Docket #0497 Date Filed: 08/24/2026

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re: WELLMADE FLOOR COVERINGS INTERNATIONAL, INC., *et al.*,[1] Debtors.	Chapter 11 Case No. 25-58764 (Jointly Administered)

DEBTORS' MEMORANDUM OF LAW IN SUPPORT OF FINAL APPROVAL OF THE DISCLOSURE STATEMENT AND CONFIRMATION OF THE DEBTORS' CHAPTER 11 PLAN

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Dated: August 24, 2026

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Wellmade Industries MFR. N.A LLC (1058) and Wellmade Floor Coverings International, Inc. (8425). The mailing address for the Debtors for purposes of these chapter 11 cases is: 1 Wellmade Drive, Cartersville, GA 30121.

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The above-captioned debtors and debtors in possession (collectively, the "Debtors") file this memorandum of law in support of confirmation of the *Debtors' Chapter 11 Plan* [Docket No. 385] (as modified, amended, or supplemented the "Plan").[2] In support of confirmation of the Plan, and in response to the objections filed thereto (collectively, the "Objections"), the Debtors respectfully state as follows.[3]

PRELIMINARY STATEMENT

1. As described and set forth in the Disclosure Statement and Plan, on October 8, 2025, the Court approved the Debtors' sale of substantially all of their operating assets [Docket No. 220]. The Debtors subsequently consummated the sale on November 7, 2025 [Docket No. 259].

2. On June 18, 2026, the Court approved the terms of the Labor Plaintiffs Settlement [Docket No. 426], which resolved all claims asserted by the Labor Plaintiffs in both the Cases and the District Court Action.

3. Following extensive negotiations among the Debtors and their primary constituencies, the Debtors filed a Plan that provides for the orderly winddown of the Debtors and liquidation of remaining assets. The Plan maximizes potential recoveries available and provides payment in full of all Allowed Claims and a recovery to holders of Interests.

4. Four parties objected to confirmation of the Plan: (a) *United States Trustee's Objection to Confirmation of Debtors' Chapter 11 Plan* [Docket No. 484] (the "UST Objection"), (b) the *Limited Objection and Reservation of Rights of the AHF Parties to Confirmation of*

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

[3] Additional facts and circumstances supporting confirmation of the Plan are set forth in: (i) the *Declaration of David Baker in Support of Confirmation of the Debtors' Chapter 11 Plan* (the "Baker Declaration") filed contemporaneously herewith; and (ii) the *Declaration of Andres A. Estrada to Solicitation and the Tabulation of votes on the Debtors' Chapter 11 Plan* [Docket No. 494] (the "Voting Declaration"), each of which is incorporated herein by reference.

Debtors' Chapter 11 Plan, Amended Disclosure Statement, and Plan Supplement [Docket No. 485] (the "AHF Objection"), (c) the *Limited Objection of the Committee of Creditors Holding Unsecured Claims to the Debtors' Chapter 11 Plan* [Docket No. 487] (the "Committee Objection"), and (d) the *Limited Objection to Confirmation of Debtor's Chapter 11 Plan* [Docket No. 488] (the "Tax Commissioner Objection"). The Tax Commissioner Objection was resolved through the *Stipulation Regarding the Claim of Bartow County Tax Commissioner* [Docket No. 489]. The Debtors also believe that they have resolved the AHF Objection in the proposed order confirming the Plan (the "Confirmation Order"), which will be submitted to the Court contemporaneously with this memorandum. No party filed an objection to approval of the Disclosure Statement on a final basis.

5. The United States Trustee (the "U.S. Trustee") asserts in its objection that the Third-Party Release is an impermissible, non-consensual third-party release. However, as Courts in this district have recently held, where parties in interest have been provided clear and conspicuous notice of the Third-Party Release and the ability to opt out of such releases, there is a rebuttable presumption that the Third-Party Release is consensual. Indeed, the Third-Party Release in the Plan specifically provides for such a presumption and the method by which parties may subsequently seek to rebut the presumption. Accordingly, the Third-Party Release under the Plan is consensual and should be approved.

6. Additionally, the Committee claims that Class 4, Unsecured Claims, is impaired because the claims are being paid interest at the lower of the Federal Judgment Rate or the Contract Rate as opposed to the higher of the two. Holders of Allowed Claims in Class 4 are unimpaired because they are being paid 100% of their claims plus post-petition interest at the Federal Judgment Rate, which is consistent with rulings from Courts in this district. The Committee has also objected

to the retention of Avoidance Actions, but has not (and cannot) point to any authority requiring the waiver of those Causes of Action prior to payment of creditors in full.

7. As more fully described herein, the Plan satisfies all applicable requirements for confirmation under the Bankruptcy Code and applicable law. It embodies a good-faith compromise of rights and interests of the parties in interest that was the product of arms-length negotiations among the Debtors' key constituents. As a result, and for the reasons set forth more fully in this memorandum, the Court should confirm the Plan and overrule any outstanding objections.

JURISDICTION

8. The Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. Approval of the Disclosure Statement and confirmation of the Plan are core proceedings pursuant to 28 U.S.C. § 157(b), and this Court has jurisdiction to enter a final order with respect thereto. The Debtors are eligible debtors under section 109 of the Bankruptcy Code and are proper plan proponents under section 1121(a) of the Bankruptcy Code.

BACKGROUND[4]

A. Chapter 11 Cases

9. On August 4, 2025 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with this Court. The Debtors have continued in possession of their properties and are operating and managing their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

[4] Further detail regarding the Debtors' businesses, capital structure, and the circumstances leading to the filing of these Cases is set forth in the *Declaration of David Baker, CTP in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 14] and the Disclosure Statement, which are fully incorporated herein by reference.

10. On August 14, 2025, the U.S. Trustee appointed an official committee of unsecured creditors (the "Committee") in these above-captioned chapter 11 cases (the "Cases"). No request has been made for the appointment of a trustee or an examiner.

B. Confirmation, Solicitation, and Notification Process

11. On July 22, 2026, the Court entered the *Order (A) Conditionally Approving the Disclosure Statement, (B) Establishing Procedures for Solicitation and Tabulation of Votes to Accept or Reject the Plan, (C) Approving the Form of Ballot and Solicitation Materials, (D) Establishing Voting Record Date, (E) Fixing the Date, Time, and Place for the Hearing on Confirmation of the Plan and the Deadline for Filing Objections Thereto, and (F) Approving Related Notice Procedures and Deadlines* [Docket No. 463] (the "Solicitation Procedures Order"). The Solicitation Procedures Order set the hearing on final approval of the Disclosure Statement and confirmation of the Plan (the "Combined Hearing") for August 27, 2026 at 10:00 a.m. (ET) and approved, among other things: (a) the proposed procedures for solicitation of the Plan; (b) related notices, forms, and ballots (collectively, the "Solicitation Packages"); and (c) the form and notice of the Combined Hearing (the "Combined Hearing Notice").

12. On July 27, 2026, the Debtors caused the Claims and Noticing Agent to serve the Solicitation Packages, the Combined Hearing Notice, and other related notices as set forth under the Solicitation Procedures Order.[5]

13. On August 10, 2026, the Debtors filed the *Notice of Filing of Plan Supplement* [Docket No. 477] (the "Plan Supplement"), which included the identity and compensation of the Plan Administrator, the Plan Administration Agreement, and the Wind Down Cash Amount.

[5] *Certificate of Service* [Docket No. 482], dated August 17, 2026 and *Supplemental Certificate of Service* [Docket No. 482], dated August 18, 2026 (collectively, the "Solicitation Affidavit").

14. The deadline for all Holders of Claims entitled to vote on the Plan to cast their ballots was August 20, 2026 at 4:00 p.m. (prevailing Eastern Time) (the "Voting Deadline"). The deadline to file objections to the Plan was also August 20, 2026, at 4:00 p.m. (prevailing Eastern Time). Contemporaneous with the filing of this memorandum, the Debtors are filing the Voting Declaration. As set forth in the Voting Declaration, Class 3 voted to accept the Plan. Accordingly, all Voting Classes accepted the Plan.

ARGUMENT

15. For the reasons set forth in the Baker Declaration, herein, and as will be presented at the Combined Hearing, the Debtors submit that the Disclosure Statement and the Plan each satisfy all applicable provisions of the Bankruptcy Code. No objections to approval of the Disclosure Statement on a final basis were filed. The Debtors request that the Court overrule all unresolved objections to the Plan by entering the Proposed Order approving the Disclosure Statement on a final basis and confirming the Plan.

A. The Disclosure Statement Should be Approved on a Final Basis

16. Pursuant to section 1125 of the Bankruptcy Code, a plan proponent must provide "adequate information" regarding that plan to holders of impaired claims and interests entitled to vote on the plan.[6] "Adequate information" is defined in the Bankruptcy Code as:

> "[I]nformation of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan[.][7]

[6] 11 U.S.C. § 1125.
[7] *Id.* § 1125(a)(1).

Thus, the disclosures must provide information that is "reasonably practicable" to permit an "informed judgment" by creditors and interest holders entitled to vote on the debtor's plan of reorganization.[8] Essentially, a disclosure statement "must clearly and succinctly inform the average unsecured creditor what it is going to get, when it is going to get it, and what contingencies there are to getting its distribution."[9]

17. Courts have broad discretion in determining whether a disclosure statement contains "adequate information," employing a flexible approach based on the unique facts and circumstances of each case.[10] Employing a flexible approach to approval of disclosure statements, courts have identified several categories of information which, based on the facts of a particular case, should typically be included in a disclosure statement, though disclosure of every factor is not necessary in every case.[11] Relevant factors for evaluating the adequacy of a disclosure statement may include:

a) the events which led to the filing of a bankruptcy petition;

b) a description of the available assets and their value;

c) the anticipated future of the company;

d) the source of information stated in the disclosure statement;

e) a disclaimer;

f) the present condition of the debtor while in Chapter 11;

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[8] *In re New Power Corp.*, 438 F.3d 1113, 1118 (11th Cir. 2006).

[9] *In re Ferretti*, 128 B.R. 16, 19 (Bankr. D.N.H. 1991).

[10] *See, e.g.*, *In re Ionosphere Clubs, Inc.*, 179 B.R. 24, 29 (S.D.N.Y. 1995) ("The determination of what is adequate information is subjective and made on a case by case basis. This determination is largely within the discretion of the bankruptcy court.") (internal citation omitted); *In re Nw. Recreational Activities, Inc.*, 8 B.R. 10, 11 (Bankr. N.D. Ga. 1980) ("The quality of the Disclosure Statement which will qualify as 'adequate information' will vary with the circumstances. The kind and form of information is left to the judicial discretion of the court on a case by case basis."); *In re Brandon Mill Farms, Ltd.*, 37 B.R. 190, 191–92 (Bankr. N.D. Ga. 1984) ("Beyond the statutory guidelines described in the definition of 'adequate information,' the decision to approve or reject a disclosure statement is within the discretion of the Bankruptcy Court.").

[11] *See, e.g.*, *In re Metrocraft Pub. Serv., Inc.*, 39 B.R. 567, 568 (Bankr. N.D. Ga. 1984) (listing 19 factors that the court considered relevant in evaluating the adequacy of a disclosure statement).

g) the scheduled claims;

h) the estimated return to creditors under a Chapter 7 liquidation;

i) the accounting method utilized to produce financial information and the name of the accountants responsible for such information;

j) the future management of the debtor;

k) the Chapter 11 plan or a summary thereof;

l) the estimated administrative expenses, including attorneys' and accountants' fees;

m) the collectability of accounts receivable;

n) financial information, data, valuations or projections relevant to the creditors' decision to accept or reject the Chapter 11 plan;

o) information relevant to the risks posed to creditors under the plan;

p) the actual or projected realizable value from recovery of preferential or otherwise voidable transfers;

q) litigation likely to arise in a non-bankruptcy context;

r) tax attributes of the debtor; and

s) the relationship of the debtor with affiliates.[12]

18. The Debtors submit that the Disclosure Statement contains "adequate information" within the meaning of section 1125 of the Bankruptcy Code and should be approved on a final basis. Specifically, the Disclosure Statement contains descriptions and summaries of, among other things: (a) the business, corporate structure, and capital structure of the Debtors; (b) events leading up to the Cases and significant events that have occurred therein, including the sale of the Debtors' assets and the Labor Plaintiffs Settlement; (c) estimates of the projected amount of Allowed Claims in each Class and the projected recoveries to be received by Holders of Allowed Claims; (d)

[12] *See Id.*

treatment of administrative, priority, and non-priority claims; (e) the terms of the Plan, including a chart describing the treatment of each Class; (f) the injunctions, releases, and exculpations provided by the Plan; (g) a liquidation analysis under a hypothetical chapter 7 case; (h) risk factors that may affect the Plan; and (i) appropriate disclaimers regarding the Court's approval of information only as contained in the Disclosure Statement and Plan.

19. Further, on August 10, 2026, the Debtors filed the Plan Supplement, through which the Debtors made additional disclosures as contemplated by the Plan regarding, among other things, the form of the Plan Administration Agreement, the identity and compensation of the Plan Administrator, and the Wind Down Cash Amount to be used to fund the Wind Down Expense Fund.

20. Accordingly, the Disclosure Statement contains adequate information within the meaning of section 1125(a) of the Bankruptcy Code and should be approved on a final basis.

B. The Plan Satisfies Each Mandatory Requirement for Confirmation

21. To confirm the Plan, the Court must find that the Debtors have satisfied the provisions of section 1129 of the Bankruptcy Code by a preponderance of the evidence.[13] As described in detail below, the Debtors will establish, by a preponderance of the evidence, that the Plan complies with all relevant provisions of the Bankruptcy Code and all other applicable law.

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

22. Section 1129(a)(1) of the Bankruptcy Code requires that a plan comply with the applicable provisions of the Bankruptcy Code. The principal aim of this provision is to ensure

[13] *See In re Holywell Corp.*, 913 F.2d 873, 879 (11th Cir. 1990); *In re Aspen Village at Lost Mountain Memory Care, LLC*, 609 B.R. 536, 543 (Bankr. N.D. Ga. 2019) ("The plan proponent bears the burden of evidence and persuasion of each element of section 1129."). *See also In re Maremont Corp.*, 601 B.R. 1, 13 (Bankr. D. Del. 2019).

compliance with the sections of the Bankruptcy Code governing classification of claims and interests and the contents of a plan of reorganization.[14] Accordingly, the determination of whether the Plan complies with section 1129(a)(1) of the Bankruptcy Code requires an analysis of sections 1122 and 1123 of the Bankruptcy Code.

a. The Plan Properly Classifies Claims and Interests as Required Under Section 1122 of the Bankruptcy Code

23. Section 1122 of the Bankruptcy Code provides that "a plan may place a 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."[15] Because claims only need to be "substantially" similar to be placed in the same class, plan proponents have flexibility in determining how to classify claims together so long as there is a rational basis to do so.[16]

24. The Plan's classification of Claims and Interests satisfies the requirements of section 1122 of the Bankruptcy Code because Claims and Interests are in five separate Classes, with each Class differing from the Claims and Interests in each other Class in a legal or factual nature or based on other relevant criteria.[17] Specifically, the Plan provides for the separate classification of Claims and Interests into the following Classes:

Class	Claim or Interest	Status	Voting Rights
1	Secured Claims	Unimpaired	Deemed to Accept
2	Other Priority Claims	Unimpaired	Deemed to Accept
3	Labor Plaintiff Claims	Impaired	Entitled to Vote
4	General Unsecured Claims	Unimpaired	Deemed to Accept
5	Interests	Unimpaired	Deemed to Accept

[14] *See* 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).
[15] 11 U.S.C. § 1122(a).
[16] *Armstrong World Indus., Inc.*, 348 B.R. at 159; *In re Jersey City Med. Ctr.*, 817 F.2d 1055, 1061 (3d Cir. 1987).
[17] *See* Plan, Art. III.A.

25. Claims and Interests assigned to each particular Class described above are substantially similar to the other Claims and Interests 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 (or may have held) rights in the Estates legally dissimilar to the Claims or Interests in other Classes or because substantial administrative convenience resulted from such classification. For example, Claims are classified separately from Interests and Secured Claims are classified separately from Unsecured Claims.

26. The classification of Claims and Interests under the Plan facilitates ease of distributions on the Effective Date. For the foregoing reasons, the Plan satisfies section 1122 of the Bankruptcy Code, and no party has asserted otherwise.

b. The Plan Satisfies the Seven Applicable Mandatory Plan Requirements of Sections 1123(a) of the Bankruptcy Code

27. The seven applicable requirements of section 1123(a) of the Bankruptcy Code generally relate to the specification of claims treatment and classification, the equal treatment of claims within classes, and the mechanics of implementing the plan. The Plan satisfies each of these requirements.

28. ***Sections 1123(a)(1)–(3) – Specification of Classes, Impairment, and Treatment.*** The first three requirements of section 1123(a) are that the plan specify (i) the classification of claims and interests, (ii) whether such claims and interests are impaired or unimpaired, and (iii) the

precise nature of their treatment under the Plan.[18] Article III of the Plan sets forth these specifications in detail in satisfaction of these three requirements.[19]

29. ***Section 1123(a)(4) – Equal Treatment.*** The fourth requirement of section 1123(a) is that the plan must "provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment."[20] The Plan satisfies this requirement because Holders of Allowed Claims or Interests will receive the same rights and treatment as other Holders of Allowed Claims or Interests within such Holders' respective Class.

30. ***Section 1123(a)(5) – Adequate Means for Implementation.*** The fifth requirement of section 1123(a) is that the plan must provide adequate means for its implementation.[21] The Plan and the documents in the Plan Supplement provide adequate means for the Plan's implementation, including, but not limited to: (a) the cancellation of certain existing agreements, obligations, instruments, and Claims and Interests; (b) the appointment of the Plan Administrator to administer the Plan and effectuate the wind down of the Debtors in accordance with the Plan Administration Agreement and the Plan; (c) the vesting of all Assets not otherwise distributed on the Effective Date in the Debtors; (d) the execution, delivery, filing, or recording of all contracts, securities, instruments, releases, and other agreements or documents in furtherance of the Plan; and (e) the

[18] 11 U.S.C. § 1123(a)(1)–(3).

[19] Plan, Art. III.A–B.

[20] 11 U.S.C. § 1123(a)(4).

[21] 11 U.S.C. § 1123(a)(5). Section 1123(a)(5) states that adequate means for implementation of a plan may include: retention by the debtor of all or part of its property; the transfer of property of the estate to one or more entities; cancelation or modification of any indenture; curing or waiving of any default; amendment of the debtor's charter; or issuance of securities for cash, for property, for existing securities, in exchange for claims or interests or for any other appropriate purpose. *Id.*

authorization of the Plan Administrator to take all actions necessary to effectuate the Plan. Accordingly, the Plan satisfies the requirements set forth in Bankruptcy Code section 1123(a)(5).

31. ***Section 1123(a)(6) – Non-Voting Equity Securities.*** No equity securities are being issued pursuant to the Plan. Accordingly, section 1123(a)(6) of the Bankruptcy Code does not apply to the Plan.

32. ***Section 1123(a)(7) – Directors, Officers, and Trustees.*** The Plan does not provide for the reorganization of the Debtors. The Plan provides for the appointment of a Plan Administrator on the Effective Date, which appointee will succeed to the powers of the Debtors' officers, directors, and shareholders. The Plan Administrator is designated as the representative of the Wind Down Estates under section 1123(b)(3)(B) of the Bankruptcy Code. The Plan Administrator was selected by the Debtors. Moreover, the Debtors have disclosed the identity of the Plan Administrator. The Plan Supplement identifies David Baker as Plan Administrator. Accordingly, the Debtors submit that the Plan satisfies the requirements of Bankruptcy Code section 1123(a)(7).

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

33. Section 1129(a)(2) of the Bankruptcy Code requires that the plan proponents comply with applicable provisions of the Bankruptcy Code. Case law and legislative history indicate that this section principally reflects the disclosure and solicitation requirements of section 1125 of the Bankruptcy Code,[22] which prohibits the solicitation of plan votes without a court-approved disclosure statement.[23]

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[22] *See* H.R. Rep. No. 95–595, at 412 (1977 ("Paragraph (2) [of § 1129(a)] requires that the proponent of the plan comply with the applicable provisions of chapter 11, such as section 1125 regarding disclosure."); *In re Lapworth*, No. 97-34529, 1998 WL 767456, at *3 (Bankr. E.D. Pa. Nov. 2, 1998) ("The legislative history of § 1129(a)(2) specifically identifies compliance with the disclosure requirements of § 1125 as a requirement of § 1129(a)(2).").

[23] 11 U.S.C. § 1125(b).

a. The Debtors Complied with Section 1125 of the Bankruptcy Code

34. The Debtors have satisfied section 1125 of the Bankruptcy Code. Before the Debtors solicited votes on the Plan, the Court approved the adequacy of the Disclosure Statement on an interim basis pursuant to section 1125(a) of the Bankruptcy Code and the Solicitation Procedures Order.[24] As set forth in Section A above, the adequacy of the Disclosure Statement should be approved on a final basis. The Court also approved the contents of the Solicitation Packages provided to Holders of Claims entitled to vote on the Plan, the forms of notices provided to parties not entitled to vote on the Plan, and the relevant dates for voting on and objecting to the Plan.[25] Through the Claims and Noticing Agent, the Debtors complied with the content and delivery requirements of the Solicitation Procedures Order, thereby satisfying section 1125(a) and (b) of the Bankruptcy Code.[26]

35. The Debtors also satisfied section 1125(c) of the Bankruptcy Code, which provides that the same disclosure statement must be transmitted to each Holder of a Claim or Interest in a particular Class. Here, the Debtors caused the Disclosure Statement to be transmitted to all parties entitled to vote on the Plan.[27]

36. Finally, the Debtors and their agents have solicited and tabulated votes on the Plan and participated in the activities described in section 1125 of the Bankruptcy Code fairly, in good faith within the meaning of section 1125(e), and in a manner consistent with the applicable provisions of the Solicitation Procedures Order, the Disclosure Statement, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Complex Case Procedures, and all other applicable

[24] *See* Solicitation Procedures Order.
[25] *Id.*
[26] *See* Solicitation Affidavit.
[27] *Id.*

rules, laws, and regulations.[28] The Debtors therefore submit that they and their agents are entitled to the protections afforded by section 1125(e) and the exculpation provisions set forth in Article IX of the Plan.

37. Based on the foregoing, the Debtors submit that they have complied in all respects with the solicitation requirements of section 1125 of the Bankruptcy Code and the Solicitation Procedures Order.

b. The Debtors Complied with Section 1126 of the Bankruptcy Code

38. Under section 1126(f) and (g) of the Bankruptcy Code, a plan proponent is not required to solicit votes from holders of claims and interests in classes deemed to have accepted or rejected a chapter 11 plan. Accordingly, the Debtors did not solicit votes on the Plan from Classes 1, 2, 4 and 5. Rather, the Debtors solicited votes only from Holders of Allowed Claims in Class 3 (i.e., the Voting Class) because Class 3 is impaired and not presumed to accept or reject the Plan.[29] The Voting Declaration reflects the results of the voting process in accordance with section 1126 of the Bankruptcy Code.[30] As set forth in the Voting Declaration, Class 3 voted to accept the Plan.[31]

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[28] *See* 11 U.S.C. § 1125(e). Section 1125(e) of the Bankruptcy Code provides that "a person that solicits acceptance or rejection of a plan, in good faith and in compliance with the applicable provisions of this title . . . is not liable" on account of such solicitation for violation of any applicable law, rule, or regulation governing solicitation of acceptance or rejection of a plan. *Id.*

[29] *See* Plan, Art. III; *see generally* Solicitation Affidavit.

[30] "A class of claims has accepted a plan if such plan has been accepted by creditors, other than any entity designated under subsection (e) of [section 1126], that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class held by creditors, other than any entity designated under subsection (e) of [section 1126], that have accepted or rejected such plan." 11 U.S.C. § 1126(c). "A class of interests has accepted a plan if such plan has been accepted by holders of such interests, other than any entity designated under subsection (e) [section 1126], that hold at least two-thirds in amount of the allowed interests of such class held by holders of such interests, other than any entity designated under subsection (e) of [section 1126], that have accepted or rejected such plan." *Id.* § 1126(d).

[31] *See* Voting Declaration.

39. Based on the foregoing, the Debtors submit that the Plan satisfies the requirements of section 1129(a)(2) of the Bankruptcy Code.

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

40. Section 1129(a)(3) of the Bankruptcy Code requires that the proponent of a plan propose the plan "in good faith and not by any means forbidden by law."[32] Where a plan satisfies the purposes of the Bankruptcy Code and has a good chance of succeeding, the good faith requirement of section 1129(a)(3) of the Bankruptcy Code is satisfied.[33]

41. Here, the Debtors have proposed the Plan in good faith and not by any means forbidden by law. The Plan itself and the process leading to its formulation provide independent evidence of the Debtors' good faith and assure the fair treatment of Holders of Claims or Interests. Consistent with the overriding purposes of chapter 11 of the Bankruptcy Code, the Plan was negotiated and proposed with the intent of accomplishing a controlled liquidation of the Debtors and their assets and maximizing stakeholder value by paying all creditors in full and for no ulterior purpose. Thus, the Plan satisfies section 1129(a)(3) of the Bankruptcy Code.

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

42. Section 1129(a)(4) of the Bankruptcy Code requires that certain fees and expenses paid by the plan proponent, by the debtor, or by a person issuing securities or acquiring property under the plan be approved by the Court as reasonable or subject to approval by the Court as reasonable.[34]

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[32] 11 U.S.C. § 1129(a)(3).

[33] *In re McCormick*, 49 F.3d 1524, 1526 (11th Cir. 1995); *see also In re PWS Holding Corp.*, 228 F.3d 224, 236 (3d Cir. 2000).

[34] 11 U.S.C. § 1129(a)(4).

43. In general, the Plan provides that Professional Fee Claims and corresponding payments are subject to prior Court approval and the reasonableness requirements under sections 328 or 330 of the Bankruptcy Code. The Plan and Confirmation Order provide that Professionals shall file all final requests for payment of Professional Fee Claims no later than the Professional Fee Claims Bar Date, which is 45 days after the Effective Date, thereby providing adequate time for interested parties to review such Professional Fee Claims.[35] For the foregoing reasons, the Debtors submit that the Plan complies with section 1129(a)(4) of the Bankruptcy Code, and no party has asserted otherwise.

5. The Debtors Have Complied with the Bankruptcy Code's Governance Disclosure Requirement (Section 1129(a)(5))

44. The Bankruptcy Code requires the proponent of a plan to disclose the identity and affiliation of any individual proposed to serve as a director or officer of the Debtors or a successor to the Debtors under the Plan. It further requires that the appointment or continuance of such officers and directors be consistent with the interests of creditors and equity security holders and with public policy. Lastly, it requires that the plan proponent have disclosed the identity of insiders to be retained by the reorganized debtor and the nature of any compensation for such insider.

45. The Debtors have provided the information required under section 1129(a)(5) by disclosing the identity of the Plan Administrator. Based upon the foregoing, the Plan satisfies the requirements of Bankruptcy Code section 1129(a)(5).

6. The Plan Does Not Require Government Regulatory Approval of Rate Changes (Section 1129(a)(6))

46. 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

[35] Plan, Art. II.B.

approved any rate change provided for in the plan. The Plan does not contain any rate changes subject to the jurisdiction of any governmental regulatory commission and therefore will not require governmental regulatory approval. Accordingly, Section 1129(a)(6) of the Bankruptcy Code is inapplicable to the Plan.

7. The Plan is in the Best Interests of Holders of Claims and Interests (Section 1129(a)(7))

47. The best interests of creditors test requires that, "[w]ith respect to each impaired class of claims or interests," members of such class that have not accepted the plan will receive at least as much as they would in a hypothetical chapter 7 liquidation.[36] The best interests test applies to each non-consenting member of an impaired class and is generally satisfied through a comparison of the estimated recoveries for a debtor's stakeholders in a hypothetical chapter 7 liquidation of the debtor's estate against the estimated recoveries under the debtor's plan.[37]

48. As demonstrated in the liquidation analysis included in the Disclosure Statement at Article IX.D (the "Liquidation Analysis"), as well as the Baker Declaration, all Holders of Claims and Interests in all Impaired Classes will recover at least as much under the Plan as they would in a hypothetical chapter 7 liquidation. First, all Holders of Claims in Class 3 (Labor Plaintiff Claims) have voted to accept the Plan. Further, the Holders of the Labor Plaintiffs Claims agreed to such treatment under the Plan pursuant to the Labor Plaintiffs Settlement, with the understanding that their treatment under this Plan is better than what they would receive in continuing litigation of claims and liquidation of assets in a hypothetical chapter 7 case. Therefore, each Holder of an

[36] 11 U.S.C. § 1129(a)(7).

[37] *Bank of Am. Nat'l Tr. & Sav. Ass'n v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 441 n.13 (1999) ("The 'best interests' test applies to individual creditors holding impaired claims, even if the class as a whole votes to accept the plan."). *See In re Lason, Inc.*, 300 B.R. 227, 232 (Bankr. D. Del. 2003) ("Section 1129(a)(7)(A) requires a determination whether 'a prompt chapter 7 liquidation would provide a better return to particular creditors or interest holders than a chapter 11 reorganization.'") (internal citations omitted)

Allowed Claim in Class 3 will receive at least as much under the Plan as they would in a hypothetical chapter 7 liquidation.

49. Accordingly, the Plan satisfies section 1129(a)(7) of the Bankruptcy Code and the best interests test, and no party has asserted otherwise.[38]

8. The Plan Was Accepted by Each Class of Claims or Interests (Section 1129(a)(8))

50. The Bankruptcy Code generally requires that each class of claims or interests must either accept the plan or be unimpaired under the plan.[39] With respect to Classes entitled to vote on the Plan, Class 3 is Impaired and voted to accept the Plan. Classes 1, 2, 4 and 5 are Unimpaired under the Plan and are deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

51. In the Committee Objection, the Committee argues that Class 4 is Impaired because the Plan proposes to pay Holders of General Unsecured Claims in full in Cash plus post-petition interest accrued at the lower of the Federal Judgment Rate or the Contract Rate. The Committee points to two cases within the Eleventh Circuit in support of its argument that the Plan must instead provide interest at "the higher of (a) the Federal Judgment Rate or (b) as applicable (i) the contract rate or (ii) state law rate."[40] Both cases are distinguishable.

52. The Eleventh Circuit in *Equitable Life Assur. Soc. v. Sublett (In re Sublett)*[41] did not address impairment under section 1124 of the Bankruptcy Code but instead focused on the

[38] With respect to the treatment of Class 4 (General Unsecured Claims) and the Committee Objection, the Committee admits that the current proposed treatment of Class 4 satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code. *See* Committee Objection ¶¶ 16-18 ("Section 726(a)(5) establishes the minimum an impaired class must receive to satisfy the 'best interest of creditors test in a cramdown [under] 11 U.S.C. § 1129(a)(7)(a)(ii)… [but] [a]t issue here is not whether the minimum statutory mandate of section 726 has been satisfied.").

[39] 11 U.S.C. § 1129(a)(8).

[40] Committee Objection p. 1.

[41] 895 F.2d 1381 (11th Cir. 1992).

requirements of section 506(b) regarding oversecured creditors. Section 506(b), which expressly "allows oversecured creditors to assert rights to interest provided in the security agreement as part of a secured claim,"[42] does not apply to holders of Allowed Claims in Class 4, whose claims are General Unsecured Claims. The Eleventh Circuit in *Sublett* only focused on the application of the Solvent Debtor Exception, which the Debtors here do not contest, not the proper interest rate to be applied to various unsecured claims in that circumstance.

53. The *Scarborough* decision is also inapplicable because the court never considered whether the Federal Judgment Rate was or could have been the proper interest rate.[43] The Court in *Scarborough* picked the interest rate based on unique stipulated facts regarding the particular contractual relationship between the Debtor and one creditor.[44] A broad application of that ruling would not make sense here where Class 4 consists of many creditors each with a different relationship to the Debtors.[45]

54. Other Courts in this district have applied the Federal Judgment Rate and the Committee does not argue that those cases are inapplicable.[46] Instead, the Committee points to cases outside this circuit to argue that the Federal Judgment Rate should be viewed only as a floor and not the actual rate to be applied. There is no case law within this circuit that supports applying such a theory.

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[42] *Id.* at 1386.

[43] No. 91-41032, 1992 Bankr. LEXIS 2478, *5 (Bankr. M.D. Ga. Dec. 31, 1992) (choosing between the following three interest rates: (i) the non-default contract rate, (ii) the default contract rate, or the Georgia "legal" rate).

[44] *Id.* at * 11.

[45] *See In re Robinson, 567 B.R. 644, 648-649* (Bankr. N.D. Ga. 2017) ("[T]he application of the federal judgment rate is consistent with the general rule that post-petition interest is procedural in nature and dictated by federal law and is equitable to all creditors because unsecured claims are allowed in an amount as of the petition date and should be treated equally thereafter with respect to the distribution of estate assets regardless of the parties' pre-petition bargain.").

[46] *See In re 431 W. Ponce De Leon, LLC*, 515 B.R. 660, 675 (Bankr. N.D. Ga. 2014) ("[T]his Court holds that the legal rate is the federal judgment rate.") (internal citations omitted); *In re Robinson,* 567 B.R. at 649 (applying the federal judgment rate because "application of the federal judgment rate is consistent with the general rule that post-petition interest is procedural in nature and dictated by federal law and is equitable to all creditors.").

55. Moreover, even if the Court were to find that Plan's current proposed interest rate is not proper, the Georgia statutory rates that the Committee seeks to apply are inapplicable here. The statutory rate under O.C.G.A. § 7-4-16 is only available in very limited circumstances, *i.e.* when the creditor makes "a pre-trial invocation of the applicability of that provision."[47] The Debtors are not aware of any Creditor in Class 4 that has made a pre-trial request for pre-judgment interest at the rate allowed under O.C.G.A. § 7-4-16. Thus, Holders of Allowed Claims in Class 4 would likely receive widely different rates of interest if the Committee's interest rate is applied, which does not comply with the requirements of section 1123(a)(4) that the Plan must provide the same treatment for each claim in a particular class.[48]

56. Because the Plan currently complies with the Solvent Debtor Exception and the laws within the Eleventh Circuit, the Court should overrule the Committee Objection and confirm that Class 4 is Unimpaired. Accordingly, the Debtors submit that the Plan satisfies section 1129(a)(8) of the Bankruptcy Code.

9. The Plan Provides for the Required Treatment of Administrative and Priority Tax Claims (Section 1129(a)(9))

57. The Plan satisfies section 1129(a)(9) of the Bankruptcy Code. The treatment of Administrative Claims, Professional Fee Claims, and Priority Tax Claims under Article II of the Plan satisfies the requirements of, and complies in all respects with, section 1129(a)(9) of the Bankruptcy Code. First, Article II.A of the Plan satisfies section 1129(a)(9)(A) of the Bankruptcy

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[47] *Spears v. Allied Eng'g Assocs.,* 186 Ga. App. 878, 879 (1988); *see also Theni Guru Krishna Textile Mills (P), Ltd. v. World's Global Source, LLC,* No. 1:16-cv-1482-scj, 2019 U.S. Dist. LEXIS 238624, *12 (N.D. Ga. Sept. 16, 2019) ("Here, Plaintiff ATK's invoices do not specify OCGA § 7-4-16; do not define the interest sought as that applicable to commercial accounts; and do not list a specific rate of interest. Because no specific rate of interest was sought, pre-judgment interest on the commercial accounts at issue in this case cannot be granted.") (internal citations omitted); *Meunier Carlin & Curfman, LLC v. Scidera, Inc.,* 324 F. Supp. 3d 1269, 1284 (N.D. Ga. 2018) ("But even had Meunier prevailed on its open account claim, it would not be entitled to the higher rate because a recovery of pre-judgment interest pursuant to O.C.G.A. § 7-4-16 requires a pre-trial invocation of the applicability of that provision, and here there is no evidence that Meunier made the necessary pre-trial demand.") (internal citations omitted).

[48] 11 U.S.C. § 1123(a)(4).

Code because it provides that each Holder of an Allowed Administrative Expense Claim will be paid in full in Cash the unpaid portion of its Allowed Administrative Claim on the latest of: (a) the Effective Date, if such Administrative Claim is Allowed as of the Effective Date; (b) the date such Administrative Claim is Allowed or as soon as reasonably practicable thereafter; and (c) the date such Allowed Administrative Claim becomes due and payable or as soon thereafter as is reasonably practicable. Second, the Plan satisfies section 1129(a)(9)(B) of the Bankruptcy Code because no Holders of the types of Claims specified in section 1129(a)(9)(B) are Impaired under the Plan. Finally, Article II.C of the Plan satisfies section 1129(a)(9)(C) of the Bankruptcy Code because it specifically provides that each Holder of Allowed Priority Tax Claims will receive, in full and final satisfaction of such Allowed Priority Tax Claim, Cash equal to the amount of such Allowed Priority Tax Claim or other treatment in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code. Thus, the Plan satisfies each of the requirements set forth in section 1129(a)(9) of the Bankruptcy Code, and no party has asserted otherwise.

10. At Least One Impaired Class of Claims Has Accepted the Plan, Excluding the Acceptances of Insiders (Section 1129(a)(10))

58. 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," as an alternative to the requirement under section 1129(a)(8) of the Bankruptcy Code that each class of claims or interests must either accept the plan or be unimpaired under the plan. As set forth in the Voting Declaration, Class 3 (Labor Plaintiff Claims) is Impaired and has voted to accept the Plan. Accordingly, at least one Voting Class has voted to accept the Plan, determined without including any acceptance of the Plan by any insider (as defined by the Bankruptcy Code), and the requirements of section 1129(a)(10) of the Bankruptcy Code are satisfied.

11. The Plan Is Feasible and Is Not Likely to Be Followed by the Need for Further Financial Reorganization (Section 1129(a)(11))

59. Feasibility refers to the Bankruptcy Code's requirement that plan confirmation is not "likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor . . . , unless such liquidation or reorganization is proposed in the plan."[49] Under this standard, the debtor does not have to guarantee a plan's success.[50] Instead, a debtor must provide only a reasonable assurance of success.[51]

60. The Plan is feasible. The Plan is a liquidating plan under which the Assets will be liquidated and distributed to Holders of Allowed Claims pursuant to the terms of the Plan and the Plan Administration Agreement. The Plan provides for the Plan Administrator to make the necessary distributions under the Plan. The Plan further provides a mechanism for the time and method of distributions. Moreover, as reflected in the Baker Declaration, the Debtors believe that the Debtors and the Plan Administrator, as applicable, will have sufficient assets to make distributions required under the Plan, including payment of all Allowed Claims in full.

61. Accordingly, the Plan satisfies the requirements of feasibility under section 1129(a)(11) of the Bankruptcy Code.

12. The Plan Provides for the Payment of All Fees Under 28 U.S.C. § 1930 (Section 1129(a)(12))

62. The Bankruptcy Code requires the payment of all fees payable under 28 U.S.C. § 1930.[52] The Plan includes an express provision requiring payment of all fees under 28 U.S.C.

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[49] 11 U.S.C. § 1129(a)(11).

[50] *Kane v. Johns-Manville Corp.*, 843 F.2d 636, 649 (2d Cir. 1988) ("[T]he feasibility standard is whether the plan offers a reasonable assurance of success. Success need not be guaranteed."); *In re Flintkote Co.*, 486 B.R. 99, 139 (Bankr. D. Del. 2012); *In re W.R. Grace & Co.,* 475 B.R. 34, 115 (D. Del 2012).

[51] *United States v. Energy Res. Co., Inc.*, 495 U.S. 545, 549 (1990); *Internal Revenue Serv. v. Kaplan* (*In re Kaplan*), 104 F.3d 589, 597 (3d Cir. 1997).

[52] 11 U.S.C. § 1129(a)(12).

§ 1930.[53] The Plan, therefore, complies with section 1129(a)(12) of the Bankruptcy Code, and no party has asserted otherwise.

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

63. Several of the Bankruptcy Code's confirmation requirements are inapplicable to the Plan. The Debtors have no obligations to provide retiree benefits (as such term is used in section 1114 of the Bankruptcy Code) and, accordingly, section 1129(a)(13) of the Bankruptcy Code is inapplicable. None of the Debtors owe any domestic support obligations, are an individual, or are a nonprofit corporation. Therefore, sections 1129(a)(14), 1129(a)(15), and 1129(a)(16) of the Bankruptcy Code do not apply to the Plan.

14. The Plan Complies with the Other Provisions of Section 1129 of the Bankruptcy Code (Section 1129(b)–(e)).

64. The Plan satisfies the remaining provisions of section 1129 of the Bankruptcy Code. Section 1129(b), cramdown, is not implicated here because, as explained above, the Plan satisfies section 1129(a)(8) of the Bankruptcy Code.[54]

65. Section 1129(c), prohibiting confirmation of multiple plans, is also not implicated because no other plan has been filed in these Cases.[55]

66. No Governmental Unit has requested that the Court refuse to confirm the Plan on the grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act. As evidenced by its terms, the principal purpose of

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[53] *See* Plan, Art. II.D.

[54] 11 U.S.C. § 1129(b); *see also 203 N. LaSalle St. P'ship*, 526 U.S. at 440–41 (explaining that 11 U.S.C. § 1129(b) is a "alternate route to confirmation of a reorganization plan, forthrightly known as the judicial 'cramdown' process for imposing a plan on a dissenting class."); *Van Buren Indus. Investors v. Henderson (In re Henderson),* 341 B.R. 783, 788 (M.D. Fla. 2006) ("A court will confirm a proposed Chapter 11 reorganization plan if it meets all the requirements of 11 U.S.C. § 1129(a). One of those requirements is that the proposed plan is consensual, i.e., that it obtain unanimous acceptance by all of the impaired classes.").

[55] 11 U.S.C. § 1129(c).

the Plan is not such avoidance. Accordingly, the Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code.

67. Lastly, section 1129(e) of the Bankruptcy Code is inapplicable because these Cases are not small business cases. Thus, the Plan satisfies the Bankruptcy Code's mandatory confirmation requirements.

C. The Discretionary Contents of the Plan Are Appropriate.

68. The Bankruptcy Code identifies various additional provisions that may be incorporated into a chapter 11 plan, including "any appropriate provision not inconsistent with the applicable provisions of this title."[56] Pursuant to section 1123(b), a plan may (1) impair or leave unimpaired any class of claims or interests, (2) provide for the assumption, assignment, or rejection of executory contracts and unexpired leases, (3) provide for the settlement of claims and/or the retention of claims or causes of action, (4) provide for the sale of all or substantially all of the debtor's property, (5) modify or leave unaffected the rights of holders of claims, and (6) include any other appropriate provision not inconsistent with the Bankruptcy Code.[57] As provided herein, the Plan complies with section 1123(b).

1. The Plan Complies with Section 1123(b)(1): Impairment/ Unimpairment of Classes of Claims and Interests

69. Section 1123(b)(1) of the Bankruptcy Code provides that a plan may "impair or leave unimpaired any class of claims, secured or unsecured, or of interests."[58] As discussed above, consistent with section 1123(b)(1) of the Bankruptcy Code, Article III of the Plan classifies and describes the treatment of each Impaired and Unimpaired Class.

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[56] *Id.* § 1123(b)(1)-(6).
[57] *Id.*
[58] 11 U.S.C. § 1123(b)(1).

2. The Plan Complies with Section 1123(b)(2): Assumption, Assignment, and Rejection of Executory Contracts and Unexpired Leases

70. Section 1123(b)(2) of the Bankruptcy Code permits a plan to provide for the assumption, assumption and assignment, or rejection of executory contracts and unexpired leases, subject to section 365 of the Bankruptcy Code. Article V of the Plan addresses the assumption and rejection of executory contracts and unexpired leases and meets the requirements of section 365(b) of the Bankruptcy Code. Consistent with section 1123(b)(2) of the Bankruptcy Code, Article V.A of the Plan provides that on the Effective Date, except as otherwise provided in the Plan, each Debtor will be deemed to have rejected each Executory Contract or Unexpired Lease to which such Debtor is a party, unless such Executory Contract or Unexpired Lease (i) was previously assumed, assumed and assigned, or rejected; (ii) was previously expired or terminated pursuant to its own terms; or (iii) is the subject of a motion or notice to assume or reject filed on or before the Confirmation Date.

71. In accordance with the Sale Order and the APA, the purchaser designated certain executory contracts and unexpired leases for assumption and assignment to the purchaser. The Debtors have reviewed any remaining executory contracts and unexpired leases that have not been assumed, assumed and assigned, or rejected, as of the date hereof, and, except to the extent such executory contract or lease is subject of a motion to assume as of the date hereof, the Debtors have determined in their business judgment that such agreements are not necessary to the administration of the Wind Down Estates and, therefore, should be rejected as set forth in the Plan.

3. The Plan Complies with Section 1123(b)(3): Retention of Claims and Causes of Actions

72. Section 1123(b)(3)(B) of the Bankruptcy Code permits a chapter 11 plan to provide for the retention and enforcement of any claim or interest by the debtor, a trustee, or a representative of the estate. Article IV.E of the Plan provides that, except for any Cause of Action

against a Person that is expressly waived, relinquished, exculpated, released, compromised under the Plan or Final Order, or settled in the Plan or a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Debtors shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date and such rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date.

73. In arguing that the Avoidance Actions must be waived, the Committee ignores one key provision of the Plan. Article IV.E. of the Plan states that "[u]pon the payment of Holders of Allowed Claims in full, the Debtors release any Avoidance Action against Holders of a Class 3 Labor Plaintiff Claims or Class 4 General Unsecured Claims." The Debtors do intend to release these causes of action, but need to ensure that all Claims can in fact be paid in full with the currently available funds.[59] The preservation of Avoidance Actions is not circuitous and value-destructive, as the Committee alleges,[60] because Avoidance Actions would only be pursued if the Debtors are unable to pay the Allowed Claims in full (and then only if valid claims existed).[61] Accordingly, the Plan is consistent with section 1123(b)(3)(B) of the Bankruptcy Code and necessary to ensure that the Debtors can fully comply with their obligations under the Plan.[62]

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[59] Such limited preservation is extremely important in light of the Committee's other objection that Holders of Claims in Class 4 be paid extremely high post-petition interest rates, which could cause the amount owed to Class 4 to be much higher than currently anticipated.

[60] Committee Objection p. 12.

[61] The Plan complies with the reasoning outlined in *Adelphia Recovery Trust,* because the Debtors here will not "invoke section 547 if its creditors have all been paid in full." 390 B.R. 80, 97 (Bankr. 2008).

[62] The Committee's argument that seeking to preserve Avoidance Actions is evidence of bad faith is absurd as the preservation of Avoidance Actions serves a legitimate purpose – maximizing returns to unsecured creditors if Claims cannot be paid in full.

4. The Plan Complies with Section 1123(b)(5): Modification of Rights

74. Section 1123(b)(5) of the Bankruptcy Code permits a plan to modify or leave unaffected the rights of holders of any class of claims. In accordance and in compliance with section 1123(b)(5) of the Bankruptcy Code, the Plan properly modifies or leaves unaffected the rights of Holders of Claims and Interests in each of the Classes. Thus, the Plan complies with section 1123(b)(5) of the Bankruptcy Code.

5. The Plan Complies with Section 1123(b)(6): Additional Plan Provisions

75. Section 1123(b)(6) permits a plan to include "any other appropriate provision not inconsistent with the applicable provisions of [the Bankruptcy Code]."[63] The permissive provisions of the Plan are appropriate and consistent with the applicable provisions of the Bankruptcy Code, thereby satisfying section 1123(b)(6) of the Bankruptcy Code. The failure to address specifically a provision of the Bankruptcy Code in this memorandum or the Confirmation Order shall not diminish or impair the effectiveness of the Confirmation Order.

D. The Releases and Exculpation Are Appropriate and Should be Approved

76. In accordance with sections 1123(b)(3)(A) and 1123(b)(6) of the Bankruptcy Code, Article IX of the Plan provides for the Debtor Release, the Third-Party Release, and an exculpation. The scope of the "Released Parties"[64] and "Exculpated Parties"[65] are limited to only those Persons described in the respective definitions under the Plan. Importantly, the identity of the Released

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[63] 11 U.S.C. § 1123(b)(6).

[64] Under Article I.A.84 of the Plan, "*Released Parties*" means each of the following, solely in its capacity as such: (a) the Debtors; (b) the Committee and each of its members (solely in their respective capacities as such); (c) the Individual Defendants; (d) the Staffing Agencies; (e) the CRO; and (f) the Debtors' Professionals retained in these Cases.

[65] Under Article I.A.48 of the Plan, "*Exculpated Parties*" means, collectively, and in each case in its capacity as such: (a) the Debtors, (b) the Debtor D&Os, (c) the Debtors' Professionals retained in these Cases, (d) the Committee, the members of the Committee in their capacity as such, the individuals representing such members, in their capacity as such, (e) the Committee Professionals, and (f) the Individual Defendants.

Parties and Exculpated Parties and the scope of the releases and exculpation have been the subject of negotiations with the Committee and the Labor Plaintiffs and are specifically contemplated under the Labor Plaintiffs Settlement. Accordingly, the releases and exculpation are integral components of the Plan and the settlement and transactions embodied therein, are appropriate and necessary under the circumstances, are consistent with the Bankruptcy Code, and comply with applicable law.

1. The Debtor Release Is Appropriate and Should be Approved

77. As permitted by section 1123(b)(3)(A) of the Bankruptcy Code, Article IX of the Plan defines and sets forth the Debtor Release. Claims held by a debtor against third parties are property of the estate and may be released in exchange for settlement.[66] Section 1123(b)(3)(A) of the Bankruptcy Code allows a plan to provide for "the settlement or adjustment of any claim or interest belonging to the Debtors or to the estate."[67]

78. In accordance therewith, Article IX.C of the Plan contains the Debtor Release – the release of certain claims or Causes of Action of the Debtors and the Estates against the Released Parties in exchange for good and valuable consideration and valuable compromises made by the Released Parties. Such consideration includes, without limitation, the service of the Released Parties before and during the Cases to facilitate the implementation of the Plan. The Debtor Release does not release "Claims related to any act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted criminal conduct, actual fraud, willful misconduct, knowing violation of law, gross negligence or bad faith."[68]

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[66] *See PWS Holding Corp.*, 228 F.3d at 242; *In re Johns-Manville* (*Manville I*), 837 F.2d 89, 91–92 (2d Cir. 1988); *see also* 11 U.S.C. § 541(a)(1).

[67] 11 U.S.C. § 1123(b)(3)(A).

[68] Plan, Art. IX.C.

79. When considering releases by a debtor of non-debtor third parties pursuant to § 1123(b)(3)(A), the appropriate standard is whether the release is a valid exercise of the debtor's business judgment and is fair, reasonable, and in the best interests of the estate.[69] As an exercise of its business judgment, a debtor's decision to release claims against third parties under a plan is afforded deference.[70]

80. The Debtor Release is an essential component of the Plan and constitutes a sound exercise of the Debtors' business judgment given that the Plan represents a fully integrated comprehensive liquidation of the Debtors' Assets and provides full recovery to Holders of General Unsecured Claims. It is also the result of extensive negotiations with the Labor Plaintiffs and the Committee. Accordingly, the Debtor Release is a sound exercise of the Debtors' business judgment and should be approved.

2. The Third-Party Release Is Consensual and the UST Objection Should be Overruled

81. Article IX.D contains the Third-Party Release, which provides for releases by the Releasing Parties[71] of the Released Parties for liability relating to the Debtors or these Cases. The

[69] *U.S. Bank Nat'l Assoc. v. Wilmington Tr. Co.* (*In re Spansion, Inc.*), 426 B.R. 114, 143 (Bankr. D. Del. 2010) ("[A] debtor may release claims in a plan pursuant to Bankruptcy Code § 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."); *see also In re Aleris Int'l, Inc.*, Case No. 09-10478 (BLS), 2010 WL 3492664, at *20 (Bankr. D. Del. May 13, 2010) (stating 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"); *Coram Healthcare Corp.*, 315 B.R. 321, 334 (Bankr. D. Del. 2004) (holding that standards for approval of a settlement under section 1123 of the Bankruptcy Code generally are the same as those under Bankruptcy Rule 9019).

[70] *See, e.g., Spansion*, 426 B.R. at 140 ("It is not appropriate to substitute the judgment of the objecting creditors over the business judgment of the [d]ebtors.").

[71] Under Article I.A.85, "*Releasing Party*" means the following Entities, each in their respective capacities as such: (a) each Holder of a Claim that (i) votes to accept the Plan or (ii) either (1) abstains from voting or (2) votes to reject the Plan and, in the case of either (1) or (2), does not opt out of the voluntary release by checking the opt-out box on the applicable Ballot, and returning it in accordance with the instructions set forth thereon, indicating that they are electing to opt out of granting the releases provided in the Plan; (b) each Holder of a Claim that is deemed to accept the Plan or is otherwise Unimpaired under the Plan and who does not opt out of the voluntary release by checking the opt out box on the applicable non-voting status notice form, and returning it in accordance with the instructions set forth thereon, indicating that they are not willing to grant the releases provided in the Plan; (c) each Holder of a Claim

U.S. Trustee objects to the Third-Party Release and asserts that (i) the Third-Party Release is an improper, non-consensual release that cannot be included in a chapter 11 plan under the Supreme Court's decision in *Harrington v. Purdue Pharma, L.P.*,[72] (ii) the Plan includes an improper injunction to enforce the Third-Party Release, and (iii) the Plan improperly deems the Third-Party Release to be a settlement. As set forth herein, the Third-Party Release is consensual under applicable authority, including decisions from Courts within this district. Additionally, the U.S. Trustee's remaining arguments are premised on the incorrect conclusion that the Third-Party Release is non-consensual. As set forth below, the injunction is appropriate, and the Third-Party Release is a proper, consensual settlement. Accordingly, the Debtors request that the Court overrule the UST Objection in its entirety and approve the Third-Party Release.

a. The Third-Party Release Is Consensual

82. The UST Objection is premised, in large part, on *Purdue Pharma*, in which the Supreme Court held that the Bankruptcy Code does not allow ***non-consensual*** third-party releases in chapter 11 plans.[73] As the U.S. Trustee observes in its objection, the Supreme Court did not express a view on what qualifies as a consensual release.[74]

83. The U.S. Trustee asks this Court to apply state contract law in evaluating whether the Third-Party Release is consensual.[75] However, bankruptcy courts within the Eleventh Circuit and particularly within the Northern District have held that federal bankruptcy law, rather than

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that is deemed to reject the Plan or is otherwise Impaired under the Plan and who does not opt out of the voluntary release by checking the opt-out box on the applicable non-voting status notice form, and returning it in accordance with the instructions set forth thereon, indicating that they are not willing to grant the releases provided in the Plan; and (d) each Holder of an unclassified Claim who does not object to the Third-Party Release.

72 603 U.S. 204 (2024).

73 *Id.*

74 UST Objection ¶ 15 (*citing Purdue Pharma*, 603 U.S. at 226).

75 *Id.* at ¶¶ 19–27.

state contract law, controls whether Releasing Parties have consented to the Third-Party Release.[76] "[A] ruling approving third party releases is a determination that the plan at issue meets the ***federally created requisites for confirmation and third party releases***."[77]

84. Consensual releases are permitted in chapter 11 plans under sections 105(a) and 1123(b)(6) of the Bankruptcy Code. Courts may look at various factors to determine whether the opt-out process in a particular case is acceptable, and whether opt-outs are sufficient to manifest consent must be determined on a case-by-case basis.[78] Courts will consider whether affected parties receive clear and prominent notice and explanation of the releases, including whether such recipient of an opt form would understand the opt-out mechanism, the scope of the released claims, and the identity of the released parties.[79] "[E]vidence of consent, rather than whether the release is a 'necessary or appropriate' plan provisions or constitutes a 'contract', appears to be the touchstone for determining whether a creditor can be bound to a release."[80]

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[76] *See In re Lavie Care Ctrs.*, No. 24-55507-PMB, 2024 Bankr. LEXIS 2900, at *33 (Bankr. N.D. Ga. Dec. 5, 2024) ("[T]he basis for the enforcement of consensual releases has not as far as this Court has been able to determine been described anywhere as a 'contract' for them, or an 'agreement' to them."); *In re AFH Air Pros, LLC, et al.,* Case No. 25-10356-PMB, Docket No. 691, at pp. 19 (Bankr. N.D. Ga. Sept. 4, 2025) (finding that the third-party release contained in the Plan was consensual and "consistent with … applicable provisions of the Bankruptcy Code"); *In re Envistacom LLC*, Case No. 23-52696-JWC (Bankr. N.D. Ga. Nov. 8, 2023); *In re Pat McGrath Cosmetics LLC,* 2026 Bankr. LEXIS 1019, *11-12 (Bankr. S.D. Fla. Apr. 21, 2026) ("This Court agrees with those courts that recognize opt-out procedures as an acceptable form of consent. … The Bankruptcy Code and Federal Rules of Bankruptcy Procedure frequently give legal effect to inaction after constitutionally adequate notice. And opt-out procedures have long been recognized in other representative contexts, most notably class actions.").

[77] *In re Millenium Lab Holdings II, LLC*, 575 B.R. 252, 272–73 (Bankr. D. Del. 2017) (emphasis added). The bankruptcy court in *Millenium Lab Holdings* further recognized that, "in confirming a plan, even one with releases, courts apply a federal standard" and often look to sections 1129(a)(1), 1123(b)(6), and 105 of the Bankruptcy Code to permit releases. *Id*.

[78] *See In re GOL Linhas Aereas Inteligentes S.A.*, No. 24-10118 (MG), 2025 WL 1466055, at *24 (Bankr. S.D.N.Y. May 22, 2025) (holding that "consent must be knowing and voluntary and can be inferred from inaction if there has been constitutionally adequate service of process"); *see also In re Spirit Airlines, Inc.*, No. 24-11988, 2025 WL 737068, at *714 (Bankr. S.D.N.Y. Mar. 7, 2025) (describing the "need to evaluate third-party releases based on the unique facts and circumstances of the case at issue including the clarity of the language used, the history of the case, and the incentive for the affected creditors to engage in the bankruptcy case").

[79] *See In re Spirit Airlines, Inc.*, No. 24-11988, 2025 WL 737068, at *703 (Bankr. S.D.N.Y. Mar. 7, 2025); *In re Robertshaw US Holding Corp.*, 662 B.R. 300, 323 (Bankr. S.D. Tex. 2024) (confirming a plan that included third-party release and finding that "the consensual third-party releases in the Plan are appropriate, afforded affected parties constitutional due process, and a meaningful opportunity to opt out.").

[80] *In re Lavie Care Ctrs.*, No. 24-55507- PMB, 2024 Bankr. LEXIS 2900, at *35 (Bankr. N.D. Ga. Dec. 5, 2024).

85. Under this standard, which Courts in this district have previously applied in approving consensual third-party releases, the Releasing Parties in these Cases have consented to the Third-Party Release. Importantly, the Plan and the solicitation procedures approved by the Solicitation Procedures Order provide creditors an opportunity to opt out of granting the Third-Party Release by checking the opt-out box on the applicable ballot or opt-out form and timely returning the Ballot or opt-out form to the Debtors' Claims and Noticing Agent. The Releasing Parties have therefore consented because each Releasing Party (a) voted to accept the Plan; (b) is left unimpaired and deemed to accept the Plan and did not opt out of granting the Third-Party Release; (c) rejected, was deemed to reject, or abstained from voting on the Plan, and did not opt out of granting the Third-Party Release;[81] or (d) did not otherwise object to the Third-Party Release.

86. The Third-Party Release, with the opportunity to opt out, is consensual and satisfies the standard for approval of third-party releases in this district and should be approved:

- First, Holders of Claims that voted to accept the Plan have indicated their express consent to the Third-Party Release by voting to accept the Plan.[82]
- Second, parties that received a notice of non-voting status and opt-out form and did not opt out of granting the Third-Party Release are presumed to have consented to

[81] While the Plan does provide that credits in this subclass (c) would be found to consent to the Third-Party Release, as detailed in the Voting Declaration, every Voting Class voted to accept the Plan. Therefore, the U.S. Trustee's concerns about this subset of creditors does not apply to the facts of these Cases. *See* UST Objection ¶ 33.

[82] *Lavie*, No. 24-55507- PMB, 2024 Bankr. LEXIS 2900, at * 29 (recognizing that "an overwhelming majority of cases find that a creditor's vote to accept a plan containing a third-party release (like the Plan) makes the release consensual"). *See, e.g., Coram Healthcare Corp.*, 315 B.R. at 336 (finding that voting in favor of a plan of reorganization that provides for a third-party release indicates consent to the release, even without an explicit election opting to accept the third-party release provision); *In re Exide Techs.*, 303 B.R. 48, 74 (Bankr. D. Del. 2003) (same). Not only did the voting class – Class 3 – unanimously vote to accept the Plan, but every Holder of Claims in Class 3 also expressly agreed to release the Releasing Parties under the terms of the Labor Plaintiff Settlement. Even the U.S. Trustee acknowledges that Class 3 affirmatively consented to the Third-Party Release. *See* UST Objection ¶¶ 18 & 33.

granting the Third-Party Release. The Ballots and the notices of non-voting status each provided clear and conspicuous notice of the Third-Party Release and that such parties would be deemed to consent to the Third-Party Release unless they timely completed and submitted the opt-out form or otherwise objected to the Third-Party Release. However, consistent with the holding in *Lavie*, the Plan includes a rebuttable presumption that failure to timely opt out of the Third-Party Release constitutes consent to the Third-Party Release. Specifically, Article IX.D of the Plan provides in relevant part:

> any Holder of a Claim or Interest who did not (i) return a Ballot or opt-out election form or (ii) file an objection to the Third-Party Release, that believes that its individual circumstances related to its ability to return a Ballot or opt-out election form opting out of the Third-Party Release or to object to the Third-Party Release are such that it should not be deemed to have consented to such Third-Party Release as a result of such failure, may seek relief from the Bankruptcy Court to exercise its rights and claims free of the Third-Party Release by rebutting the presumption that its failure to return a Ballot or opt-out election form opting out of the Third-Party Release or to object to the Third-Party Release should be deemed to represent its consent to the Third-Party Release.

87. In approving a similar third-party release, the court in *Lavie* found, among other things, that (1) the opt out mechanism was clear and conspicuous in the Plan and the associated notices and ballots, (2) the opt out mechanism was relatively simple and easy to understand, (3) creditors and interest-holders not entitled to vote were required to object or submit an opt-out form, which the Court determined was not problematic under the circumstances where several classes were either active participants in the case or consisted of claims and interests held by the Debtors or affiliates of the Debtors, (4) the released parties were limited to either estate fiduciaries, parties providing substantial consideration under and in support of the Plan, or affiliates of such

parties, (5) the plan and settlement embodied in it were the product of significant negotiations, (6) the third-party release was an integral part of the plan, and (7) the plan and opt-out releases were supported by the major constituents in the case, and the plan was accepted by a majority of voting creditors by number and dollar amount.[83]

88. Each of these facts is also present here and further support approval of the Third-Party Release under the Plan:

- The opt-out mechanism used here is clear and conspicuous in the Plan, the Ballots, and the notices. The form of Ballot was revised prior to solicitation to include comments recommended by the U.S. Trustee and the Court, including comments on the record at the hearing to consider approval of the Solicitation Procedures.
- The opt-out mechanism is relatively simple and easy to understand, requiring creditors and interested parties only to check a box on the ballot or opt-out form and timely return it to the Claims and Noticing Agent or otherwise object to the Plan.
- Creditors not entitled to vote on the Plan were provided a notice of non-voting status that included an opt-out form with clear instructions for opting out of granting the Third-Party Release.
- The Released Parties are limited to estate fiduciaries, parties providing substantial consideration under and in support of the Plan, or affiliates of such parties. The scope of the Released Parties was heavily discussed during the negotiation of the Labor Plaintiff Settlement with the Labor Plaintiffs, who are most likely to have claims against the Released Parties. Additionally, the Released Parties include

[83] *Id.* at *42–43.

those who have contributed to the Debtors' restructuring and marketing and sale efforts prior to and during these Cases, and to a Plan that will pay all creditors' Claims in full with interest.

- The Plan was the product of significant negotiations among the Debtors and their primary stakeholders, including the Labor Plaintiffs and the Committee, which supports the Third-Party Releases.
- The Third-Party Release is an integral part of the Plan and is specifically contemplated by and provided for in the Labor Plaintiffs Settlement. The creditors affected by the Third-Party Release are receiving consideration in exchange for granting the Third-Party Release. In fact, with the exception of the Labor Plaintiffs who expressly agreed to the Third-Party Release, every other creditor is receiving payment in full with interest, such that no additional consideration is needed or even possible.
- The Plan, including the Third-Party Release, is supported by the major constituents in these Cases. Additionally, as evidenced by the Voting Declaration, the Plan was accepted by all voting creditors.

89. Accordingly, the Third-Party Release is clear and conspicuous, properly noticed, justified under the facts, and is consensual under applicable law, and the Debtors respectfully submit that the Third-Party Release under the Plan should be approved.

b. The Injunction Is Appropriate

90. The U.S. Trustee further objects to the injunction under the Plan as it relates to the Third-Party Release and requests that the injunction be narrowed to exclude any reference to the Third-Party Release. The UST Objection to the injunction should be overruled.

91. First, the injunction provision under Article IX.F of the Plan does not include any reference to the "Third-Party Release." As such, the U.S. Trustee's demand that the injunction provision exclude any reference to the Third-Party Release is already satisfied.

92. Second, the U.S. Trustee's opposition to the injunction is premised on the Supreme Court's observation in *Purdue Pharma* that the Bankruptcy Code permits injunctions in support of nonconsensual third-party releases only in asbestos-related cases.[84] However, as discussed above, the Third-Party Release under the Plan is consensual. The plan injunction is the primary mechanism for enforcement of the Plan, including the Third-Party Release, and is used to prevent creditors from taking actions in violation of the plan. Because the Third-Party Release is consensual, the Court can and should approve the injunction as a means to effectuate the Plan and the Third-Party Release.[85]

c. The Third-Party Release is an Appropriate Settlement Under Bankruptcy Rule 9019

93. The U.S. Trustee further objects to the Third-Party Release and asserts that the Plan improperly deems the Third-Party Release to be a settlement, and "[n]othing in Bankruptcy Rule 9019 permits bankruptcy courts to force non-debtors who have not consented to release their rights to sue other non-debtors under applicable state law."[86] This argument is also premised on the incorrect presumption that the Releasing Parties have not consented. However, as further discussed above, the Third-Party Release is consensual under applicable federal bankruptcy law.

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[84] UST Objection ¶ 46; Purdue Pharma, 603 U.S. at 222.

[85] *See, e.g., In re Pat McGrath Cosmetics LLC,* No. 26-10772-BKC, 2026 Bankr. LEXIS 1019 at *7 (Bankr. S.D. Fla. Apr. 21, 2026) (approving the third-party release and injunction through the opt-out mechanism and finding that the Supreme Court's holding in *Purdue Pharam* does not apply to consensual releases); *In re GOL Linhas Aereas Inteligentes S.A.*, No. 24-10118 (MG), 2025 WL 1466055, at *90 (Bankr. S.D.N.Y. May 22, 2025) (finding that the bankruptcy court had jurisdiction to issue an injunction where the court had jurisdiction over the third-party release that the injunction effectuates); *In re Camp Arrowhead, Ltd.*, 451 B.R. 678, 701-02 (Bankr. W.D. Tex. 2011) ("The Fifth Circuit does allow permanent injunctions so long as there is consent," and "[w]ithout an objection, [the bankruptcy court] was entitled to rely on [the creditor's] silence to infer consent at the confirmation hearing.").

[86] UST Objection ¶¶ 50–60.

Accordingly, the Plan appropriately deems the Third-Party Release to be a settlement between the Releasing Parties and the Released Parties consented to by the affected parties. The UST Objection should therefore be overruled.

3. The Plan Exculpation Provision Should be Approved

94. Article IX.E of the Plan provides that no Exculpated Party shall have or incur liability for, and each Exculpated Party is released and exculpated from, any Cause of Action or any claim related to any act or omission in connection with, relating to, or arising out of, the Cases, the formulation, preparation, dissemination, negotiation, or filing of the Disclosure Statement, the Plan, the Plan Supplement, solicitation of votes on the Plan, the pursuit of confirmation, the pursuit of consummation or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place from the Petition Date through the Effective Date, except for Claims related to any act or omission that is determined by a final order by a court of competent jurisdiction to have constituted criminal conduct, actual fraud, willful misconduct, knowing violation of law, or gross negligence.

95. Exculpation does not affect the liability of third parties, but rather, sets a standard of care of gross negligence or willful misconduct in any future litigation by a non-releasing party against an Exculpated Party for certain acts arising out of the Debtors' Cases.[87]

96. Ultimately, each of the Exculpated Parties has participated in the Cases in good faith. Without the support of the Exculpated Parties, the Debtors would not have been able to execute their chapter 11 strategy, commence these Cases, and propose a Plan that provides full

[87] *See, e.g., In re PWS Holding Corp.*, 228 F.3d 224, 230 (3d Cir. 2000) (approving plan provision that released claims except as to willful misconduct or gross negligence, and characterizing such a provision as "commonplace . . . in Chapter 11 plans").

recovery to unsecured creditors and is backed and accepted by the Voting Classes. Thus, the U.S. Trustee's statement that the Exculpated Parties are getting "something for nothing" lacks merit.

97. Exculpation is necessary to protect parties that have made substantial contributions to the Debtors' Cases from collateral attacks related to good faith acts or omissions. Further, the scope of the exculpation is appropriately tailored to cover only actions taken in connection with the negotiation of the Plan and will not affect any liability that arises from criminal conduct, actual fraud, willful misconduct, knowing violation of law or gross negligence, as determined by final order. Accordingly, the exculpation provided to the Exculpated Parties is appropriate and should be approved.

[*Remainder of Page Intentionally Left Blank*]

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Court enter the Order, substantially in the form to be filed with the Court prior to the Combined Hearing, approving the Disclosure Statement on a final basis, confirming the Plan, and granting such other relief as the Court deems just and equitable.

Dated: August 24, 2026

Respectfully submitted,

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