IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: CASA SYSTEMS, INC., *et al.*,[1] Debtors.	Chapter 11 Case No. 24-10695 (KBO) (Jointly Administered) **Hearing Date:** **Requested June 4, 2024 at 2:30 p.m. (ET)** **Objection Deadline:** **Requested May 31, 2024 at 5:00 p.m. (ET)**

DEBTORS' MOTION FOR AN ORDER (I) APPROVING KEY EMPLOYEE INCENTIVE PLAN AND (II) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (collectively, the "Debtors") state as follows in support of this motion (this "Motion")[2]:

RELIEF REQUESTED

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Order"), (a) approving a key employee incentive plan (the "KEIP") for the KEIP Participants (as defined below) and (b) granting related relief. In support of this Motion, the Debtors rely upon and refer this Court to the *Declaration of Bradley Robins in Support of the Debtors' Motion for an Order (I) Approving Key Employee Incentive Plan for Senior Leadership Employees*, attached hereto as **Exhibit B** (the "Robins Declaration").

[1] The Debtors in these chapter 11 cases, together with the last four digits of the Debtors' federal tax identification number, are Casa Systems, Inc. (8867), Casa Systems Securities Corporation (1151), and Casa Properties LLC (6767). The Debtors' service address is 100 Old River Road, Andover, MA 01810.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Second Amended Joint Plan of Liquidation of Casa Systems, Inc. and its Debtors Affiliates* [Docket No. 332] (the "Plan").

JURISDICTION AND VENUE

2. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested herein are sections 105(a), 363(b), and 503(b) and (c)(3) of title 11 of the United States Code (the "Bankruptcy Code") and Bankruptcy Rule 6004.

BACKGROUND OF THE DEBTORS

5. On April 3, 2024 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under sections 101–1532 of the Bankruptcy Code in the Court. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On April 16, 2024, the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee") appointed, pursuant to section 1102 of the Bankruptcy Code, an official committee of unsecured creditors [Docket No. 139] (the "Committee"). No party has requested the appointment of a trustee or examiner in these cases.

6. Additional information regarding the Debtors' businesses, capital structure and the circumstances preceding the Petition Date is set forth in greater detail in the *Declaration of Edward Durkin in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 3] and the *Declaration of Brian Whittman in Support of the Debtors' Motions to Use Cash Collateral, Approve Bidding Procedures, and Approve the Cloud/RAN Sale, and Other First Day Pleadings* [Docket No. 41], as applicable.

THE KEY EMPLOYEE INCENTIVE PLAN

7. After multiple weeks of hard-fought, arm's length negotiations regarding a consensual path forward in these chapter 11 cases, on May 10, 2024, the Debtors, an ad hoc group of the Debtors' prepetition lenders (the "Ad Hoc Group"), and the Committee entered into a certain Settlement Term Sheet filed with the Court [Docket No. 315] (the "Global Settlement"). This Global Settlement permits the Debtors to bring these chapter 11 cases to a successful conclusion and to consummate the remaining sale transaction of their cable business (such sale, the "Cable Sale" and such assets, the "Cable Assets"). Accordingly, the Debtors are moving forward with the Cable Sale and a simultaneous confirmation of the Plan.

8. Accomplishing the goal of closing the Cable Sale and confirming the Plan at the highest realizable value is an essential task of the Debtors' key employees, which goes beyond the normal job duties of such employees. Recognizing this, the Debtors negotiated the KEIP – a critical component of the Global Settlement – with the Ad Hoc Group and the Committee to align the interests of the Debtors' key employees with the Debtors' broader objectives of maximizing the sale value for the Cable Assets. Without this relief, the Debtors run the risk that the KEIP Participants may not be properly incentivized to achieve the Debtors' value-maximizing sale objectives, which could imperil the Debtors' ability to maximize value in connection with the Cable Sale, a sale process that has involved and will continue to involve substantial contributions

from the KEIP Participants.[3]

9. Importantly, the KEIP complies with the Bankruptcy Code as it is tied to achieving sale value and distributable value benchmarks. As set forth in the Robins Declaration, the KEIP is reasonable, consistent with the requirements of the Bankruptcy Code, and reflects a sound exercise of the Debtors' business judgment. Accordingly, the Debtors respectfully request that the Court authorize the Debtors to implement the KEIP. For these reasons, and as more fully explained below, the Debtors respectfully request that this Court grant the relief requested herein.

A. Need for the KEIP and Maximizing Estate Value.

10. Of the Debtors' hundreds of remaining employees, the few selected KEIP Participants are experienced and talented individuals that are intimately familiar with the Debtors' business and possess significant, highly marketable industry expertise.

11. As discussed further below, the KEIP Participants are essential to the Debtors' sale process, and their services are necessary to maximize the value of these Debtors' estates and distributions to creditors. The KEIP establishes goals for the KEIP Participants that, if achieved, will have a meaningful impact on the Debtors' sale efforts and distributions to creditors.

12. The "KEIP Participants" are eight members of the Debtors' senior leadership team, consisting of the Debtors' (i) Chief Executive Officer, (ii) Chief Financial Officer, (iii) Chief Product Officer, (iv) Chief Human Resources Officer, (v) Vice President of Corporate Development & Investor Relations, (vi) Vice President and Chief Accounting Officer, (vii) Corporate General Counsel, and (viii) Senior Vice President, Financial Planning and Analysis, Treasury & Finance Sales Operations Lead. The KEIP Participants are responsible for

[3] As demonstrated by the ultimate conclusion of the Cloud/RAN Sale, which resulted in a final purchase price over 100% greater than the initial purchase price contemplated at the outset of these chapter 11 cases, the contributions of the KEIP Participants in connection with the Debtors' sale processes are vital to maximizing estate values.

executing the Debtors' operating and strategic plans, including maintaining the Debtors' business operations, overseeing and addressing issues during these chapter 11 cases, managing the Debtors' sale and marketing process, maintaining employee morale and a positive culture among the Debtors' employees during these chapter 11 cases, and preparing for the efficient and value maximizing winddown of the Debtors' estates.

13. As set forth more fully in the Robins Declaration, the KEIP Participants have worked extraordinary hours – including nights and weekends – in connection with the sale processes, including, among other things: (i) attending scheduled and ad hoc diligence calls, (ii) responding to voluminous diligence requests; (iii) assisting in the production, or review, of over 3,500 documents populated in the virtual data room for bidders; and (iv) identifying and contacting, in coordination with Ducera Partners LLC, potentially interested parties.

14. In light of the KEIP Participants' industry experience and deep knowledge of the Debtors' assets, in the course of the marketing process, the KEIP Participants have articulated key issues and strategies that have served to inform prospective buyers of the business' potential value. It is important that the Debtors' KEIP Participants remain actively engaged throughout these chapter 11 cases, as the Debtors otherwise may have difficulty gaining and maintaining interest from parties interested in participating in the sale of the Cable Assets. Further, the KEIP Participants have been actively working to minimize costs, collect receivables, and pursue other cash preservation measures that are essential to maximizing the Net Distributable Proceeds.

15. The Debtors believe that the KEIP Participants are vital to the ongoing stability, continuity, and value preservation during these chapter 11 cases. Additionally, the Debtors believe that the KEIP, a critical part of the Global Settlement, has had and will have a material impact on the KEIP Participants' performance and incentivize the KEIP Participants to achieve above-target

results with respect to the Debtors' stated objectives of maximizing Cable Sale proceeds and distributable value.

B. Material Terms of the KEIP.

16. Under the proposed KEIP, each KEIP Participant will receive certain incentive payouts contingent on the meeting of certain applicable conditions (the "Incentive Payouts"). Specifically, the Incentive Payouts will be determined and provided, in pertinent part, as follows:

a. Upon the successful consummation of the Cloud/RAN Sale and the Cable Sale , the KEIP Participants shall be entitled in the aggregate to an amount equal to the sum of (i) 3% of Sale Proceeds in excess of $35,000,000 (this item (i) being net of any break-up fees, expense reimbursements, or incremental costs that will be paid by the Debtors related to the Cable Sale that are not expenses that would be paid by the Debtors in a sale to the Cable Stalking Horse Purchaser) plus (ii) 3% of Net Distributable Proceeds[4] in excess of $25,700,000; *provided* that, with respect to items (i) and (ii), such amounts shall not include any proceeds or expenses from sale(s) of the CAD Assets (collectively, the "KEIP Pool").

b. The total aggregate amount of the KEIP Pool shall in no event exceed $2,000,000.

c. Each KEIP Participant shall be eligible to receive its Incentive Payout equal to the designated percentage of the KEIP Pool set forth in the applicable KEIP Participant's individualized award agreement; *provided* that the KEIP Participant remains continuously employed by any of the Debtors through the Effective Date or the KEIP Participant's employment with any of the Debtors is terminated due to death, disability, or a termination by the Debtors without cause prior to the Effective Date.

d. A KEIP Participant's eligibility to receive his or her respective Incentive Payout shall be conditioned on the KEIP Participant's waiver of any and all claims against the Debtors and their Estates, including, without limitation, any and all severance claims, whether pursuant to an individual agreement or otherwise.

e. The Incentive Payouts shall be paid to the KEIP Participants on the Effective Date or as promptly as practicable thereafter.

[4] "Net Distributable Proceeds" shall mean any proceeds from the Sale Transactions or from the liquidation of the Net Distributable Assets available for distribution to holders of Term Loan Facility Claims after: (1) payment of the Administrative Claims, Professional Fee Claims, Priority Tax Claims, Other Secured Claims, Other Priority Claims, and General Unsecured Claims, each according to the terms set forth in the Plan; and (2) reserving the Wind-Down Amount.

BASIS FOR RELIEF

A. Implementation of the KEIP Is Warranted Under Section 363(b)(1) as an Appropriate Exercise of the Debtors' Business Judgment.

17. "The [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate," 11 U.S.C. § 363(b)(1), as long as the debtor can "show that a sound business purpose justifies such actions." *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999); *see also Culp v. Stanziale (In re Culp)*, 550 B.R. 683, 697 (D. Del. 2015). Where there is a reasonable basis for a debtor's business decisions, courts generally do not contradict the proposed course of conduct. *Stanziale v. Nachtomi (In re Tower Air, Inc.)*, 416 F.3d 229, 238 (3d Cir. 2005) ("Overcoming the presumptions of the business judgment rule on the merits is a near Herculean task.").

18. The reasonable use of incentives and performance bonuses are considered the proper exercise of a debtor's business judgment. *In re Global Home Prods., LLC*, 369 B.R. 778, 784 (Bankr. D. Del. 2007) (citing *In re U.S. Airways, Inc.*, 329 B.R. 793, 795 (Bankr. E.D. Va. 2005)). Therefore, the implementation of the proposed KEIP is a sound exercise of the Debtors' business judgment and, as such, should be approved under section 363(b) of the Bankruptcy Code. The KEIP Participants are essential to the Debtors' sale process, and their services are necessary to maximize the value of these Debtors' estates and distributions to creditors. The KEIP establishes goals for the KEIP Participants that, if achieved, will have a meaningful impact on the Debtors' sale efforts and distributions to creditors. As a result, the Debtors, in their sound business judgment, believe that the implementation of the KEIP is well justified under the circumstances and will benefit the Debtors' estates and their creditor constituencies.

B. The KEIP Is Warranted Under Section 503(b)(1) as Actual, Necessary Costs and Expenses of Preserving the Debtors' Chapter 11 Estates.

19. Section 503(b) of the Bankruptcy Code states in pertinent part that "[a]fter notice and a hearing, there shall be allowed administrative expenses . . . including – (1)(A) the actual necessary costs and expenses of preserving the estate including – (i) wages, salaries, and commissions for services rendered after commencement of the case. . . ." 11 U.S.C. § 503(b); *see also In re APF Co.*, 270 B.R. 567, 570-71 (Bankr. D. Del. 2001) (postpetition employee bonus is an administrative expense claim under section 503(b)(1)(A)). As discussed above, the KEIP is appropriately designed to maximize the value of these estates and are appropriately categorized as wages earned after the Petition Date.

C. The KEIP Provides Incentives, Not Retention or Severance Payments, and Therefore Sections 503(c)(1) and 503(c)(2) Do Not Apply.

20. Sections 503(c)(1) and (2) of the Bankruptcy Code govern retention and severance payments to insiders, and therefore does not apply to performance-based incentive plans like the KEIP. *See, e.g., In re Alpha Natural Res., Inc.*, 546 B.R. 348, 356 (Bankr. E.D. Va. 2016) ("On its face, § 503(c)(1) does not apply to a KEIP because the payments thereunder are incentive and not purely retentive."); *In re Nobex Corp.*, 2006 Bankr. LEXIS 417, at *8 (Bankr. D. Del. Jan. 19, 2006) ("The sale-related incentive pay to [senior management] is not governed by sections 503(c)(1) or 503(c)(2) of the Bankruptcy Code.").

21. Further, the KEIP is not subject to the restrictions set forth in section 503(c)(2) of the Bankruptcy Code with respect to severance payments to insiders because no payments under the KEIP are tied to the termination of employment. *See In re Dana Corp.*, 358 B.R. 567, 577-78 (Bankr. S.D.N.Y. 2006) (incentive plan was not subject to section 503(c)(2) of the Bankruptcy Code because incentives were not tied to termination of employment); *accord In re Pilgrim's Pride Corp.*, 401 B.R. 229, 235-36 (Bankr. N.D. Tex. 2009) (consulting agreement did not fall under

section 503(c)(2) of the Bankruptcy Code because payments were not intended as severance).

22. The KEIP was designed in order to incentivize a value-maximizing Cable Sale, maximize Net Distributable Value, and align the KEIP Participants' interests with those of the Debtors' economic stakeholders. The KEIP was not designed to retain the KEIP Participants, although a prerequisite to receiving a payment under the KEIP is that the particular KEIP Participant must be employed on the Effective Date unless such employee is terminated due to death, disability, or without cause prior to the Effective Date. This fact should not bar the KEIP's implementation; any successful incentive plan would be expected to have an indirect retentive effect. *See, e.g., In re Global Home Prods., LLC*, 369 B.R. at 786 ("The fact, as Debtors pointed out, that all compensation has a retention element does not reduce the Court's conviction that Debtors' primary goal [is] to create value by motivating performance. All companies seek to retain employees they value by fairly compensating them."). As a result of the foregoing, the Debtors respectfully submit that sections 503(c)(1) and 503(c)(2) of the Bankruptcy Code do not apply to the KEIP.

D. Approval of the Proposed KEIP Is Justified by the Facts and Circumstances of these Chapter 11 Cases and Therefore Satisfies Section 503(c)(3).

23. Section 503(c)(3) of the Bankruptcy Code prohibits transfers or obligations outside the ordinary course of business "not justified by the facts and circumstances of the case, including transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition." 11 U.S.C. § 503(c)(3). Courts use the business judgment standard in analyzing transfers and obligations under section 503(c)(3). *See, e.g., In re Alpha Natural Res., Inc.*, 546 B.R. at 357-58 (citing *In re Borders Grp., Inc.*, 453 B.R. 459, 474 (Bankr. S.D.N.Y. 2011) ("[T]he legal standard under § 363(b) is no different than section 503(c)(3) . . ."); *In re Global Home Prods., LLC*, 369 B.R. at 786 (applying the business judgment test to an

incentive plan)).[5]

24. Courts assessing a debtor's business judgment relating to an incentive plan under section 503(c)(3) look at six factors (collectively, the "Dana Factors"): (a) whether a reasonable relationship existed between the proposed plan and the desired results; (b) whether the cost of the plan was reasonable in light of the overall facts of the case; (c) whether the scope of the plan was fair and reasonable; (d) whether the plan was consistent with industry standards; (e) whether the debtor had put forth sufficient due diligence efforts in formulating the plan; and (f) whether the debtor received sufficient independent counsel in performing any due diligence and formulating the plan. *In re Dana Corp.*, 358 B.R. at 576-77, applied in *In re Global Home Products, LLC*, 369 B.R. at 786.

25. The KEIP satisfies each of the Dana Factors. As to the first and third Dana Factors ((a) and (c) above), the KEIP was designed to motivate the KEIP Participants to, in addition to continuing to oversee day-to-day operations, focus their full effort and attention on delivering above-target results with respect to the Debtors' stated objectives of maximizing sale proceeds and distributable value. The KEIP incentivizes KEIP Participants to maximize value from the Cable Sale and to minimize expenditures to maximize cash available to be distributed to creditors. The KEIP fairly compensates the KEIP Participants for the increased demands placed upon them in connection with these chapter 11 cases, thereby maximizing the value of the Debtors' chapter 11 estates for the benefit of all parties in interest. As to the remaining Dana Factors, the KEIP was designed by the Debtors with the assistance of their advisors, in consultation with the Ad Hoc

[5] Although the Debtors believe that the business judgment rule applies to the "facts and circumstances" test of section 503(c)(3), some courts have applied a slightly higher bar. *See Pilgrim's Pride*, 401 B.R. at 236-37 (finding that, in addition to satisfying the business judgment standard, a proposed transfer was in the best interests of creditors and the debtor's estate). The Debtors believe that the KEIP would also satisfy any more rigorous standard that this Court might choose to apply given the benefits of the KEIP to Debtors' chapter 11 estates described in this Motion.

Group and the Committee, taking into consideration the size and nature of these chapter 11 cases, the expected sale proceeds from the Cable Sale, the expected cash available to distribute to creditors, and due diligence with respect to the design, implementation, and formulation of the KEIP.

26. Additionally, Courts in this district have approved similar incentive plans. *See, e.g., In re Amyris, Inc.*, No. 23-11131 (TMH) (Bankr. D. Del. Sept. 14, 2023) (KEIP with sale price thresholds); *In re Melinta Therapeutics, Inc.*, No. 19-12748 (LSS) (Bankr. D. Del. Feb. 5, 2020) (same); *Pacific Sunwear of California, Inc.*, No. 16-10822 (LSS) (Bank. D. Del. May 12, 2016) (plan confirmation and compliance with DIP covenants metrics); *In re Hipcricket, Inc.*, No. 15-10104 (LSS) (Bankr. D. Del. March 18, 2015) (plan confirmation performance goals); *In re Longview Power, LLC*, No. 13-12211 (BLS) (Bank. D. Del. December 18, 2013) (KEIP with chapter 11 confirmation and power capacity operation milestones).

E. Authorization and Approval of the KEIP is Appropriate Under Section 105(a) of the Bankruptcy Code.

27. Bankruptcy courts may "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Courts use their section 105(a) powers to authorize payments essential to the operation of the debtor's business and maximizing the value of the estate. *See Just for Feet, Inc.*, 242 B.R. 821, 824-26 (D. Del. 1999) (noting that debtors may make payments that are essential to the continued operation of the business while in chapter 11); *Mich. Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.),* 80 B.R. 279, 287 (S.D.N.Y. 1987) (authorizing payments to employees on grounds that the fundamental purpose of reorganization and equity powers of bankruptcy courts "is to create a flexible mechanism that will permit . . . payment of creditors in full or at least proportionately"). Here, approval of the KEIP is an appropriate use of the Court's section 105(a)

powers because the KEIP is necessary for the maximization of the value of the Debtors' chapter 11 estates for all stakeholders.

REQUEST FOR BANKRUPTCY RULE 6004 WAIVERS

28. The Debtors request a waiver of any applicable notice requirements under Bankruptcy Rule 6004(a) and any stay of the order granting the relief requested herein pursuant to Bankruptcy Rule 6004(h). As explained above and in the Robins Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors' ongoing operations and value-maximization process. Accordingly, ample cause exists to justify the waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

NOTICE

29. Notice of this Motion has been provided to: (a) the Office of the United States Trustee for the District of Delaware; (b) counsel to the Committee; (c) JPMorgan Chase Bank, N.A., or its successor as administrative agent under the Superpriority Credit Agreement; (d) Delaware Trust Company; (e) counsel to the Ad Hoc Group; (f) the United States Attorney's Office for the District of Delaware; (g) the Internal Revenue Service; (h) the Securities and Exchange Commission; (i) the Federal Communications Commission; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

[*Remainder of page intentionally left blank.*]

WHEREFORE, the Debtors respectfully request entry of the Order, substantially in the form attached hereto as **Exhibit A** granting the relief requested herein and granting such other relief as the Court deems appropriate under the circumstances.

Dated: May 17, 2024
Wilmington, Delaware

/s/ *Joseph Barry*
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Exhibit A

Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: CASA SYSTEMS, INC., *et al.*,[1] Debtors.	Chapter 11 Case No. 24-10695 (KBO) (Jointly Administered) Ref: Docket No. ___

ORDER (I) APPROVING
KEY EMPLOYEE INCENTIVE PLAN AND (II) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order"), (a) approving a key employee incentive plan (the "KEIP") for the KEIP Participants (as defined below); and (b) granting related relief, all as more fully set forth in the Motion; and upon consideration of the Robins Declaration; and the United States District Court for the District of Delaware having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of this proceeding and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and appropriate notice of and opportunity for a hearing on the Motion having been given; and the relief requested in the Motion being in the best interests of the Debtors' estates, their creditors, and other parties in

[1] The Debtors in these chapter 11 cases, together with the last four digits of the Debtors' federal tax identification number, are Casa Systems, Inc. (8867), Casa Systems Securities Corporation (1151), and Casa Properties LLC (6767). The Debtors' service address is 100 Old River Road, Andover, MA 01810.

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

interest; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court, if any (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth in this Order.

2. The terms of the KEIP, attached hereto as **Exhibit 1**, are approved.

3. The Debtors are authorized, but not directed, to make any and all payments to the KEIP Participants under the KEIP if the applicable condition(s) for any such respective payments are met, as described in the KEIP.

4. Nothing contained in the Motion or this Order, and no action taken pursuant to the relief requested or granted (including any payment made in accordance with this Order), is intended as or shall be construed or deemed to be: (a) an admission as to the amount, validity or priority of, or basis for any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in the Motion or this Order; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver or limitation of any claims, causes of action or other rights of the Debtors or any other party in interest against any person or entity under the Bankruptcy Code or any other

applicable law.

5. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

6. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

7. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

8. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Exhibit 1

Key Employee Incentive Plan

Execution Version

CASA SYSTEMS, INC.
INCENTIVE PLAN

Article 1. Purpose

The purpose of this Casa Systems, Inc. Incentive Plan (the "Plan") is to incentivize selected employees of Casa Systems, Inc. (the "Company") in connection with the sale of the Company's assets in transactions that satisfy certain financial conditions described herein.

Article 2. Definitions.

(a) "Administrator" means the Independent Director of the Board of Directors of the Company.

(b) "Cause" means any of the following: (i) the Participant's failure to perform, or negligence in performing, their duties; (ii) the Participant's dishonesty or willful misconduct in the performance of their duties; (iii) the Participant's material breach of any agreements, covenants or representations made in any employment agreement or other agreements with the Company or violation of the Company's policies or procedures; (iv) the Participant's material violation of any law, rule, regulation or by-law of any governmental authority (local, state, federal or foreign) applicable to the Participant; or (v) the Participant's indictment for or plea of guilty or nolo contendere to a felony or a crime that impairs the Participant's ability to perform services to the Company, or reasonably could result in a loss to the Company or damage the Company's reputation.

(c) "Chapter 11 Bankruptcy Plan" means the *Second Amended Joint Plan of Liquidation of Casa Systems, Inc. and its Debtor Affiliates* (as amended, supplemented, or modified from time to time) filed in the United States Bankruptcy Court for the District of Delaware in the Company's chapter 11 cases under Case No. 24-10695 (KBO).

(d) "Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor thereto.

(e) "Company" has the meaning set forth in Article 1 of the Plan.

(f) "Disability" means that the Participant is disabled and unable to perform or expected to be unable to perform the essential functions of the Participant's then existing position or positions with or without reasonable accommodation for a period of 180 days (which need not be consecutive) in any 12-month period.

(g) "Effective Date" has the meaning set forth in Article 3.

(h) "Net Distributable Proceeds" shall mean any proceeds from the Sale Transactions or from the liquidation of the Net Distributable Assets (as defined in the Chapter 11 Bankruptcy Plan) available for distribution to holders of Term Loan Facility Claims (as defined in the Chapter 11 Bankruptcy Plan) after: (1) payment of the

Administrative Claims, Professional Fee Claims, Priority Tax Claims, Other Secured Claims, Other Priority Claims, and General Unsecured Claims, each according to the terms set forth and defined in the Chapter 11 Bankruptcy Plan; and (2) reserving the Wind-Down Amount (as defined in the Chapter 11 Bankruptcy Plan).

(i) "Participant" has the meaning set forth in Article 4.

(j) "Plan" means this Casa Systems, Inc. Incentive Plan.

(k) "Sales Proceeds" means the gross cash consideration, received by the Debtors in connection with the Sale Transactions.

(l) "Sale Transactions" shall have the meaning set forth in the Chapter 11 Bankruptcy Plan.

(m) "Incentive Payout" means the payment for which a Participant is eligible pursuant to Article 5 of the Plan.

Article 3. Effective Date of Plan.

This Plan shall be effective as of the later of May [17], 2024 and the Plan's approval by the United States Bankruptcy Court for the District of Delaware (the "Effective Date").

Article 4. Eligibility.

The Administrator shall select the employees of the Company who shall be eligible to receive awards under the Plan, and the Company shall notify them of their potential awards in writing after the Effective Date in substantially the form attached hereto as Exhibit A, Award Agreement. Each person who receives an award under the Plan shall be referred to herein as a "Participant." No employee shall be deemed to be a Participant unless such person (i) is notified by the Company in writing that such person has been designated as a Participant, and (ii) countersigns and returns to the Company a copy of the fully executed award agreement.

Article 5. Incentive Payouts.

5.1. An Incentive Payout pool (the "Incentive Pool") shall be established for awarding Incentive Payouts to Participants upon the successful consummation of both the Cable and Cloud Sales. The total aggregate amount of the Incentive Pool will be comprised of an amount equal to the sum of (i) 3% of Sale Proceeds in excess of $35,000,000 (this item (i) being net of any break-up fees, expense reimbursements, or incremental costs that will be paid by the Debtors related to the Cable Sale (as defined in the Chapter 11 Bankruptcy Plan) that are not expenses that would be paid by the Debtors in a sale to the Cable Stalking Horse Purchaser (as defined in the Chapter 11 Bankruptcy Plan) plus (ii) 3% of Net Distributable Proceeds in excess of $25,700,000; *provided* that, with respect to items (i) and (ii), such amounts shall not include any proceeds or expenses from sale(s) of the CAD Assets (as defined in the Chapter 11 Bankruptcy Plan); *provided*, *however*, that the total aggregate amount of the Incentive Pool shall in no event exceed $2,000,000.

5.2. Each Participant shall be eligible to receive an Incentive Payout equal to the designated percentage of the Incentive Pool set forth in the Participant's award agreement (the "Incentive Payout Percentage"), subject to any adjustments determined by the Administrator in its sole discretion; *provided* that (a) the Participant remains continuously employed by the Company from the Effective Date through the Bankruptcy Effective Date, or (b) the Participant's employment with the Company is terminated due to death, Disability, or a termination by the Company without Cause prior to the Bankruptcy Effective Date. For the avoidance of doubt, a Participant shall forfeit and have no right to the payment of any portion of the Incentive Payout if the Participant voluntarily resigns or is terminated by the Company for Cause prior to the Bankruptcy Effective Date; *provided*, *however*, that such forfeited amount shall not reduce the Incentive Pool and shall be reallocated to other Participants based on their respective Incentive Payout Percentages.

5.3. A Participant's eligibility to receive his or her Incentive Payout shall be conditioned on the Participant's waiver of any and all claims against the Company and its affiliates, including, without limitation, any and all severance claims, whether pursuant to an individual agreement or otherwise.

5.4. The Incentive Payout shall be paid to the Participant in a single lump-sum cash payment as promptly as practicable on or after the Bankruptcy Effective Date and in no event later than thirty (30) days following such date.

Article 6. Administration.

The Plan shall be administered by the Administrator consistent with the purpose and terms of the Plan. The Administrator shall have full power and authority to interpret the Plan and to make any other determinations and to take such other actions as it deems necessary or advisable in carrying out its duties under the Plan, including the delegation of such authority or power, where appropriate. All decisions and determinations by the Administrator shall be final, conclusive and binding on the Company, all employees and any other persons having or claiming an interest hereunder. Notwithstanding anything to the contrary herein, after the Bankruptcy Effective Date, the Plan Administrator (as defined in the Chapter 11 Bankruptcy Plan), in lieu of the Administrator, shall hold all such power and authority granted to the Administrator hereunder provided that the Plan Administrator shall not take any such actions that are inconsistent with this Plan.

Article 7. Amendment and Termination.

The Company has the right to amend the Plan at any time prior to the Bankruptcy Effective Date, with the consent of the Ad Hoc Group (as defined in the Chapter 11 Bankruptcy Plan), provided that such amendment is not inconsistent with the Chapter 11 Bankruptcy Plan or the Settlement Term Sheet (as defined in the Chapter 11 Bankruptcy Plan). The Plan shall terminate on the date in which the payment of the total amount of all Incentive Payouts to the respective Participants has been made in accordance with the terms hereof.

Article 8. Miscellaneous.

8.1. The Incentive Payout provided under the Plan shall be in addition to any base compensation or employee benefits provided under an employee benefit plan, program or arrangement, except that the Incentive Payout shall be in lieu of any severance payments due to the Participant.

8.2. No Incentive Payout shall be taken into consideration for the calculation of any pension or other benefit under any employee benefit plan, program or arrangement, except as shall be required by applicable law or by the terms of the applicable plan, program or arrangement.

8.3. The right of a Participant to receive an Incentive Payout shall not be deemed a right to continued employment prior to, on or after the Bankruptcy Effective Date, and shall not entitle the Participant to additional retention or transaction bonus payments under any other program implemented by the Company.

8.4. No person shall have the power or right to transfer (other than by will or the laws of descent and distribution), alienate or otherwise encumber such person's interest under the Plan. The provisions of the Plan shall inure to the benefit of each Participant and the Participant's beneficiaries, heirs, executors, administrators and successors in interest. Nothing in this Plan, expressed or implied, is intended or shall be construed to confer upon any person other than each Participant and the Participant's beneficiaries, heirs, executors, administrators and successors in interest any right, remedy or claim under or by reason of this Plan.

8.5. The Company may make such provisions and take such action as it may deem necessary or appropriate for the withholding of any taxes that the Company believes to be required by any law or regulation of any governmental authority, whether Federal, state or local, in connection with the Incentive Payout. Participants shall be solely responsible for all taxes associated with the amounts payable under the Plan.

8.6. The Plan is binding on all persons entitled to benefits hereunder and their respective heirs and legal representatives, on the Administrator and its successor and on the Company and its successors, whether by way of merger, consolidation, purchase or otherwise, or by transfer of all or substantially all of the assets of the Company. Following the Bankruptcy Effective Date, the Plan shall be binding on any surviving or successor company, corporation or other entity or the person or entity to which such assets are transferred to the same extent as if such surviving or successor company, corporation or other entity or transferee had expressly assumed the Plan.

8.7. The Plan and all determinations made and actions taken under the Plan shall be governed by the laws of the State of Delaware (excluding the choice of law provisions thereof).

8.8. If any provision of the Plan is held unlawful or otherwise invalid or unenforceable, in whole or in part, the unlawfulness, invalidity or unenforceability shall not affect any other parts of the Plan, which parts shall remain in full force and effect.

8.9. This Plan is intended to either be exempt from, or compliant with, the requirements of Section 409A of the Code and the regulations and guidance promulgated thereunder, and shall be interpreted and construed consistently with such intent. The benefits under this Plan are intended to be exempt from Section 409A of the Code as short-term deferrals pursuant to Treasury Regulation §1.409A-1(b)(4); *provided*, *however*, that in no event shall the Company be responsible for any taxes or penalties imposed on a Participant under Section 409A of the Code or otherwise that arise in connection with any amounts payable under this Plan.

8.10. This Plan contains all of the understandings and representations between the parties and supersedes any prior understandings and agreements entered into between them regarding the subject matter within. There are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter within which are not fully expressed in the Plan.

<u>EXHIBIT A</u>
CASA SYSTEMS, INC.
INCENTIVE PLAN
AWARD AGREEMENT

Date: [●]
Participant: [●]

Incentive Payout Percentage: [●]%

Subject to all of the terms and conditions set forth in the Casa Systems, Inc Incentive Plan (as amended from time to time, the "<u>Plan</u>"),[1] the Participant designated above (the "<u>Participant</u>") is hereby granted the opportunity to earn a dollar amount equal to the Incentive Payout Percentage set forth above multiplied by the aggregate amount of the Incentive Pool, as will be calculated in accordance with the Plan. The Incentive Payout shall be in lieu of any severance amounts payable by Casa Systems, Inc. or its debtor affiliates to the Participant, whether pursuant to an individual agreement or otherwise.

This Award Agreement will expire at such time as set forth in the Plan.

Casa Systems, Inc.

By: ___________________________
Name:
Title:

By countersigning this Award Agreement, the Participant acknowledges receipt of the Plan and accepts and agrees to the terms set forth therein as applicable to the Incentive Payout granted to the undersigned hereunder, including the Participant's waiver of any rights to any severance payable by Casa Systems, Inc. or its affiliates to the Participant or any other claims against Casa Systems, Inc. or its affiliates.

Accepted and Agreed:

By: ________________________
Name:

[1] Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Plan.

Exhibit B

Robins Declaration

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	Chapter 11
CASA SYSTEMS, INC., *et al.*,[1]	Case No. 24-10695 (KBO)
Debtors.	(Jointly Administered)

**DECLARATION OF BRADLEY A. ROBINS
IN SUPPORT OF THE DEBTORS' MOTION FOR AN ORDER (I) APPROVING
KEY EMPLOYEE INCENTIVE PLAN AND (II) GRANTING RELATED RELIEF**

1. I submit this declaration (this "Declaration") in support of the *Debtors' Motion for an Order (I) Approving Key Employee Incentive Plan and (II) Granting Related Relief*, filed contemporaneously herewith (the "Motion").[2]

2. Although Ducera (as defined below) is being compensated for its work as the investment banker retained by the Debtors, I am not being compensated separately for this Declaration or testimony. Except as otherwise indicated herein, all of the facts set forth in this Declaration are based upon my personal knowledge, my review of relevant documents, information provided to me by Ducera professionals involved in advising the Debtors in these chapter 11 cases, or information provided to me by the Debtors or their other advisors. If called upon to testify, I could and would testify to the facts set forth herein on that basis. I am over the age of 18 years and authorized to submit this Declaration.

[1] The Debtors in these chapter 11 cases, together with the last four digits of the Debtors' federal tax identification number, are Casa Systems, Inc. (8867), Casa Systems Securities Corporation (1151), and Casa Properties LLC (6767). The Debtors' service address is 100 Old River Road, Andover, MA 01810.

[2] Capitalized terms used but not defined herein have the meanings given to such terms in the Motion.

Professional Background and Qualifications

3. I am a Partner at Ducera Partners LLC ("Ducera"), which maintains its principal office at 11 Times Square, 36th Floor, New York, New York 10036, and the investment banker for the Debtors in the above-captioned chapter 11 cases.

4. Ducera is an investment banking firm specializing in providing leading-edge capital structure and restructuring advice to companies, creditors, and investors in bankruptcy. Ducera provides a broad range of corporate and financial services to its clients, including: (a) general corporate advice; (b) mergers, acquisitions, and divestitures; (c) corporate restructurings; and (d) private placements. Ducera and its senior professionals have extensive experience in the reorganization and restructuring of distressed companies, both out-of-court and in chapter 11 cases. Ducera's business reorganization professionals have served as financial and strategic advisors in numerous cases, including, among others: *In re Revitalid Pharmaceutical Corp.*, No. 23-11704 (BLS) (Bankr. D. Del. Nov. 15, 2023) [Docket No. 105]; *In re Yellow Corp.*, Case No. 23-11069 (CTG) (Bankr. D. Del. Sept. 25, 2023) [Docket No. 648]; *In re Diebold Holding Co.*, LLC, Case No. 23-90602 (DRJ) (Bankr. S.D. Tex. July 18, 2023) [Docket No. 266]; *In re Virgin Orbit Holdings, Inc.*, Case No. 23-10405 (KBO) (Bankr. D. Del. May 15, 2023) [Docket No. 261]; *In re Core Scientific, Inc.*, Case No. 22-90341 (DRJ) (Bankr. S.D. Tex. March 13, 2023) [Docket No. 675].

5. I have over 30 years of legal financial and investment banking experience advising public and private companies across a variety of industries. I have been a partner at Ducera for eight years, and prior to joining Ducera, I was at Greenhill & Co. for fifteen years as the Head of Financing Advisory and Restructuring for North America. Additionally, prior to my experience at Greenhill, I served as a Senior Vice President at Houlihan Lokey Howard & Zukin and an

attorney at Wachtell, Lipton, Rosen & Katz. I hold a B.A. in Economics from Middlebury College and a J.D. from the University of Pennsylvania.

6. Unless otherwise stated herein, all facts, statements, or opinions included in this Declaration are based upon my personal knowledge of the Debtors' operations and financial performance, information learned from my review of relevant financial and operational data regarding the Debtors, information provided to me by Ducera professionals involved in advising the Debtors in these chapter 11 cases, information provided to me or verified by the Debtors or the Debtors' other professional advisors, my involvement with the sale processes for the Debtors' assets, or my experience advising both distressed and non-distressed businesses.

The Sale Processes and Global Settlement

7. The Debtors commenced these chapter 11 cases with committed purchasers for both the Cloud/RAN Sale and the Cable Sale and an opportunity to identify higher and/or better offers from alternative purchasers throughout the duration of the cases. With the assistance of the Debtors' key management personnel, the Debtors successfully consummated the Cloud/RAN Sale at the end of April 2024 with a final purchase price over 100% higher than the initial purchase price contemplated at the outset of these chapter 11 cases. Now, the Debtors and their advisors are comprehensively marketing the Cable Assets to maximize sale proceeds for the benefit of the Debtors' stakeholders.

8. On May 10, 2024, the Debtors, an ad hoc group of the Debtors' prepetition lenders (the "Ad Hoc Group"), and the Committee entered into a certain Settlement Term Sheet filed with the Court [Docket No. 315] (the "Global Settlement"). Among other things, the Global Settlement, which was negotiated at arm's length and in good faith between the Debtors, the Ad Hoc Group and the Committee, provides for the KEIP—a program designed to incentivize the

KEIP Participants to effectuate a value-maximizing Cable Sale, minimize expenditures, maximize cash proceeds to creditors, and otherwise align the KEIP Participants' interests with those of the Debtors' economic stakeholders.

The Key Employee Incentive Program

9. As noted in the Motion, the Debtors seek Court approval of the KEIP pursuant to which each KEIP Participant will receive certain incentive payouts contingent on the meeting of certain applicable conditions (the "Incentive Payouts").

10. Upon the successful consummation of the Cloud/RAN Sale and the Cable Sale, the KEIP Participants shall be entitled in the aggregate to an amount equal to the sum of (i) 3% of Sale Proceeds in excess of $35,000,000 (this item (i) being net of any break-up fees, expense reimbursements, or incremental costs that will be paid by the Debtors related to the Cable Sale that are not expenses that would be paid by the Debtors in a sale to the Cable Stalking Horse Purchaser) plus (ii) 3% of Net Distributable Proceeds[3] in excess of $25,700,000; provided that, with respect to items (i) and (ii), such amounts shall not include any proceeds or expenses from sale(s) of the CAD Assets (collectively, the "KEIP Pool"). In no event shall the total aggregate amount of the KEIP Pool exceed $2,000,000. The $35,000,000 threshold for Sale Proceeds referenced above was set in consideration of the initial prepetition commitments of the Cloud/RAN Sale and Cable Sale purchasers, and the time and effort of the KEIP Participants is critical to exceeding that threshold (as noted below). The $25,700,000 Net Distributable Proceeds threshold was set in consideration of the Debtors' original cash collateral budget, such that the KEIP Participants are

[33] "Net Distributable Proceeds" shall mean any proceeds from the Sale Transactions or from the liquidation of the Net Distributable Assets available for distribution to holders of Term Loan Facility Claims after: (1) payment of the Administrative Claims, Professional Fee Claims, Priority Tax Claims, Other Secured Claims, Other Priority Claims, and General Unsecured Claims, each according to the terms set forth in the Plan; and (2) reserving the Wind-Down Amount.

only rewarded if the distributable proceeds to holders of Term Loan Facility Claims (as defined in the Plan) exceed the expectation set forth at the outset of these chapter 11 cases.

11. I believe that a management team plays an important role in any sale process. In my experience, an active management team can have a positive impact on a sale process and on the results thereof and, conversely, a disengaged management team can have a detrimental impact on a sale process and its results. Here, I and other members of the Ducera team have observed the KEIP Participants work extraordinary hours – including nights and weekends – in connection with the sale processes to date, including, among other things: (i) attending scheduled and ad hoc diligence calls, (ii) responding to voluminous diligence requests; (iii) assisting in the production, or review, of over 3,500 documents populated in the virtual data room for bidders; and (iv) identifying and contacting, in coordination with Ducera, potentially interested parties. As of the date hereof, the Debtors, with the assistance of Ducera, have contacted more than 110 parties with respect to the Cloud/RAN Sale and Cable Sale, of which 21 entered into non-disclosure agreements with the Debtors and engaged in frequent discussions with the KEIP Participants. I understand that all of these activities have been performed in addition to their regular activities running the Debtors' business.

12. In light of the KEIP Participants' industry experience and deep knowledge of the Debtors' assets, in the course of the marketing process, the KEIP Participants have articulated key issues and strategies that have served to inform prospective buyers of the business' potential value. Indeed, the KEIP Participants' knowledge of the Debtors' assets has been utilized in management presentations to prospective buyers as well as in responding to due diligence and informational requests from these prospective buyers. In particular, given that many of the parties contacted with respect to the Cloud/RAN Sale and Cable Sale were strategic buyers, the KEIP Participants'

in-depth knowledge of the business and ability to assist potential buyers in identifying key synergies with their own businesses has provided value which could not be easily replicated. Furthermore, given the specialized nature of the Debtors' assets, the engagement and expertise of the KEIP Participants have been particularly helpful in marketing the Debtors' assets. Conversely, if the Debtors' KEIP Participants were not actively engaged throughout these chapter 11 cases, the Debtors may have difficulty gaining and maintaining interest from parties interested in participating in the sale of the Cable Assets. Further, the KEIP Participants have been actively working to minimize costs, collect receivables, and pursue other cash preservation measures that are essential to maximizing the Net Distributable Proceeds.

13. Accordingly, in light of the Debtors' active sale process and the contributions of the KEIP Participants required to bring such process to a successful and value-maximizing conclusion, I believe the implementation of the proposed KEIP is a sound exercise of the Debtors' business judgment. The KEIP establishes goals for the KEIP Participants that I believe, if achieved, will have a meaningful impact on the Debtors' sale efforts and will benefit the Debtors' estates and their creditor constituencies.

[*Remainder of page intentionally left blank.*]

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

Dated: May 17, 2024

/s/ Bradley A. Robins
Bradley A. Robins
Partner
Ducera Partners, LLC