)(10) of the Bankruptcy Code.

XI. The Plan is Feasible—Section 1129(a)(11).

80. Section 1129(a)(11) of the Bankruptcy Court requires that the Bankruptcy Court find that a plan is feasible as a condition precedent to confirmation.[65] Specifically, the Bankruptcy

[64] 11 U.S.C. § 1129(a)(10).

[65] *See* 11 U.S.C. § 1129(a)(11).

Court must determine that "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan."[66] To demonstrate that a plan is feasible, a debtor must provide only a reasonable assurance of success, which requires a relatively low threshold of proof.[67]

81. The Plan provides for the continued corporate existence of the Debtors as the Post Effective Date Debtors and for the appointment of the GUC Trustee to serve as the sole shareholder of TopCo, and as the sole officer, director, and manager, as applicable, of each of the other Post Effective Date Debtors to effectuate the terms of the Plan. The Plan further provides for the wind down and dissolution of the Post Effective Date Debtors and the GUC Trust once the GUC Trustee has completed administration of the GUC Trust. As such, provided that the Plan is confirmed and consummated, the Estates will not require a future reorganization or liquidation beyond the liquidation and dissolution contemplated by the Plan.

82. Moreover, the Plan is feasible because the Estates' property is sufficient to pay all Administrative Claims, Priority Tax Claims, and Other Priority Claims that are Allowed on the Effective Date, and the Debtors have sufficient funds to fund the reserves required under the Plan. Because the Plan is reasonably likely to succeed on its own terms, the Plan is feasible, and the requirements of section 1129(a)(11) are met.

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66 *Id.*

67 *See In re Prussia Assocs.*, 322 B.R. 572, 584 (Bankr. E.D. Pa. 2005) (noting that the Bankruptcy Code does not require a debtor to prove that success is inevitable and a relatively low threshold of proof will satisfy section 1129(a)(11), as long as adequate evidence supports a finding of feasibility); *In re Tribune Co.*, 464 B.R. at 185, *on reconsideration*, 464 B.R. 208 (Bankr. D. Del. 2011).

XII. All Statutory Fees Have Been or Will Be Paid—Section 1129(a)(12).

83. Section 1129(a)(12) of the Bankruptcy Code requires the payment of "[a]ll fees payable under section 1930 of title 28 [of the United States Code], as determined by the court at the hearing on confirmation of the plan."[68] Section 507(a)(2) of the Bankruptcy Code provides that "any fees and charges assessed against the estate under [section 1930 of] chapter 123 of title 28" are afforded priority as administrative expenses.[69] Article XII.C of the Plan provides that all fees and charges under 28 U.S.C. § 1930(a), to the extent not previously paid and due and owing, will be paid for each quarter (or any fraction thereof) until the applicable chapter 11 case of each of the applicable Post Effective Date Debtors is converted, dismissed, or closed, whichever occurs first. Therefore, the Plan satisfies section 1129(a)(12) of the Bankruptcy Code.

XIII. Sections 1129(a)(13)-(16) of the Bankruptcy Code Do Not Apply to the Plan.

84. Section 1129(a)(13) of the Bankruptcy Code is inapplicable because the Debtors do not provide "retiree benefits" within the meaning of Bankruptcy Code section 1114. Section 1129(a)(14) of the Bankruptcy Code relates to the payment of domestic support obligations—since the Debtors are not subject to any domestic support obligations, section 1129(a)(14) of the Bankruptcy Code does not apply. Likewise, section 1129(a)(15) of the Bankruptcy Code applies only in cases in which the debtor is an "individual" as the term is defined in the Bankruptcy Code. Because none of the Debtors is an "individual," the requirements of section 1129(a)(15) of the Bankruptcy Code do not apply. Finally, none of the Debtors is a nonprofit corporation and, therefore, section 1129(a)(16) of the Bankruptcy Code does not apply.

[68] 11 U.S.C. § 1129(a)(12).

[69] 11 U.S.C. § 507(a)(2).

XIV. The Plan Satisfies the "Cram Down" Requirements of Section 1129(b) of the Bankruptcy Code.

85. Section 1129(b)(1) of the Bankruptcy Code provides that, if all applicable requirements of section 1129(a) of the Bankruptcy Code are met other than section 1129(a)(8) of the Bankruptcy Code, a plan may be confirmed so long as the requirements set forth in section 1129(b) of the Bankruptcy Code are satisfied.[70] To confirm a plan that has not been accepted by all impaired classes (thereby failing to satisfy section 1129(a)(8)) of the Bankruptcy Code, the plan proponent must show that the plan does not "discriminate unfairly" and is "fair and equitable" with respect to the non-accepting impaired classes.[71]

86. The Plan satisfies section 1129(b) of the Bankruptcy Code. As set forth in the Voting Declaration, each of the Impaired Classes entitled to vote on the Plan overwhelmingly voted to accept the Plan. Holders of Claims and Interests in Classes 8 and 9 are either Unimpaired and deemed to accept the Plan or Impaired and deemed to reject the Plan. In addition, Holders of Interests in Class 10 will receive no recovery and are deemed to reject the Plan. The Plan is nonetheless confirmable because, as discussed in greater detail below, it satisfies the "cram down" requirements of section 1129(b) of the Bankruptcy Code with respect to Classes 8, 9, and 10 because the Plan does not unfairly discriminate and complies with the absolute priority rule.

A. The Plan Does Not Discriminate Unfairly with Respect to Impaired Classes that Have Not Voted to Accept the Plan—Section 1129(b)(1).

87. The unfair discrimination standard of section 1129(b)(1) of the Bankruptcy Code ensures that a plan does not unfairly discriminate against a dissenting class with respect to the

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[70] *See* 11 U.S.C. § 1129(b)(1).

[71] *See John Hancock Mut. Life Ins. Co. v. Route 37 Bus. Park Assocs.*, 987 F.2d 154, 157 n.5 (3d Cir. 1993); *In re Zenith Elecs.*, 241 B.R. at 105 (explaining that "[w]here a class of creditors or shareholders has not accepted a plan of reorganization, the court shall nonetheless confirm the plan if it 'does not discriminate unfairly and is fair and equitable'"); *In re Ambanc La Mesa L.P.*, 115 F.3d 650, 653 (9th Cir. 1997).

value it will receive under a plan when compared to the value given to all other similarly situated classes.[72] Accordingly, as between two classes of claims or two classes of interests, there is no unfair discrimination if (a) the classes are comprised of dissimilar claims or interests,[73] or (b) taking into account the particular facts and circumstances of the case, there is a reasonable basis for such disparate treatment.[74] Section 1129(b) of the Bankruptcy Code permits a debtor's chapter 11 plan to provide for unequal treatment of separately classified creditors with similar legal rights, so long as the discriminatory treatment of the impaired dissenting class is not "unfair."[75]

88. The Plan does not discriminate unfairly against the only Impaired Classes that did not vote in favor of the Plan—*i.e.*, Classes 8, 9, and 10 (the "Non-Voting Classes"). Here, the Claims in Class 8 are Intercompany Claims, and therefore there is a reasonable basis to separately classify these Claims from other unsecured Claims. Classes 9 and 10 include Interests with a lower priority than the Claims in Classes 1-8. As such there also is a reasonable basis for the separate

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[72] *See In re Armstrong World Indus., Inc.*, 348 B.R. 111, 121 (D. Del. 2006) (noting that the "hallmarks of the various tests have been whether there is a reasonable basis for the discrimination, and whether the debtor can confirm and consummate a plan without the proposed discrimination.") (citing *In re Lernout & Hauspie Speech Prod., N.V.*, 301 B.R. 651, 660 (Bankr. D. Del. 2003) *aff'd*, 308 B.R. 672 (D. Del. 2004)); *In re WorldCom, Inc.*, No. 02-13533 (AJG), 2003 WL 23861928, at *59 (Bankr. S.D.N.Y. Oct. 31, 2003) (citing *In re Buttonwood Partners, Ltd.*, 111 B.R 57, 63 (Bankr. S.D.N.Y. 1990)); *In re Johns-Manville Corp.*, 68 B.R. 618, 636 (Bankr. S.D.N.Y. 1986), *aff'd in part, rev'd in part on other grounds, In re Johns-Manville Corp.*, 78 B.R. 407 (S.D.N.Y. 1986), *aff'd sub nom. Kane v. Johns-Manville Corp.*, 843 F.2d 636 (2d Cir. 1988).

[73] *See, e.g.*, *In re Johns-Manville Corp.*, 68 B.R. at 636.

[74] *See, e.g.*, *In re Drexel Burnham Lambert Grp.*,138 B.R. at 715 (separate classification and treatment was rational where members of each class "possesse[d] different legal rights"), *aff'd sub nom. Lambert Brussels Assocs, L.P. v. Drexel Burnham Lambert Grp., Inc. (In re Drexel Burnham Lambert Grp., Inc.)*, 140 B.R. 347 (S.D.N.Y. 1992); *In re Jersey City Med. Ctr.*, 817 F.2d 1055, 1061 (3d Cir. 1987) (approving classification of general unsecured creditors into different classes with different legal bases: doctors' indemnification claims, medical malpractice claims, employee benefit claims and trade claims); *see also In re Abeinsa Holding, Inc.*, 562 B.R. 265, 274–75 (Bankr. D. Del. 2016) (rejecting challenge to separate classification in part on the basis that, even without the challenged classification, the voting results would not change); *In re Nuverra Envtl. Solutions, Inc.*, 590 B.R. 75, 98–99 (D. Del. 2018) (district court dismissing claimants' appeal, determining the overwhelming acceptance within the claimant's class rendered argument moot).

[75] *See Mercury Capital Corp. v. Milford Conn. Assocs., L.P.*, 354 B.R. 1, 10 (D. Conn. 2006).

classification of the Holders in these Classes. Accordingly, the Plan does not discriminate unfairly against the Non-Voting Classes.

B. The Plan is Fair and Equitable—Section 1129(b)(2)(B)(ii).

89. A plan is considered "fair and equitable" pursuant to sections 1129(b)(2)(B)(ii) and 1129(b)(2)(C)(ii) of the Bankruptcy Code if, with respect to a class of impaired unsecured claims or interests, the plan provides that either (a) an impaired rejecting class of claims or interests be paid in full, or (b) a class junior to the impaired rejecting class not receive any distribution under a plan on account of its junior claim or interest.[76] This is referred to as the "absolute priority rule," which requires that if the holders of claims in a particular rejecting class receive less than full value for their claims, no holders of claims or interests in a junior class may receive any property under the plan.

90. Here, the Plan satisfies the absolute priority rule with respect to the Non-Voting Classes. *First*, no Class of Claims or Interests junior to such Classes will receive or retain any property under the Plan.[77] *Second*, no Class of Claims or Interests will receive or retain property under the Plan that has a value greater than 100% nor has any party asserted as such.[78] Accordingly, the Plan satisfies the requirements of sections 1129(b)(2)(B)(ii) and 1129(b)(2)(C)(ii) of the Bankruptcy Code and, therefore, is fair and equitable with respect to the Non-Voting Classes.

[76] *See* 11 U.S.C. § 1129(b)(2)(B)-(C).

[77] *See* Plan, Art. III.

[78] *Id.* Art. III.

XV. The Plan Complies with the Other Provisions of Section 1129 of the Bankruptcy Code—Section 1129(c)-(e).

91. The Plan satisfies the remaining provisions of section 1129 of the Bankruptcy Code. *First*, section 1129(c) of the Bankruptcy Code, which prohibits confirmation of multiple plans,[79] is not implicated here because the Plan is the only plan filed in these Chapter 11 Cases.

92. *Second*, section 1129(d) of the Bankruptcy Code provides that "the court may not confirm a plan if 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."[80] Here, the purpose of the Plan is not to avoid taxes or the application of section 5 of the Securities Act of 1933 and no party has suggested otherwise.

93. Finally, section 1129(e) of the Bankruptcy Code is inapplicable because none of the Debtors' chapter 11 cases is a "small business case."[81] Therefore, the Plan satisfies the remaining provisions of sections 1129(c)–(e) of the Bankruptcy Code.

94. In sum, because all factors under section 1129 of the Bankruptcy Code as well as other related factors under the Bankruptcy Code are satisfied, the Debtors submit that confirmation of the Plan is both appropriate and merited.

MODIFICATIONS TO THE PLAN

95. Section 1127(a) of the Bankruptcy Code provides that a plan proponent may modify its plan at any time before confirmation as long as such modified plan meets the requirements of sections 1122 and 1123 of the Bankruptcy Code.[82] Further, when the proponent of a plan files the

[79] *See* 11 U.S.C. § 1129(c).

[80] 11 U.S.C. § 1129(d).

[81] 11 U.S.C. § 1129(e).

[82] *See* 11 U.S.C. § 1127(a).

plan with modifications with the court, the plan as modified becomes the plan.[83] Bankruptcy Rule 3019 provides that modifications to a plan after it has been accepted will be deemed to have been accepted by all creditors and equity security holders who have previously accepted the plan if the court finds that the proposed modifications do not adversely change the treatment of the claim of any creditor or the interest of any equity security holder.[84]

96. Following solicitation, the Debtors filed a modified Plan which implements the terms of the settlement with the Committee and the Special Committee, in addition to certain other technical modifications. These changes do not adversely affect the treatment of any Holder of Claims or Interests and are supported by the Committee and the Special Committee. Given that the modifications do not adversely affect creditors and stakeholders, the modifications comply with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019. Accordingly, the Debtors submit that no additional solicitation or disclosure is required on account of the modifications, and that such modifications should be deemed accepted by all creditors that previously accepted the Plan.

GOOD CAUSE EXISTS TO WAIVE THE STAY OF THE CONFIRMATION ORDER

97. Bankruptcy Rule 3020(e) provides that "[a]n order confirming a plan is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise."[85] Bankruptcy Rules 6004(h) and 6006(d) provide similar stays of orders authorizing the sale of

[83] *See In re American-CV Station Grp., Inc.*, 56 F.4th 1302, 1308 (11th Cir. 2023) ("Easy modification allows negotiated outcomes to quickly become part of the plan.").

[84] Fed. R. Bankr. P. 3019.

[85] Fed. R. Bankr. P. 3020(e).

property and assignments of executory contracts or unexpired leases, respectively.[86] These rules also permit modification of the stay upon court order.

98. Good cause exists for waiving any stay of the proposed Confirmation Order pursuant to Bankruptcy Rules 3020, 6004, and 6006 so that the proposed Confirmation Order may become effective immediately upon its entry. As noted above, the Chapter 11 Cases have been conducted in good faith and with a high degree of transparency and public dissemination of information. The sooner the proposed Confirmation Order becomes effective, the sooner Holders of Allowed Claims can receive distributions and the Debtors can wind down their affairs. The Plan should therefore take effect as quickly as possible to facilitate the distribution and wind down process. Thus, the Debtors request a waiver of the stay imposed by Bankruptcy Rules 3020, 6004, and 6006 so that the proposed Confirmation Order may become effective immediately upon its entry.

CONCLUSION

99. For all the reasons set forth herein, in the Renzi Declaration, in the Voting Declaration, and as will be further shown at the Confirmation Hearing, the Debtors respectfully request that the Bankruptcy Court (a) confirm the Plan as fully satisfying all of the applicable requirements of the Bankruptcy Code by entering the proposed Confirmation Order; and (b) grant such other and further relief as is just and proper.

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[86] Fed. R. Bankr. P. 6004(h); Fed. R. Bankr. P. 6006(d).

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