IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
SALT HOUSE, INC.,[1]	Case No. 25-12277 (LSS)
Debtor.	**Ref. Docket Nos. 257 & 282**

DEBTOR'S REPLY IN SUPPORT OF THE DEBTOR'S MOTION FOR ENTRY OF AN ORDER (A) APPROVING THE DISCLOSURE STATEMENT ON AN INTERIM BASIS; (B) ESTABLISHING SOLICITATION AND TABULATION PROCEDURES; (C) APPROVING THE FORMS OF BALLOTS AND SOLICITATION MATERIALS; (D) ESTABLISHING THE VOTING RECORD DATE; (E) FIXING THE DATE, TIME, AND PLACE FOR THE COMBINED CONFIRMATION HEARING AND THE DEADLINE FOR FILING OBJECTIONS THERETO; AND (F) GRANTING RELATED RELIEF

The above-captioned debtor and debtor in possession (the "**Debtor**") submits this reply (this "**Reply**") in support of the *Debtor's Motion for Entry of an Order (A) Approving the Disclosure Statement on an Interim Basis; (B) Establishing Solicitation and Tabulation Procedures; (C) Approving the Forms of Ballots and Solicitation Materials; (D) Establishing the Voting Record Date; (E) Fixing the Date, Time, and Place for the Combined Confirmation Hearing and the Deadline for Filing Objections Thereto; and (F) Granting Related Relief* [Docket No. 257] (the "**Motion**")[2] and in response to the objection of the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**") [Docket No. 282] and respectfully states as follows:

[1] The Debtor in this chapter 11 case is Salt House, Inc. (f/k/a Food52, Inc.) and the last four digits of the Debtor's federal tax identification number are 2738. For the purpose of this chapter 11 case, the Debtor's service address is 1 Dock 72 Way, 13th Floor, Brooklyn, New York 11205.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

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PRELIMINARY STATEMENT

1. The Motion should be approved because the Disclosure Statement contains adequate information for voting parties, and the proposed notices and Ballots provide clear notice to all parties regarding the Plan and the proposed third-party release, including the opt-out provision, consistent with this Court's rulings in other cases. No party has argued otherwise.

2. The only objection to approval of the Motion was filed by the U.S. Trustee, who takes no issue with the adequacy of the information in the proposed Disclosure Statement and who provided no comments to the proposed notices or Ballots. Instead, the U.S. Trustee argues that the Motion should be denied because the Plan is unconfirmable due to its inclusion of an opt-out mechanism for the proposed third-party release—an argument that was squarely rejected by this Court a mere three months ago. *See In re Corvias Camping – USG, LLC*, Case No. 25-11214 (LSS) (Bankr. D. Del. Oct. 29, 2025) at 47:12-48:6 ("I am still of the opinion I have been over the years that parties need to read documents that come to them, that it's a notice issue, and that is sufficient to ask for consensual third party releases and an opt-out can be appropriate. [F]or multiple reasons, I'm still okay with an opt-out because of notice provisions."); *In re Corvias Camping – USG, LLC*, Case No. 25-11214 (LSS) (Bankr. D. Del. Dec. 11, 2025) at 25-28:14-6 (same).

3. In support of its argument, the U.S. Trustee does not cite to a single new opinion since this Court's ruling in *Corvias Camping* and the U.S. Trustee ignores years of contrary precedent. *See, e.g.*, *In re Boy Scouts of America and Delaware BSA, LLC*, 642 B.R. 504, 675-77 (Bankr. D. Del. 2022) (approving third-party releases where "claimants . . . were well aware of the opportunity and need to opt-out or object to the third-party releases in the Plan [because] [t]he need to opt-out of the releases is prominently placed on the first page of each ballot . . . in bold, all

caps and surrounded by a box"); *In re Z Gallerie, LLC*, No. 19-10488 (LSS) (Bankr. D. Del. 2019) [Docket No. 384] ("With respect to third-party releases I'm prepared to find that they are consensual because of opt-out box in the ballots.").

4. Instead of relying on established precedent, the U.S. Trustee argues that the proposed third-party release violates the Supreme Court's holding in *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204 (2024), because consent for a release should be determined based on state contract law—an argument this Court specifically considered and rejected twice recently. *See In re Corvias Camping – USG, LLC*, Case No. 25-11214 (LSS) (Bankr. D. Del. Dec. 11, 2025) at 25-28:14-6 (rejecting the U.S. Trustee's argument that the Court should look to state contract law to determine whether a third-party release is consensual); *In re Corvias Camping – USG, LLC*, Case No. 25-11214 (LSS) (Bankr. D. Del. Oct. 29, 2025) at 47-48:17-6 (same).

5. The Court should overrule the U.S. Trustee's objection to the opt-out mechanism for the same reasons the Court overruled the U.S. Trustee's nearly identical objection in *Corvias Camping*—contrary to the U.S. Trustee's assertions, the Supreme Court did not address what constitutes consent in its *Purdue* decision and the issue of consent is one of notice, not of state contract law. Here, the need to opt-out of the releases is prominently placed on the first page of each Ballot and the Notice of Non-Voting Status for Holders of Unimpaired Claims, in bold, all caps, and surrounded by a box. Further, the Ballots and the Notice of Non-Voting Status for Holders of Unimpaired Claims include the full text of third-party release from Article IX.B of the Plan.[3] In these circumstances, the Court has repeatedly concluded that notice of the opt-out is sufficient and the third-party release is consensual.

[3] The Debtor intends to file a revised version of the proposed order attached to the Motion (the "**Revised Proposed Order**") in advance of the hearing, which Revised Proposed Order includes updated Ballots and notices.

6. The Court should also overrule the U.S. Trustee's premature confirmation objections to the entirety of the proposed third-party release. The standard for approval of a third-party release is not whether the U.S. Trustee believes the release is necessary or appropriate—it is an issue of notice and consent, which are satisfied for the reasons set forth herein. The U.S. Trustee likewise provides no support for its position that governmental entities should not be subject to the opt-out because the governmental bar date has not yet passed. Just like any other party, governmental entities can, and routinely do, read legal notices that are sent to them to protect their rights. The fact that governmental entities have a later deadline to submit a proof of claim does not excuse them from reading and timely responding to other legal notices that may affect their rights. If a governmental entity does not wish to grant the third-party release, it can check the box and opt out, and it will have over a month to do so.

7. For the reasons set forth herein, the Court should, once again, overrule the U.S. Trustee's objection and enter an order approving the Motion.

REPLY

I. The Plan is Not Patently Unconfirmable Due to the Inclusion of an "Opt-Out Provision."

8. The Plan, which includes a proposed opt-out mechanism for a consensual third-party release consistent with numerous rulings by this Court, is not unconfirmable due to the inclusion of that provision.[4] The U.S. Trustee's argument to the contrary is based on a misreading of *Purdue*, where the Supreme Court specifically declined "to express a view on what qualifies as a consensual release" and cautioned that "[n]othing in what we have said should be construed to

[4] *See In re Corvias Campus Living – USG, LLC*, Case No. 25-11214 (LSS) (Bankr. D. Del. Dec. 11, 2025); *In re Peer Street, Inc. et. al.*, Case No. 23-10815 (LSS) (Bankr. D. Del. May 17, 2024); *In re PhaseBio Pharmaceuticals, Inc.*, Case No. 22-10995 (LSS) (Bankr. D. Del. Aug. 1, 2023); *In re Pyxus Int'l, Inc., et. al.*, Case No. 20-11570 (LSS) (Bankr. D. Del. Aug 21, 2020).

call into question consensual third-party releases offered in connection with a bankruptcy reorganization plan[.]" *Purdue Pharma*, 603 U.S. at 226–27 (2024). The Supreme Court did not rule that consensual releases in bankruptcy must follow non-bankruptcy law, nor did it even address that issue. And, as this Court has repeatedly noted, there are significant issues with the U.S. Trustee's suggestion of applying the law of fifty different states, plus foreign jurisdictions, to determine whether consent has been satisfied under applicable non-bankruptcy law.[5]

9. The longstanding precedent of this Court and others within the Third Circuit is to approve third-party releases where creditors are provided with adequate notice and have the opportunity to opt out, consistently finding that such opt-out release provisions are consensual. *See In re Nikola Corp., et al.*, No. 25-10258 (TMH) (Bankr. D. Del. 2025) (D.I. 1029) Hr'g Tr. No. 132:25–133:1-94 (approving an opt out mechanism that provided clear and conspicuous

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5 *In re Corvias Camping – USG, LLC*, Case No. 25-11214 (LSS) (Bankr. D. Del. Oct. 29, 2025) at 47:17-25 ("One of the issues I thought about, quite frankly, is whose state law would apply if we were actually looking at state law and if I had creditors in 50 states would I have to look at the contract laws in 50 states to determine how each one of them were bound. I don't think so. I can't imagine we would have to do that. So, I think this looking to state contractual law creates some issues that so far, I don't think any of the judges who have addressed that and adopted that have addressed."); *In re Corvias Camping – USG, LLC*, Case No. 25-11214 (LSS) (Bankr. D. Del. Dec. 11, 2025) at 26-27:21-8 ("I think there are a lot of issues that would have to be addressed if we go to some state law, nonuniform, quite frankly, view of what consent is and should that be different if I'm sitting in Delaware versus a colleague in Illinois versus a colleague in Texas who's looking at their particular state law and should that be the way we're looking at third-party releases that are implicated by Plans which are confirmed under the Bankruptcy Code, much less than should I be looking at where the person is sitting when they're signing or not signing something. So I think there are lot of questions that I still have as to whether the non-notice approach, the contract approach, is the right one.").

The Court has previously questioned whether there is a federal common law for contracts that could be reviewed for an analysis of consent. *Id.* at 26:13-16. The Debtor is not aware of any such law and the Third Circuit has expressly cautioned against adopting federal common law where none exists. *See In re Columbia Gas Sys. Inc.*, 997 F.2d 1039, 1055 (3d. Cir. 1993) (quoting *United States v. Kimball Foods, Inc.*, 440 U.S. 715, 728 (1979)) ("Developing a federal common law rule is the exception rather than the rule. Federal law should coincide with the relevant state law unless state law would undermine the objectives of the federal statutory scheme and there is a distinct need for nationwide legal standards."); *see also In re Whittaker Clark & Daniels Inc*, 152 F.4th 432, 461 (3d. Cir. 2025) (stating that "the Bankruptcy Code directs courts to consider parties' interest under whichever law governs outside of bankruptcy, and it then establishes a collection of rules to deal with those interests."). Notably, the U.S. Trustee does not argue for the application of federal law and specifically states that the consent issue is not a "matter of federal bankruptcy law." UST Objection ¶32.

notice); *In re Molecular Templates, Inc.*, No. 25-10739 (BLS) (Bankr. D. Del. May 21, 2025) Hr'g Tr. 37:3–22 (confirming that the *Indianapolis Downs* analysis applies post-*Purdue*); *In re Fisker, Inc.*, No. 24-11390 (TMH) (Bankr. D. Del. Oct. 11, 2024) (D.I. 706) Hr'g Tr. No. 44:20-45:11 (finding that "in light of Purdue, there is no prohibition on the use of opt-out releases"); *In re Amyris Inc.*, Case No. 23-11131 (TMH) (Bankr. D. Del. Feb. 2, 2024) (D.I. 1238) Hr'g Tr. No. 6:9-14 (approving consensual third-party releases with an opt-out feature because "the opt-out adequately protects parties' rights and appropriately indicates whether a party would consent to the releases"); *In re Invitae Corp.*, Case No. 24-11362 (MBK) (Bankr. D. N.J. Aug. 2, 2024) [Docket No. 913] (confirming a plan that contained a third-party release with an opt out mechanism); *In re Bowflex Inc.*, Case No. 24-12364 (ABA) (Bankr. D. N.J. Aug. 19, 2024) [Docket No. 614] (same).

10. Specifically, this Court, and many others, have adopted the "due process analysis" to determine whether opt outs are consensual, recognizing that this approach has been applied by "the majority of courts . . . over a period of many, many years." *In re Nikola Corp., et al.*, No. 25-10258 (TMH) (Bankr. D. Del. 2025) [Docket No. 1029] Hr'g Tr. No. 132:20–25. Accordingly, most of the cases cited in the objection, as well as the bulk of its analysis which rest on a contractual theory, are inapposite to the analytical framework this Court employs in assessing whether the due process requirements of the Fifth Amendment have been satisfied.

11. Here, the Plan provides for an "opt out" mechanism for the third-party release, which is substantially similar to release provisions recently approved by this Court. The Debtor will provide all parties in interest with adequate notice of the Plan, including the full text of the third-party release, and will provide all Holders of Unimpaired Claims and General Unsecured Claims with information explaining how to opt out of such third-party release. Each of the

Disclosure Statement, the Ballots, the Notice of Non-Voting Status, and the Combined Hearing Notice will provide recipients with timely, sufficient, appropriate, and adequate notice of the third-party release. Each affected Holder then may determine, in its sole discretion, whether to opt out of the third-party release, by returning the Ballot or Notice of Non-Voting Status, as applicable. Notably, holders of Impaired Claims and Interests in Classes 4 and 5 who are deemed to reject the Plan are not Releasing Parties and are not required to opt out of the release, and the Committee, who represents the interests of the sole voting class—Holders of Class 3 General Unsecured Claims—has not objected to the proposed opt-out mechanism. The Debtor submits that the releases under the Plan are consensual and consistent with this Court's prior rulings, and the use of the opt-out should therefore be approved.

II. The U.S. Trustee's Objection to the Entirety of the Third Party Release is a Premature Confirmation Objection and Should be Overruled.

12. The U.S. Trustee's remaining objections to the proposed third-party release are to the entirety of the release itself—a quintessential confirmation objection that is not before the Court at this time.[6] The Debtor will present the appropriate record at the Combined Confirmation Hearing in support of the third-party release. However, to be clear, the standard for approval of a third-party release is not whether the U.S. Trustee believes the release is appropriate or necessary—it is matter of notice and consent, which are readily satisfied here for the reasons set forth above. The U.S. Trustee's stated concerns with the necessity or appropriateness of the

[6] The U.S. Trustee objects to the proposed third-party release because the U.S. Trustee does believe it is necessary in this case. That is not the standard for approval of a third-party release, nor is it necessary for the Court to consider the U.S. Trustee's argument now. That aside, as this Court aptly noted, "as everyone knows who practices in this jurisdiction, third-party releases of some party who has an actual claim over their objection is rare." *In re Corvias Camping – USG, LLC*, Case No. 25-11214 (LSS) (Bankr. D. Del. Dec. 11, 2025) at 25-28:1-6. The fact that the U.S. Trustee is not aware of what claims may be affected by the proposed third-party release is not a basis to deny the third-party release. In fact, in *Corvias Camping*, this Court noted, "I'm not aware of any party who has an actual claim that is being released via these third-party releases." *Id.*

proposed third-party release both (a) fail to factually distinguish this case from any other chapter 11 case where a debtor files for bankruptcy without first notifying all of its creditors after suffering from financial distress for some time and (b) reflects a fundamental misunderstanding of the proposed third-party release, which releases, among other parties, directors and officers who served on or after the Petition Date for both pre- and post-petition actions. Contrary to the U.S. Trustee's assertions, the proposed release is not limited to post-petition actions covered by the proposed exculpation, and the release is necessary for the consummation of the Plan and is warranted under the circumstances.

13. Putting aside the U.S. Trustee's premature confirmation objections, the U.S. Trustee did not raise any outstanding issues with respect to the adequacy of the information in the Disclosure Statement—the sole question before the Court at this stage.[7] The Debtor agrees that the Plan must comply with the confirmation requirements in section 1129 of the Bankruptcy Code (and all other applicable provisions) and will be prepared to carry its burden at the Combined Confirmation Hearing. But disputed issues related to confirmation of a plan are not relevant to assessing whether a disclosure statement contains "adequate information." *See, e.g.*, *In re Quigley Co.*, 377 B.R. 110, 119 (Bankr. S.D.N.Y. 2007) (approving the disclosure statement while acknowledging that the objectors raised "several confirmation issues"). "[C]are must be taken to ensure that the hearing on the disclosure statement does not turn into a confirmation hearing."

[7] Whether a plan meets the Bankruptcy Code's confirmation requirements "is usually answered at confirmation hearings." *Phoenix Petrol.*, 278 B.R. at 394 (quoting *In re Eastern Maine Elec. Co-op, Inc.*, 125 B.R. 329, 333 (Bankr. D. Me. 1991)). "[T]he disclosure statement should be disapproved at the threshold only where the plan it describes displays fatal facial deficiencies or the stark absence of good faith." *Id.*; *In re Am. Cap. Equip., LLC*, 688 F.3d 145, 155 (3d Cir. 2012) ("[A] bankruptcy court may address the issue of plan confirmation where it is obvious at the disclosure statement stage that a later confirmation hearing would be futile because the plan described by the disclosure statement is patently unconfirmable."). "A plan is patently unconfirmable where (1) confirmation defects [cannot] be overcome by creditor voting results and (2) those defects concern matters upon which all material facts are not in dispute or have been fully developed at the disclosure statement hearing." *Am. Cap.*, 688 F.3d at 154–55 (internal quotations and citation omitted) (alteration in original).

In re Copy Crafters Quickprint, Inc., 92 B.R. 973, 980 (Bankr. N.D.N.Y. 1988); *see also In re Monroe Well Serv., Inc*., 80 B.R. 324, 333 n.10 (Bankr. E.D. Pa. 1987) (stating that deciding confirmation issues before solicitation may have a disenfranchising effect because the disclosure statement itself is not mailed to all creditors until after court approval is obtained).

RESERVATION OF RIGHTS

14. The Debtor expressly reserves all rights to provide additional legal arguments and/or briefing or to present additional evidence prior to or at the Combined Confirmation Hearing (a) with respect to seeking approval of the Disclosure Statement and confirmation of the Plan or (b) in response to any other objections with respect to approval of the Disclosure Statement or confirmation of the Plan.

CONCLUSION

15. For all the foregoing reasons, the Debtor respectfully requests that the Court overrule the U.S. Trustee's objection and enter the Revised Proposed Order.

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Dated: March 24, 2026
Wilmington, Delaware

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