

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

In re:

PHILIPPINE AIRLINES, INC.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-11569 (SCC)

**DECLARATION OF NILO THADDEUS RODRIGUEZ, CHIEF FINANCIAL OFFICER  
OF THE DEBTOR, IN SUPPORT OF CONFIRMATION OF THE CHAPTER 11 PLAN  
OF REORGANIZATION OF PHILIPPINE AIRLINES, INC.**

I, Nilo Thaddeus Rodriguez, hereby declare and state as follows:

1. I am the Chief Financial Officer of Philippine Airlines, Inc. (“**PAL**”) and have served in this position since December 2020. I have been employed by PAL since January 2020. Overall, I have more than 31 years of professional experience advising companies on asset management, financial planning and analysis, corporate finance, treasury operations, financial reporting, accounting, tax, and risk management, including over a decade of experience working for other large international airlines.

2. I am generally familiar with the Debtor’s day-to-day operations, financial affairs, business affairs, and books and records. Except as otherwise indicated, all facts set forth in this declaration (the “**Declaration**”) are based upon (i) my personal knowledge of the Debtor’s operations and finances, (ii) my review of relevant documents (including the Plan), (iii) information provided to me by the Debtor’s employees working under my supervision, (iv) information provided to me by, or discussions with, other members of the Debtor’s management

<sup>1</sup> The Debtor in this chapter 11 case, along with its registration number in the Philippines, is Philippine Airlines, Inc. Philippine Securities and Exchange Commission Registration No. PW 37. The Debtor’s corporate headquarters is located at PNB Financial Center, President Diosdado Macapagal Avenue, CCP Complex, Pasay City 1300, Metro Manila, Philippines.



team and the Debtor's other advisors, and/or (v) my opinion based upon my professional experience. If called upon to testify, I could and would testify to each of the facts set forth herein on that basis.

3. I submit this Declaration in support of the Debtor's request for entry of the proposed order (the "**Proposed Confirmation Order**") confirming the *Chapter 11 Plan of Reorganization of Philippine Airlines, Inc.* [Docket No. 290-1] (together with all appendices, exhibits, schedules, and supplements thereto, and as the same may be amended, supplemented, or modified from time to time, the "**Plan**"),<sup>2</sup> including the agreements and other documents set forth in the Plan Supplement, dated December 3, 2021 (as the same may be amended, supplemented, or modified from time to time, the "**Plan Supplement**"). Together with the Debtor's advisors, I have reviewed, and I am generally familiar with, the terms and provisions of the Plan, the Plan Supplement, the Proposed Confirmation Order, and the requirements for confirmation of the Plan pursuant to section 1129 of title 11 of the United States Code (the "**Bankruptcy Code**").

4. Additional information regarding the circumstances leading to the commencement of the Chapter 11 Case and information regarding the Debtor's business and capital structure is set forth in my prior declaration, the *Declaration of Nilo Thaddeus Rodriguez, Chief Financial Officer of the Debtor, in Support of First Day Motions and Applications* [ECF No. 25], which I incorporate herein by reference.

5. Based on my understanding and knowledge of the negotiation and implementation of the restructuring transactions and settlements embodied in the Plan and my discussions with the Debtor's advisors, I believe that the Plan complies with the applicable provisions of the

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<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meaning ascribed to such terms in the Plan.

Bankruptcy Code, that the Plan was proposed in good faith, and that the Debtor, acting through its officers, directors, and professionals, has conducted itself in a manner that complies with applicable law in relation to the formulation and negotiation of, and solicitation of votes on, the Plan.

**I. The Plan Satisfies the Requirements of the Bankruptcy Code.**

6. I believe that the Plan satisfies all applicable provisions of section 1129 of the Bankruptcy Code and complies with all other applicable sections of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and applicable non-bankruptcy law and that, therefore, the Plan should be confirmed.

**A. The Plan Satisfies Bankruptcy Code Section 1129(a)(1).**

7. I understand that section 1129(a)(1) of the Bankruptcy Code requires the Plan to comply with the applicable provisions of the Bankruptcy Code. As detailed below, I believe that the Plan satisfies this requirement.

**(i) Classification of Claims and Interests Complies with Bankruptcy Code Section 1122.**

8. I believe that each of the claims and interests in each particular class is substantially similar to the other claims and interests in such class. The Plan designates Claims against and Interests in the Debtor into the following Classes: Class 1 (Priority Non-Tax Claims), Class 2 (Other Secured Claims), Class 3 (General Unsecured Claims), Class 4 (General Unsecured Trade Claims), Class 5 (Employee Claims), Class 6 (Customer Claims), Class 7 (Intercompany Claims), and Class 8 (Existing Equity Interests).

9. I believe that the separate classification of Claims against and Interests in the Debtor is based upon the differences in legal nature and/or priority of such Claims and Interests, and I understand that the Plan's classification scheme generally tracks the Debtor's prepetition capital structure and divides the applicable Claims and Interests into Classes based on the underlying instruments and/or liabilities giving rise to such Claims and Interests. I believe that such Classes do not unfairly discriminate between holders of Claims and Interests. I also understand that all Claims and Interests within each Class have the same or substantially similar rights as the other Claims and Interests in that Class as required by section 1122 of the Bankruptcy Code.

10. I also believe that, to the extent that Claims or Interests of equal priority are placed in different Classes, including placing unsecured creditors in classes 3, 4, 5 and 6, a valid business, factual, and/or legal reason exists for such separate classification. Among other things, the Supporting Creditors, who comprise over 90% of Class 3, agreed to the separate classification and reduced distributions pursuant to the Restructuring Support Agreements in order to allow Classes 4, 5 and 6 to be unimpaired. Accordingly, I believe that the Plan's classification scheme was not proposed to create a consenting Impaired Class and, thereby, manipulate voting.

**(ii) The Plan Complies with Bankruptcy Code Section 1123(a).**

a. Section 1123(a)(1) of the Bankruptcy Code. As previously stated, the Plan designates Classes of Claims as required by section 1123(a)(1).

b. Section 1123(a)(2) and (a)(3) of the Bankruptcy Code. The Plan identifies each Class of Claims and Interests that is not Impaired under the Plan and sets forth the treatment of

Impaired Claims and Interests, which I understand satisfies the requirements of 1123(a)(2) and (3) of the Bankruptcy Code.

c. Section 1123(a)(4) of the Bankruptcy Code. The Plan also complies with section 1123(a)(4) of the Bankruptcy Code, as the treatment of each Claim or Interest in each particular Class is the same as the treatment of each other Claim or Interest in such Class (except as otherwise agreed to by a holder of a particular Claim or Interest). Therefore, I believe that the Plan complies with section 1123(a)(4) of the Bankruptcy Code with respect to such Claims.

d. Section 1123(a)(5) of the Bankruptcy Code. I believe that the Plan, including the various documents and agreements set forth in the Plan Supplement, provides adequate and proper means for its implementation, as I am advised is required by section 1123(a)(5) of the Bankruptcy Code. Among other things, the Plan includes: (i) provisions setting forth the sources of consideration to be distributed under the Plan, (ii) provisions governing the issuance of New Common Stock, (iii) approval of the Exit Facilities, (iv) approval of the Amendment Agreements in accordance with the Restructuring Support Agreements; (v) the Restructuring Transactions contemplated in order to implement the Plan, (vi) provisions in Article V of the Plan, including the continued existence of the Reorganized Debtor and the adoption and/or filing of the Amended Organizational Documents pursuant to applicable law, and (vii) provisions of Article X of the Plan, including the vesting of assets in the Reorganized Debtor and the preservation of Causes of Action.

e. Section 1123(a)(6) of the Bankruptcy Code. It is my understanding that, as required by section 1123(a)(6) of the Bankruptcy Code, the governing corporate documents of the Debtor have been or will be amended on or prior to the Effective Date to prohibit the issuance of non-voting equity securities.

f. Section 1123(a)(7) of the Bankruptcy Code. The Plan Supplement provides that the directors and officers of the Debtor immediately before the Effective Date will serve as the initial directors and officers of the Reorganized Debtor on and after the Effective Date in accordance with section 1129(a)(5) of the Bankruptcy Code. Accordingly, I believe the requirements of section 1123(a) of the Bankruptcy Code have been satisfied.

**(iii) The Plan Complies with Bankruptcy Code Section 1123(b).**

11. I understand that section 1123(b) of the Bankruptcy Code sets forth permissive provisions that may be incorporated into a chapter 11 plan and, as discussed in more detail below, I believe that each of the provisions of the Plan is consistent with section 1123(b).

a. Section 1123(b)(1) of the Bankruptcy Code. As contemplated by section 1123(b)(1) of the Bankruptcy Code, Article IV of the Plan describes the treatment of Unimpaired Classes and Impaired Classes.

b. Section 1123(b)(2) of the Bankruptcy Code. With respect to section 1123(b)(2) of the Bankruptcy Code, I understand that Article VIII of the Plan provides for the procedures governing the rejection, assumption, and assumption and assignment of Executory Contracts and Unexpired Leases.

c. Section 1123(b)(3) of the Bankruptcy Code. As I understand, the Plan provides that, in consideration for the distributions and other benefits provided pursuant to the Plan, the Plan includes a good-faith compromise and settlement of Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a holder of a Claim or Interest may have, or any distribution to be made on account of Allowed Claims or Interests. The Plan also contains certain releases in Section 10.6. Furthermore, as I understand is permitted by section

1123(b)(3)(B), the Section 10.8 of the Plan preserves the Causes of Action and provides that the Reorganized Debtor will have the right to commence and pursue such retained Causes of Action.

d. Section 1123(b)(5) of the Bankruptcy Code. As I understand is contemplated and allowed by section 1123(b)(5) of the Bankruptcy Code, the Plan permissibly modifies the rights of holders of Claims and Interests in Class 3 (General Unsecured Claims) and Class 8 (Existing Equity Interests). All other classes in the Plan are unimpaired.

e. Section 1123(b)(6) of the Bankruptcy Code. It is my understanding that section 1123(b)(6) of the Bankruptcy Code provides that a plan may include any other appropriate provision not inconsistent with the applicable provisions of the Bankruptcy Code. The Plan contains certain release, exculpation, and injunction provisions that I understand are consistent with the applicable provisions of the Bankruptcy Code and case law in the Second Circuit.

12. Accordingly, I believe that each of the foregoing permissive provisions is consistent with section 1123(b) of the Bankruptcy Code.

**(iv) The Plan Releases Should Be Approved.**

13. The Plan provides for (i) the release of claims and Causes of Action held by (a) the Debtor and its Estate as set forth in Section 10.6(a) thereof (the “**Debtor Releases**”), (b) certain non-Debtor third parties—the Releasing Parties—against the Released Parties, as set forth in Section 10.6(b) thereof (the “**Third-Party Releases**” and, together with the Debtor Releases, the “**Plan Releases**”), (ii) the exculpation provision set forth in Section 10.7 thereof (the “**Exculpation Provision**”), and (iii) the injunction provision set forth in Section 10.5 thereof (the “**Injunction Provision**”). I believe that the release, exculpation, and injunction provisions set forth in the Plan are integral components of the Plan and the transactions embodied therein

and are appropriate and necessary under the circumstances, and I have been informed that the release, exculpation, and injunction provisions are consistent with the Bankruptcy Code and comply with applicable case law.

a. The Debtor Releases Are Appropriate and Should Be Approved.

14. It is my understanding that the Released Parties, each in its own way, have provided substantial contributions to the Debtor's restructuring during the prepetition negotiations and over the course of this Chapter 11 Case. For example, the DIP Lenders and the Bridge Lender provided significant funding to support the Debtor's ongoing business operations in the lead up to, and after the commencement of, this Chapter 11 Case. Notably, the DIP Lenders agreed to provide funding on extremely favorable terms, particularly with respect to interest rate and the option to convert (at the Debtor's discretion) the financing to long-term unsecured debt and equity—rather than repay in cash—upon emergence from chapter 11. This conversion feature, which the Debtor exercised under the Plan, lowered the barriers to exit chapter 11 and significantly increased the available liquidity of the Reorganized Debtor upon emergence. Similarly, the Bridge Lender enabled the Debtor to continue its operations in the challenging environment created by the COVID-19 pandemic and provided additional time to complete the negotiations of the Restructuring Support Agreements, which were essential to the success of this Chapter 11 Case.

15. Additionally, the Debtor, the DIP Lenders, and the Supporting Creditors engaged in good faith negotiations in order to facilitate the implementation and execution of a consensual and expeditious reorganization of the Debtor. Crucially, the compromises contained within the Restructuring Support Agreements and the Plan allow for all other unsecured creditors, including

trade creditors, customers and employees, to be unimpaired under the Debtor's Plan, thus paving the path to a consensual and efficient restructuring.

16. Without these substantial contributions from the Released Parties the Debtor likely would not be poised to emerge from chapter 11 on a consensual basis, and its restructuring would likely have been prolonged and considerably more expensive. Further, the Debtor does not believe that, absent the Debtor Releases, it would have been able to secure the substantial benefits provided by the Plan, including a deleveraged balance sheet, an optimized fleet, and the opportunity to emerge from chapter 11 as a stronger and more efficient airline.

17. Moreover, I believe the Debtor's current and former officers, directors, managers, employees, advisors, and other related parties have made a substantial contribution to the Chapter 11 Case through (i) expending substantial time and effort in connection with restructuring matters, in addition to their normal duties, (ii) engaging in negotiations and open dialogue with the Debtor's key stakeholders to facilitate a consensual restructuring, and (iii) assisting with any and all endeavors necessary to navigate the Debtor through the Chapter 11 Case. Moreover, the Debtor's directors have continued to provide valuable services and oversight to the Debtor throughout this Chapter 11 Case, which required additional effort in light of most employees, vendors and customers not being familiar with the chapter 11 process.

18. In addition to the reasons set forth above, the Debtor Releases are also appropriate because I understand that the released claims and causes of action have no material value to the Debtor and its Estate, and I believe that the *de minimis* value, if any, of such claims is outweighed significantly by the value and benefits provided by the Plan and the transactions contemplated therein. Accordingly, I believe that the Debtor Releases are appropriate, justified, in the best interest of the shareholders, and an integral part of the Plan.

b. The Third-Party Releases Are Appropriate and Should Be Approved.

19. The Plan also contains consensual releases from the Releasing Parties against the Released Parties, to the maximum extent permitted by law, for liability relating to the Debtor, the Estate, the Debtor's business, the Restructuring Transactions, and this Chapter 11 Case generally (as explained in detail in Section 10.6(b) of the Plan) (collectively, the "**Third-Party Releases**"). Here, the Releasing Parties have all consented to the Third-Party Releases by voting to accept the Plan or by choosing to forego their opportunity to opt out of the releases. Accordingly, I believe that the Third-Party Releases are consensual and should be approved.

c. The Plan Exculpation Provision Should Be Approved.

20. In addition to the releases discussed above, the Plan provides exculpation for certain Exculpated Parties for claims arising out of or relating to the Debtor's restructuring, this Chapter 11 Case, and the negotiations and agreements made in connection therewith (as explained in detail in Section 10.7 of the Plan). I believe that the Exculpation Provision is important because the Exculpated Parties have participated in this Chapter 11 Case in good faith, and such provision is necessary to protect them from collateral attacks related to any good-faith acts or omissions in connection with, or related to, among other things, the Chapter 11 Case and the Plan. Further, I believe that the scope of the Exculpation Provision is appropriately tailored to cover only actions taken in connection with the Chapter 11 Case and will not affect any liability that arises from gross negligence, willful misconduct, or intentional fraud as determined by Final Order.

d. The Plan Injunction Provision Should Be Approved.

21. I understand that the Injunction Provision is necessary to, among other things, enforce the Plan Releases and the Exculpation Provision by permanently enjoining all persons and entities from commencing or continuing in any manner any claim that was released or exculpated pursuant to such provisions. I believe that the Injunction Provision is narrowly tailored to achieve that purpose and therefore should be approved.

**B. The Plan Satisfies Bankruptcy Code Section 1129(a)(2).**

22. I believe that the Debtor has complied with the applicable provisions of the Bankruptcy Code, including sections 1125 and 1126 of the Bankruptcy Code, regarding disclosure and plan solicitation. The Debtor, with the assistance of its professionals, expended a significant amount of time and effort preparing the Disclosure Statement, which, in turn, provides a significant level of information regarding the Debtor and the Plan. In addition, it is my understanding that, based on discussions with the Debtor's advisors, the Debtor's solicitation and tabulation of votes with respect to the Plan were proper and conformed with the requirements of the Bankruptcy Code and the solicitation procedures approved by the Bankruptcy Court.

**C. The Plan Has Been Proposed in Good Faith in Compliance with Bankruptcy Code Section 1129(a)(3).**

23. The Debtor has proposed the Plan in good faith, with honesty and good intentions, and, I believe, the Plan has a reasonable basis for success. During this Chapter 11 Case, the Debtor, the Supporting Creditors, and the DIP Lenders engaged in good-faith, arm's-length negotiations that resulted in the numerous Restructuring Support Agreements and, ultimately, the Plan, which provides for recoveries to holders of General Unsecured Claims that otherwise would not have been available and resolved all issues that may have been raised by other parties

in interest with respect to the Plan. I believe that the unanimous support of the Plan by the voting creditors is indicative of the Debtor's good-faith proposal of the Plan. Further, the Plan, which incorporates the Restructuring Support Agreements, will allow the Debtor to emerge from chapter 11 on a going-concern basis as a stronger and more efficient airline with a deleveraged balance sheet, thereby positioning the Reorganized Debtor for long-term success. For these and other reasons, I believe that the Plan has been proposed by the Debtor in good faith and for the legitimate and honest purposes of reorganizing the Debtor's ongoing business to overcome the unprecedented pandemic and facilitating its long-term financial viability.

**D. The Plan Complies with Bankruptcy Code Section 1129(a)(4).**

24. I understand that all payments made or to be made by the Debtor for services rendered and expenses incurred by retained Professionals in connection with the Chapter 11 Case, including all Professional Fee Claims, must be approved by the Court as reasonable pursuant to final fee applications. Accordingly, I believe that the Plan satisfies section 1129(a)(4) of the Bankruptcy Code.

**E. The Plan Complies with Bankruptcy Code Section 1129(a)(5).**

25. I understand that the Plan describes the manner in which the members of the New Board of the Reorganized Debtor will be selected. In particular, the Plan Supplement discloses that the DIP Tranche B Lenders have designated the current members of the Debtor's board of directors as the initial directors of the New Board on the Effective Date. Further, the Plan Supplement discloses that the officers of the Debtor immediately before the Effective Date will serve as the initial officers of the Reorganized Debtor on and after the Effective Date. The appointment to, or continuance in, such positions of such persons is consistent with the interests

of holders of Claims and Interests and public policy. Accordingly, I believe the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

**F. The Plan Does Not Contain Any Rate Changes.**

26. I understand that, because the Plan does not provide for any rate changes by the Debtor, section 1129(a)(6) does not apply to the Plan.

**G. The Plan Is in the Best Interests of All Creditors and Interest Holders.**

27. I understand that the Plan satisfies the best interests test under section 1129(a)(7), as evidenced by the Valuation Analysis prepared by the Debtor and its advisors, which is set forth in Exhibit E to the Disclosure Statement.

**H. The Plan Has Been Accepted by Impaired Classes Entitled to Vote.**

28. I understand that the Plan has been unanimously accepted by creditors entitled to vote to accept or reject the Plan. In total, holders of Claims totaling over \$1.7 billion voted to accept the Plan—which represented 100% of all Claims voted. The Plan has been accepted by Class 3, the only Class entitled to vote to accept or reject the Plan, without counting votes cast by any insider, thereby satisfying both the requirements of section 1129(a)(8) of the Bankruptcy Code, as well as the requirement that the Plan be affirmatively accepted by at least one Class of Impaired Claims pursuant to section 1129(a)(10) of the Bankruptcy Code. I also understand that Holders of Interests in Class 8 (Existing Equity Interests) are not receiving any distribution under the Plan and, thus, are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. It is my further understanding, based on the advice of the Debtor’s counsel, that the Plan is nonetheless confirmable because the Plan satisfies the “cram down” provisions of section 1129(b) of the Bankruptcy Code as to Class 8.

**I. The Plan Provides for Payment in Full of All Allowed Priority Claims.**

29. It is my understanding that except to the extent that a holder of an Allowed Administrative Expense (other than a Professional Fee Claim or DIP Claim) and the Debtor agree to alternative treatment, the Plan provides that each holder of an Allowed Administrative Expense Claim (other than a Professional Fee Claim or DIP Claim) shall receive, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, Cash in an amount equal to such Allowed Administrative Expense Claim on, or as soon thereafter as is reasonably practicable, the later of (a) the Effective Date, and (b) the first Business Day after the date that is 30 calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim. Moreover, the Plan provides that, except to the extent that a holder of an Allowed Priority Non-Tax Claim agrees to a less favorable treatment of such Claim, as applicable, (i) each such holder shall receive payment in Cash in an amount equal to the Allowed amount of such Claim, payable on the later of the Effective Date and the date that is 10 Business Days after the date on which such Priority Non-Tax Claim becomes an Allowed Priority Non-Tax Claim, or as soon thereafter as is reasonably practicable, (ii) such holder's Allowed Priority Non-Tax Claim shall be Reinstated, or (iii) such holder shall receive such other treatment consistent with section 1129(a)(9) of the Bankruptcy Code so as to render such holder's Allowed Priority Non-Tax Claim Unimpaired.

30. I also believe that the Plan also satisfies the requirements of section 1129(a)(9)(C), as I understand them, in respect of the treatment of Priority Tax Claims. Pursuant to the Plan, except to the extent that an Allowed Priority Tax Claim has not been previously paid in full or its holder agrees to a less favorable treatment, in full and final satisfaction of each Priority Tax Claim, each holder of such Allowed Priority Tax Claim shall be treated in

accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code and, for the avoidance of doubt, holders of Allowed Priority Tax Claims will receive interest on such Allowed Priority Tax Claims after the Effective Date in accordance with sections 511 and 1129(a)(9)(C) of the Bankruptcy Code. To the extent any Allowed Priority Tax Claim is not due and owing on the Effective Date, such Claim shall be paid in accordance with the terms of any agreement between the Debtor and the holder of such Claim, or as may be due and payable under applicable non-bankruptcy law, or in the ordinary course of business.

**J. The Plan Is Feasible and Satisfies Section 1129(a)(11).**

31. I am aware that section 1129(a)(11) of the Bankruptcy Code requires a plan to be feasible, i.e., it is not likely to be followed by liquidation or the need for further financial reorganization. Based upon my understanding of the Plan, my discussions with the Debtor's advisors and management team, and my experience with, and knowledge of, the Debtor's business and industry, I believe that the Plan is feasible, and the Plan is not likely to be followed by liquidation or the need or further financial restructuring.

32. My view is based, among other things, upon the Debtor's analysis of its ability to fulfill its obligations under the Plan, as well as financial projections that the Debtor has prepared with assistance from its advisors for fiscal years 2022 through 2024 (the "**Financial Projections**"), which are set forth in **Exhibit D** to the Disclosure Statement. I have been advised that, as set forth in the Financial Projections, an analysis of the various factors courts consider when assessing the feasibility of a Plan demonstrates that the Plan is feasible. In addition, it is my belief that the Debtor will emerge from chapter 11 with adequate liquidity and working capital and a strong balance sheet. Additionally, based on the Financial Projections, the Reorganized Debtor will have the ability to make all the payments and distributions required

pursuant to the Plan. Accordingly, I believe that the Plan is feasible and satisfies section 1129(a)(11) of the Bankruptcy Code.

**K. The Plan Complies with Bankruptcy Code Section 1129(a)(12).**

33. The Plan provides that on the Effective Date, and thereafter as may be required, all fees payable under section 1930 of title 28 of the United States Code, together with interest, if any, shall be paid by the Reorganized Debtor.

**L. Bankruptcy Code Section 1129(a)(13) Is Satisfied.**

34. It is my understanding that section 1129(a)(13) of the Bankruptcy Code requires that the Plan provide for the continuation after the Effective Date of payment of all retiree benefits, as such term is defined in section 1114 of the Bankruptcy Code, at the level established under the same section. Pursuant to the Plan, I also understand that any and all of the Debtor's "retiree benefits" and other employment obligations are being assumed or will "ride through" so they will continue without modification. Consequently, the Plan satisfies section 1129(a)(13) of the Bankruptcy Code.

**M. Bankruptcy Code Sections 1129(a)(14), 1129(a)(15), 1129(a)(16) are Inapplicable.**

35. It is my understanding that sections 1129(a)(14) through 1129(a)(16) of the Bankruptcy Code are inapplicable to the Debtor.

**N. The Plan Satisfies "Cram Down" Requirements for Non-Accepting Classes Under Bankruptcy Code Section 1129(b).**

36. As discussed above, the holders of Interests in Class 8 (Existing Equity Interests) are not receiving any property on account of their Claims or Interests and, thus, are deemed to

have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. I believe that the Plan is nonetheless confirmable with respect to Class 8 pursuant to section 1129(b) of the Bankruptcy Code.

**(i) The Plan Does Not Discriminate Unfairly.**

37. I do not believe the Plan “discriminates unfairly” with respect to Class 8 (Existing Equity Interests). The Interests in Class 8 are legally distinct in nature from the Claims and Interests in any other Class. Therefore, given that the Interests in Class 8 are “dissimilar” from the Claims and Interests in all other Classes, and the Plan thus does not provide any distributions on account of any similarly situated Claims or Interests, the Plan does not discriminate unfairly with respect to Class 8. For the reasons discussed above, it is my view that the Plan does not discriminate unfairly with respect to any Class.

**(ii) The Plan Is Fair and Equitable.**

38. The distributions under the Plan to Class 8 (Existing Equity Interests) are made in the order of priority prescribed by the Bankruptcy Code and in accordance with the absolute priority rule. No Claims or Interests junior to holders of Interests in Class 8 (Existing Equity Interests) will receive any property under the Plan on account of such junior Claims or Interests. For these reasons, I believe that the Plan is “fair and equitable” and, therefore, consistent with the requirements of section 1129(b) of the Bankruptcy Code with respect to these Classes.

**II. Conclusion**

39. In light of the foregoing, I believe that (i) the Plan and the transactions embodied therein have been structured to accomplish the Debtor’s goal of maximizing returns to stakeholders and effectively reorganizing the Debtor, (ii) the Plan has been proposed by the

Debtor in good faith, and (iii) confirmation of the Plan is in the best interests of the Debtor, its Estate, its creditors, and other parties in interest in this Chapter 11 Case.

40. Accordingly, I believe that the Plan satisfies the requirements of the Bankruptcy Code, the Bankruptcy Rules, and other applicable non-bankruptcy laws, as they have been explained to me, and that the Plan should be confirmed.

*[Remainder of page intentionally left blank]*

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information and belief.

Dated: December 15, 2021

*/s/ Nilo Thaddeus Rodriguez*

Nilo Thaddeus Rodriguez