



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

KYLE MARTEL and JOE BRYANT, )

Plaintiffs, )

v. )

FUSION SPONSOR LLC, JOHN )

JAMES, JEFFREY GARY, JIM )

ROSS, KELLY DRISCOLL, BEN )

BUETTELL, DIWAKAR )

CHOUBEY, and BROADHAVEN )

CAPITAL PARTNERS, LLC, )

Defendants. )

C.A. No. 2024-0329-NAC

**[PROPOSED] ORDER AND FINAL JUDGMENT**

WHEREAS, a stockholder class action is pending in this Court, titled *Martel v. Fusion Sponsor LLC*, C.A. No. 2024-0329-NAC (the “Action”);

WHEREAS, a Stipulation and Agreement of Settlement, Compromise, and Release, dated April 14, 2025 (the “Stipulation”), has been entered into by and among the following parties: (i) Plaintiffs Kyle Martel and Joe Bryant (the “Plaintiffs”), on behalf of themselves and the Class (as defined herein), (ii) Defendants John James, Jeffrey Gary, Jim Ross, Kelly Driscoll, Ben Buettell, Diwakar Choubey, Fusion Sponsor LLC, and Broadhaven Capital Partners, LLC (collectively, the “Defendants,” and together with Plaintiffs, the “Parties,” and each a “Party”); and

WHEREAS, the Stipulation provides for a settlement, subject to the approval of the Court, among the Parties and for dismissal of the Action with prejudice as against Defendants upon the terms and conditions set forth in the Stipulation (the “Settlement”); and

WHEREAS, except for terms defined herein, the Court adopts and incorporates the definitions in the Stipulation for purposes of this Order and Final Judgment; and

WHEREAS, by Order dated April 28, 2025 (the “Scheduling Order”), the Court (i) preliminarily certified the Class solely for purposes of effectuating the Settlement; (ii) ordered that the Notice of the proposed Settlement be provided to potential Class Members; (iii) provided Class Members with the opportunity to object to the proposed Settlement, the proposed Plan of Allocation, and/or Plaintiffs’ Counsel’s application for a Fee and Expense Award; and (iv) scheduled a hearing regarding final approval of the Settlement; and

WHEREAS, the Court conducted a hearing on \_\_\_\_\_, 2025 (the “Settlement Hearing”) to: (i) determine whether to finally certify the Class for settlement purposes only, pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2); (ii) determine whether Plaintiffs and Plaintiffs’ Counsel have adequately represented the Class, and whether Plaintiffs should be finally appointed as Class representatives for the Class and Plaintiffs’ Counsel should be finally appointed as

Class counsel for the Class; (iii) determine whether the proposed Settlement should be approved as fair, reasonable, and adequate to the Class and in the best interests of the Class; (iv) determine whether the Action should be dismissed with prejudice and the Releases provided under the Stipulation should be granted; (v) determine whether the Order and Final Judgment approving the Settlement should be entered; (vi) determine whether the proposed Plan of Allocation of the Net Settlement Fund is fair and reasonable, and should therefore be approved; (vii) determine whether and in what amount any Fee and Expense Award should be paid to Plaintiffs' Counsel out of the Settlement Fund; (viii) determine whether and in what amount any service award should be paid to Plaintiffs out of the Fee and Expense Award; and (ix) hear and rule on any objections to the Settlement, the proposed Plan of Allocation, and/or Plaintiffs' Counsel's application for a Fee and Expense Award; and

WHEREAS, it appearing that due Notice of the hearing has been given in accordance with the Scheduling Order; the Parties having appeared by their respective attorneys of record; the Court having heard and considered evidence in support of the proposed Settlement, the Plan of Allocation, and the application by Plaintiffs' Counsel for a Fee and Expense Award and service award; the attorneys for the respective Parties having been heard; an opportunity to be heard having been given to all Class Members or other Persons requesting to be heard in accordance

with the Scheduling Order; the Court having determined that the Notice to Class Members was adequate and sufficient; and the entire matter of the proposed Settlement having been heard and considered by the Court;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. Except for terms defined herein, the Court adopts and incorporates the definitions in the Stipulation for purposes of this Order and Final Judgment.

2. The Court has jurisdiction over the subject matter of the Action and all matters relating to the Settlement, as well as personal jurisdiction over the Parties and the Class Members, and it is further determined that Plaintiffs, Defendants, and the Class, as well as any and all of their respective legal representatives, heirs, estates, executors, administrators, predecessors, successors, predecessors-in-interest, successors-in-interest, transferees, and assigns, including, without limitation, any corporation or other entity with which any party hereto may merge, reorganize, or otherwise consolidate, any Released Parties, and any Person acting for or on behalf of, or claiming under, any of them, are bound by this Order and Final Judgment.

3. The delivery of the Notice, substantially in the form attached as Exhibit B to the Stipulation, and publication of the Summary Notice, substantially in the form attached as Exhibit C to the Stipulation, pursuant to and in the manner

prescribed in the Scheduling Order, combined with the posting of the Notice on the Settlement Administrator's website, pursuant to and in the manner prescribed in the Scheduling Order, is hereby determined to be the best notice reasonably practicable under the circumstances, to constitute due and sufficient notice to all Persons entitled to receive notice of the Settlement, and in full compliance with Delaware Court of Chancery Rule 23, the requirements of due process, and all other applicable law and rules.

4. Pursuant to the Scheduling Order, the Court provisionally certified, for settlement purposes only, a non-opt-out class pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2), on behalf of the following class:

All record and beneficial holders of FAC Class A Common Stock, who held such stock as of the Redemption Deadline of September 17, 2021, and who elected not to redeem all or some of their stock, including their heirs, successors-in-interest, successors, transferees, and assigns, but excluding: (a) Defendants; (b) members of the immediate family of any Individual Defendant; (c) any person who was a manager or managing member of any Entity Defendant as of September 17, 2021, and any members of their immediate family; (d) any parent, subsidiary, or affiliate of an Entity Defendant; (e) any entity in which any Defendant or any other Excluded Person, or group of Excluded Persons, has, or had as of the Redemption Deadline, a controlling interest; and (f) the legal representatives, agents, affiliates, heirs, estates, successors, or assigns of any such Excluded Persons.

5. Subsequently, the parties agreed to modify the provisionally certified class, for settlement purposes only, as a non-opt out class (the "Class") pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2) consisting of:

“Class” means a non-opt-out class for settlement purposes only and pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2), consisting of all record and beneficial holders of FAC Class A common stock, who held such stock as of the redemption deadline of September 17, 2021 (“Redemption Deadline”), and who elected not to redeem all or some of their stock, including their heirs, successors-in-interest, and successors who have obtained shares by operation of law, and assigns, but excluding any Excluded Persons.

6. Pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2), the Court hereby finally certifies the Class for settlement purposes only.

7. The Court hereby finally appoints Plaintiffs as class representatives for the Class and Grant & Eisenhofer P.A. and Wolf Popper LLP (“Plaintiffs’ Counsel”) as counsel for the Class.

8. For purposes of the Settlement only, the Court finds that each element required for certification of the Class pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2) has been met in that: (a) the Persons who are members of the Class (collectively, the “Class Members”) are so numerous that their joinder in the Action would be impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of Plaintiffs are typical of the claims of the Class; (d) in connection with the prosecution of the Action and the Settlement, Plaintiffs and Plaintiffs’ Counsel have fairly and adequately represented and protected the interests of the Class; (e) the prosecution of separate actions by individual Class Members would create a risk of inconsistent adjudications that would establish incompatible standards of conduct for Defendants, and, as a practical matter, the disposition of the

Action as against Defendants would influence the disposition of any pending or future identical suits, actions, or proceedings brought by other Class Members; and (f) Defendants are alleged to have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

9. The Settlement as provided for in the Stipulation is approved as fair, reasonable, and adequate, and in the best interests of the Class.

10. Pursuant to Court of Chancery Rule 23, the Court fully and finally approves the Settlement in all respects, the Parties are hereby authorized and directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation, and the Register of Chancery is directed to enter and docket this Order and Final Judgment dismissing the Action in its entirety and with prejudice.

11. The Stipulation shall be binding upon and inure to the benefit of the Released Parties.

12. Upon the Effective Date, the Released Plaintiff Parties shall be deemed to have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged the Released Plaintiffs' Claims against the Released Defendant Parties, and shall forever be barred and enjoined from prosecuting the Released Plaintiffs' Claims against the Released Defendant Parties.

13. Upon the Effective Date, the Released Defendant Parties shall be deemed to have, have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged the Released Defendants' Claims against the Released Plaintiff Parties, and shall forever be barred and enjoined from prosecuting the Released Defendants' Claims against the Released Plaintiff Parties.

14. The terms of the Settlement were negotiated at arm's-length and in good faith, and reflect a settlement that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.

15. Plaintiffs' Counsel are hereby awarded a Fee and Expense Award in the amount of \$ \_\_\_\_\_, which amount the Court finds to be fair and reasonable. The Fee and Expense Award shall be paid solely out of the Settlement Fund. Neither Plaintiffs, nor Plaintiffs' Counsel or any other counsel, nor any Class Member, shall make, or assist any other counsel in making, any application for an award of fees, cost, or expenses in any other jurisdiction from Defendants, the Company, or any of Released Defendant Parties, in connection with this Settlement or Action. In addition, Plaintiffs are each awarded a service award in the amount of \$ \_\_\_\_\_, which is to be paid from the Fee and Expense Award.

16. The Court hereby finds and concludes that the formula for the calculation of payments to Eligible Class Members as set forth in the Plan of



Allocation stated in the Notice provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund among Eligible Class Members with consideration having been given to administrative convenience and necessity.

17. The binding effect of this Order and Final Judgment and the obligations of Plaintiffs, Class Members, and Defendants, under the Stipulation shall not be conditioned upon or subject to the resolution of any appeal from this Order and Final Judgment that relates solely to the Fee and Expense Award or to the Plan of Allocation.

18. The Parties and all Class Members shall be and are deemed bound by the Stipulation and this Order and Final Judgment. This Order and Final Judgment, including the release of all Released Plaintiffs' Claims against all Released Defendant Parties; and the release of all Released Defendants' Claims against all Released Plaintiff Parties, shall have *res judicata*, collateral estoppel, and all other preclusive effect in all pending and future lawsuits, arbitrations, or other proceedings involving any of the Released Claims against any of the Released Parties.

19. The Court finds and concludes that the Parties and their respective counsel have complied in all respects with the strictures of Delaware Court of Chancery Rule 11 in connection with the institution, prosecution, defense, and settlement of the Action.

20. If the Settlement is terminated as provided in the Stipulation or the Effective Date otherwise fails to occur, (a) this Order and Final Judgment shall be rendered null and void and shall be vacated; (b) all orders entered and releases delivered in connection herewith shall be null and void; (c) all of the Parties shall be deemed to have reverted to their respective litigation statuses as of immediately prior to the execution of the Stipulation on April 14, 2025, and they shall proceed in all respects as if the Stipulation had not been executed and any related orders had not been entered; (d) all claims and defenses as to any issue in the Action shall be preserved without prejudice; (e) the statements made in connection with the negotiation of the Stipulation shall not be deemed to prejudice in any way the positions of any of the Parties with respect to the Action, or to constitute an admission by any Party, and shall not be used or entitle any Party to recover any fees, costs, or expenses incurred in connection with the Action; and (f) no materials created by or received from any other Party that were used in, obtained during, or related to the Settlement discussions shall be admissible for any purpose in any court or other tribunal, or used, absent consent from the disclosing party, for any other purpose or in any other capacity, except to the extent that such materials are otherwise required to be produced during discovery in the Action or in any other litigation.

21. Neither the Stipulation, the fact of or any terms and conditions of the Settlement, nor any communications relating thereto, are evidence, or a presumption, admission, or concession by any Party of any wrongdoing, fault, liability, or damages whatsoever, which are expressly denied and disclaimed by each of the Parties. Neither the Stipulation, nor any of their terms, conditions, and provisions, nor any of the negotiations or proceedings in connection therewith, nor any of the documents or statements referred to herein or therein, nor the Settlement, nor the fact of the Settlement, nor the Settlement proceedings, nor any statements in connection therewith, shall (a) be argued to be, used, or construed as, offered or received in evidence as, or otherwise constitute an admission, concession, presumption, proof, evidence, or a finding of any liability, fault, wrongdoing, injury, or damages, or of any wrongful conduct, acts, or omissions on the part of any of Released Defendant Parties, or of any infirmity of any defense, or of any damage to Plaintiffs or any Class Member; (b) otherwise be used to create or give rise to any inference or presumption against any of Released Defendant Parties concerning any fact alleged or that could have been alleged, or any claim asserted or that could have been asserted, in the Action, or of any purported liability, fault, or wrongdoing of any of Released Defendant Parties or of any injury or damages whatsoever to any Person; (c) be argued to be, used or construed as, offered or received in evidence as, or otherwise constitute an admission, concession, presumption, proof, evidence, or

finding that any of Plaintiffs' claims are without merit, that any of Defendants had meritorious defenses, or that damages recoverable from Defendants under the Complaint would not have exceeded the Settlement Amount; or (d) be admissible, referred to, interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any Person in the Action, or in any other suit, action, or proceeding whatsoever, whether civil, criminal, or administrative; provided, however, that the Stipulation and/or this Order and Final Judgment may be introduced in any suit, action, or proceeding, whether in this Court or otherwise, as may be necessary to argue that the Stipulation and/or this Order and Final Judgment has res judicata, collateral estoppel, or other issue or claim preclusive effect, or to otherwise consummate or enforce the Stipulation, Settlement, and/or this Order and Final Judgment, including, without limitation, to secure any insurance rights or proceeds, or as otherwise required by law. This provision shall remain in force in the event that the Settlement is terminated for any reason whatsoever.

22. Without further order of the Court, the Parties may agree in writing to reasonable extensions of time to carry out any of the provisions of the Stipulation and the Settlement.

23. Without affecting the finality of this Order and Final Judgment in any way, the Court reserves jurisdiction over all matters relating to the administration and consummation of the Settlement.

24. The Action is hereby dismissed in its entirety and with prejudice. The Parties are to bear their own costs, except as otherwise provided in this Order and Final Judgment, the Scheduling Order, and the Stipulation.

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Vice Chancellor Nathan A. Cook