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Proposed Co-Counsel to the Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

_____)
In re:) Chapter 11
)
ENVIVA INC., *et al.*,) Case No. 24-10453 (BFK)
)
Debtors.¹) (Joint Administration Requested)
_____)

**DEBTORS' APPLICATION FOR ENTRY
OF AN ORDER AUTHORIZING THE RETENTION AND APPOINTMENT OF
KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT**

The above-captioned debtors and debtors in possession (collectively, the "**Debtors**") file this *Debtors' Application for Entry of an Order Authorizing the Retention and Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent* (the "**Application**") and in support respectfully submit the following:

¹ Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been requested, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list may be obtained on the website of the Debtors' proposed claims and noticing agent at www.kccllc.net/enviva. The location of the Debtors' corporate headquarters is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.



JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Eastern District of Virginia (the “**Court**”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy 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.

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are 28 U.S.C. § 156(c), section 105(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), Bankruptcy Rule 6003, and rule 9013-1 of the Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia (the “**Local Rules**”).

BACKGROUND

4. Enviva Inc. and its Debtor and non-Debtor subsidiaries (collectively, the “**Company**”) are the world’s largest producer of industrial wood pellets, a renewable and sustainable energy source produced by aggregating a natural resource—wood fiber—and processing it into a transportable form. The Company owns and operates ten industrial-scale wood pellet production plants located in Virginia, North Carolina, South Carolina, Georgia, Florida, and Mississippi. The Company exports its wood pellets through owned and leased deep-water marine

terminals to customers in the United Kingdom, the European Union, and Japan who purchase the wood pellets through long-term, take-or-pay offtake contracts with the Company.

5. On the date hereof (the “*Petition Date*”), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this Motion, the Debtors filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). As of the Petition Date, no request for the appointment of a trustee or examiner has been made and no official committee of unsecured creditors has been appointed in these chapter 11 cases.

6. Additional information regarding the Debtors and these chapter 11 cases, including the Debtors’ business operations, capital structure, financial condition, and the reasons for and objectives of these chapter 11 cases, is set forth in the *Declaration of Glenn Nunziata in Support of Chapter 11 Petitions* (the “*Nunziata Declaration*”) and the *Declaration of Mark Rajceвич in Support of Chapter 11 Petitions and First-Day Motions* (the “*Rajceвич Declaration*,” and together with the Nunziata Declaration, the “*First Day Declarations*”) filed contemporaneously herewith and incorporated herein by reference.²

7. As set forth in the Nunziata Declaration, on March 12, 2024, the Debtors entered into that certain *Restructuring Support Agreement* with the ad hoc group of creditors (the “*Ad Hoc Group*”) party thereto, which represent approximately (a) 72% of the aggregate outstanding principal amount of loans arising under the Senior Secured Credit Facility

² Capitalized terms used but not otherwise defined in this Motion shall have the meaning set forth in the First Day Declarations.

(including both term loans and revolving credit loans), (b) 95% of the aggregate outstanding principal amount of the 2026 Notes, (c) 78% of the aggregate outstanding principal amount of the Epes Green Bonds, and (d) 45% of the aggregate outstanding principal amount of Bond Green Bonds. As further set forth in the Nunziata Declaration, on March 12, 2024, the Debtors entered into that certain *Restructuring Support Agreement* with creditors holding approximately 92% of the aggregate outstanding principal amount of the Bond Green Bonds.

RELIEF REQUESTED

8. By this Application the Debtors seek entry of an order (the “***Retention Order***”), substantially in the form of **Exhibit A**, authorizing the retention and appointment of Kurtzman Carson Consultants LLC (“***KCC***”) as claims and noticing agent (“***Agent***”) in order to assume full responsibility for the distribution of notices and the maintenance, processing and docketing of proofs of claim filed in the Debtors’ cases. The terms of retention are set forth in the Engagement Agreement attached hereto as **Exhibit B** (the “***Engagement Agreement***”); *provided, however*, that KCC is seeking approval solely of the terms and provisions as set forth in this Application and the proposed Retention Order attached hereto.

9. By appointing KCC as Agent in these cases, the distribution of notices and the processing of claims will be expedited, and the Clerk of the Court’s Office (the “***Clerk***”) will be relieved of the administrative burden of processing what may be an overwhelming number of claims. In support of this Application, the Debtors submit KCC’s affidavit attached hereto as **Exhibit C** (the “***Agent Affidavit***”). To the extent that there is any inconsistency between this Application, the Retention Order, and the Engagement Agreement, the Retention Order shall govern.

SERVICES TO BE PROVIDED

10. This Application pertains only to the work to be performed by KCC under the Clerk's delegation of duties permitted by 28 U.S.C. § 156(c), and any work to be performed by KCC outside of this scope is not covered by this Application or by any Retention Order granting approval hereof. Specifically, KCC will perform the following tasks in its role as Agent, as well as all quality control relating thereto:

- (a) assist the Debtors with the preparation and distribution of all required notices and documents in the cases in accordance with the Bankruptcy Code and the Bankruptcy Rules in the form and manner directed by the Debtors and/or the Court, including (i) notice of the commencement of the cases and the initial meeting of creditors under section 341(a) of the Bankruptcy Code, (ii) notice of any claims bar date, (iii) notices of transfers of claims, (iv) notices of objections to claims and objections to transfers of claims, (v) notices of any hearings on a disclosure statement and confirmation of the Debtors' plan or plans of reorganization, including under Bankruptcy Rule 3017(d), (vi) notice of the effective date of any plan, and (vii) all other notices, orders, pleadings, publications and other documents as the Debtors or Court may deem necessary or appropriate for an orderly administration of the cases;
- (b) maintain an official copy of the Debtors' schedules of assets and liabilities and statement of financial affairs (collectively, "***Schedules***"), listing the Debtors' known creditors and the amounts owed thereto;
- (c) maintain (i) a list of all potential creditors, equity holders, and other parties-in-interest and (ii) a "core" mailing list consisting of all parties described in Bankruptcy Rule 2002(i), (j), and (k) and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010; update said lists and make said lists available upon request by a party-in-interest or the Clerk;
- (d) furnish a notice to all potential creditors of the last date for the filing of proofs of claim and a form for the filing of a proof of claim, after such notice and form are approved by this Court and notify said potential creditors of the existence, amount, and classification of their respective claims as set forth in the Schedules, which may be affected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;
- (e) maintain a post office box or address for the purpose of receiving

claims and returned mail, and process all mail received;

- (f) for *all* notices, motions, orders, or other pleadings or documents served, prepare and file or cause to be filed with the Clerk an affidavit or certificate of service within seven (7) business days of service which includes (i) either a copy of the notice served or the docket numbers(s) and title(s) of the pleading(s) served, (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses, (iii) the manner of service, and (iv) the date served;
- (g) process all proofs of claim, including those received by the Clerk, and check said processing for accuracy and maintain the original proofs of claim in a secure area;
- (h) maintain the official claims register for each Debtor on behalf of the Clerk (the “*Claims Registers*”);
- (i) upon the Clerk’s request, provide the Clerk with certified, duplicate unofficial Claims Registers and specify in the Claims Registers the following information for each claim docketed:
 - (i) the claim number assigned, (ii) the date received, (iii) the name and address of the claimant and agent, if applicable, who filed the claim, (iv) address for payment, if different from the notice address, (v) the amount asserted, (vi) the asserted classification(s) of the claim (*e.g.*, secured, unsecured, priority, *etc.*), (vii) the applicable Debtor, and (viii) any disposition of the claim;
- (j) provide public access to the Claims Registers, including complete proofs of claim with attachments, if any, without charge;
- (k) implement necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;
- (l) record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
- (m) relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of KCC, not less than weekly;
- (n) upon completion of the docketing process for all claims received to date for each case, turn over to the Clerk copies of the claims register for the Clerk’s review (upon the Clerk’s request);
- (o) monitor the Court’s docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the claims register and any service or mailing lists, including to identify and eliminate duplicative names and addresses from such lists;
- (p) identify and correct any incomplete or incorrect addresses in any mailing or service lists (to the extent such information is available);

- (q) assist in the dissemination of information to the public and respond to requests for administrative information regarding these chapter 11 cases as directed by the Debtors or the Court, including through the use of a case website and/or call center.
- (r) provide docket updates via email to parties who subscribe for such service on the Debtors' case website;
- (s) comply with applicable federal, state, municipal, and local statutes, ordinances, rules, regulations, orders, and other requirements in connection with the Services rendered pursuant to the Engagement Agreement;
- (t) if these chapter 11 cases are converted to chapter 7 of the Bankruptcy Code, contact the Clerk's office within three (3) days of the notice to KCC of entry of the order converting the case;
- (u) thirty (30) days prior to the close of these cases, to the extent practicable, request that the Debtors submit to the Court a proposed order dismissing KCC and terminating the Agent services upon completion of its duties and responsibilities and upon the closing of these cases; and
- (v) within seven (7) days of notice to KCC of entry of an order closing these chapter 11 cases, provide to the Court the final version of the Claims Registers as of the date immediately before the close of the cases;
- (w) at the close of these chapter 11 cases: (i) box and transport all original documents, in proper format, as provided by the Clerk, to any location requested by the Clerk and (ii) docket a completed SF-135 Form indicating the accession and location numbers of the archived claims; and
- (x) the Claims Registers shall be opened to the public for examination without charge during regular business hours and on a case-specific website maintained by KCC.

In addition to the tasks KCC will perform as Agent, pursuant to the Engagement Agreement, KCC will also act as the Debtors' balloting and solicitation agent.

BASIS FOR RELIEF

11. The Debtors request entry of the Retention Order authorizing the retention and appointment of KCC as Agent for the Debtors and their chapter 11 cases to, among other tasks: (a) serve as the Agent to mail notices to the estates' creditors, equity security holders, and other parties in interest and (b) maintain, process, and docket proofs of claim pursuant to the provisions

of the Engagement Agreement. The Debtors' selection of KCC to act as Agent is appropriate under the circumstances and in the best interests of the estates. Moreover, the Debtors submit that, based on all engagement proposals obtained and reviewed, KCC's rates are competitive and reasonable given KCC's quality of services and expertise. The terms of KCC's retention are set forth in the Engagement Agreement.

12. Although the Debtors have not yet filed their schedules of assets and liabilities, they anticipate that there will be a significant number of entities to be noticed. In view of the number of anticipated claimants and the complexity of the Debtors' businesses, the Debtors submit that the appointment of an Agent is both necessary and in the best interests of both the Debtors' estates and their creditors.

KCC'S QUALIFICATIONS

13. KCC is a chapter 11 administrator comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. KCC's professionals have experience in noticing, claims administration, solicitation, balloting, and facilitating other administrative aspects of chapter 11 cases and experience in matters of this size and complexity. KCC's professionals have acted as Agents in many large bankruptcy cases nationwide. KCC has developed efficient and cost-effective methods to handle the voluminous mailings associated with the noticing and claims processing portions of chapter 11 cases to ensure the efficient, orderly, and fair treatment of creditors, equity security holders, and all parties in interest.

14. KCC has acted as Agent in numerous cases of comparable size, including in the United States Bankruptcy Court for the Eastern District of Virginia. *See In re Alpha Nat. Res., Inc.*, No. 15-33896 (KRH) (Bankr. E.D. Va. Aug. 5, 2016); *In re AMF Bowling Worldwide, Inc.*, No. 12-36495 (KRH) (Bankr. E.D. Va. Nov. 14, 2012); *In re Workflow Mgmt., Inc.*, No. 10-74517

(SCS) (Bankr. E.D. Va. Oct. 8, 2010); *In re Movie Gallery, Inc.*, No. 10-30696 (DOT) (Bankr. E.D. Va. Feb. 3, 2010); *In re Greenbrier Hotel Corp.*, No. 09-31703 (KRH) (Bankr. E.D. Va. Mar. 20, 2009); *In re Aldrich Pump LLC*, No. 20-30608 (Bankr. W.D.N.C. Jun. 25, 2020); *In re Cano Health, Inc.*, No. 24-10164 (KBO) (Bank. D. Del. Feb. 6, 2024); *In re InVivo Therapeutics Corp.*, No. 24-10137 (MFW) (Bankr. D. Del. Feb. 6, 2024); *In re AN Glob., LLC*. No. 23-11294 (JKS) (Bankr. D. Del. Aug. 29, 2023); *In re Proterra Inc.*, No. 23-11120 (BLS) (Bankr. D. Del. Aug. 10, 2023).

PROFESSIONAL COMPENSATION

15. The Debtors respectfully request that the undisputed fees and expenses incurred by KCC in the performance of the above services be treated as administrative expenses of the Debtors' estates pursuant to 28 U.S.C. § 156(c) and section 503(b)(1)(A) of the Bankruptcy Code and be paid in the ordinary course of business without further application to or order of the Court. KCC agrees to maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and to serve monthly invoices on the Debtors, the office of the United States Trustee, counsel for the Debtors, counsel for any official committee, if any, monitoring the expenses of the Debtors and any party-in-interest who specifically requests service of the monthly invoices. If any dispute arises relating to the Engagement Agreement or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute; if resolution is not achieved, the parties may seek resolution of the matter from the Court.

16. Prior to the Petition Date, the Debtors provided KCC a retainer in the amount of \$50,000. KCC seeks to first apply the retainer to all pre-petition invoices, and thereafter, to have the retainer replenished to the original retainer amount, and thereafter, to hold the retainer under

the Engagement Agreement during the cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

17. Additionally, under the terms of the Engagement Agreement, the Debtors have agreed to indemnify and hold harmless KCC and its affiliates, members, directors, officers, employees, consultants, subcontractors, and agents under certain circumstances specified in the Engagement Agreement, except in circumstances resulting from KCC's bad faith, gross negligence, willful misconduct, or as otherwise provided in the Retention Order. The Debtors believe that such an indemnification obligation is customary, reasonable, and necessary to retain the services of an Agent in these chapter 11 cases.

DISINTERESTEDNESS

18. Although the Debtors do not propose to employ KCC under section 327 of the Bankruptcy Code pursuant to this application, KCC has reviewed its electronic database to determine whether it has any relationships with the creditors and parties in interest provided by the Debtors, and to the best of the Debtors' knowledge, information, and belief, KCC has represented that it neither holds nor represents any interest materially adverse to the Debtors' estates in connection with any matter on which it would be employed.

19. In connection with its retention as Agent, KCC represents in the Agent Affidavit, among other things, that:

- (a) KCC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as Agent in the cases;
- (b) by accepting employment in the cases, KCC waives any rights to receive compensation from the United States government in connection with the Debtors' cases;
- (c) in its capacity as Agent in the cases, KCC will not be an agent of the United States and will not act on behalf of the United States;

- (d) KCC is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code with respect to the matters upon which it is to be engaged; and
- (e) KCC shall not employ any past or present employee of the Debtors for work that involves the Debtors’ bankruptcy cases.

NOTICE

20. Notice of this Motion has been provided by delivery to the following parties or their counsel, as applicable: (a) the Assistant United States Trustee for the Eastern District of Virginia; (b) the Debtors’ 30 largest unsecured creditors (on a consolidated basis); (c) Davis Polk & Wardwell LLP as co-counsel to the Ad Hoc Group; (d) McGuireWoods LLP as co-counsel to the Ad Hoc Group; (e) McDermott Will & Emery LLP as counsel to the agent under the DIP Facility; (f) Cahill Gordon & Reindel LLP as counsel to the agent under the Senior Secured Credit Facility; (g) Kilpatrick Townsend & Stockton LLP as counsel to the indenture trustee under the 2026 Notes; (h) Kramer Levin Naftalis & Frankel LLP as counsel to the indenture trustees under the Bond Green Bonds and the Epes Green Bonds; (i) those persons who have formally appeared in these chapter 11 cases and requested service pursuant to Bankruptcy Rule 2002; (j) the United States Attorney’s Office for the Eastern District of Virginia; (k) the Securities and Exchange Commission; (l) the Internal Revenue Service; and (m) all applicable government agencies or other parties to the extent required by the Bankruptcy Rules or the Local Rules (collectively, the “*Notice Parties*”). In light of the nature of the relief requested in this Motion, the Debtors submit that no further notice is necessary.

NO PRIOR REQUEST

21. No prior motion for the relief requested herein has been made to this Court or any other court.

The Debtors respectfully request entry of the Retention Order, substantially in the form attached hereto as **Exhibit A**, authorizing KCC to act as Agent for the maintenance and processing of claims and the distribution of notices.

Richmond, Virginia
Dated: March 12, 2024

/s/ Jeremy S. Williams

KUTAK ROCK LLP

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Proposed Co-Counsel for the Debtors and Debtors in Possession

EXHIBIT A

Proposed Retention Order

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Proposed Co-Counsel to the Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE EASTERN DISTRICT OF VIRGINIA
 ALEXANDRIA DIVISION**

In re:)	
)	Chapter 11
ENVIVA INC., <i>et al.</i> ,)	
)	Case No. 24-10453 (BFK)
Debtors. ¹)	
)	(Joint Administration Requested)
)	

**ORDER AUTHORIZING THE RETENTION AND APPOINTMENT OF
 KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT**

Upon the Application² filed by the above-referenced debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an order (the “*Retention Order*”) authorizing the retention and appointment of Kurtzman Carson Consultants LLC (“*KCC*”) as claims and noticing agent (“*Agent*”) in order to assume full responsibility for the distribution of notices and the

¹ Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been requested, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list may be obtained on the website of the Debtors’ proposed claims and noticing agent at www.kccllc.net/enviva. The location of the Debtors’ corporate headquarters is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.

² Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Application.

maintenance, processing and docketing of proofs of claim filed in the Debtors' cases, all as more fully set forth in the Application, the Agent Affidavit, and in the First Day Declarations; and the Court having jurisdiction over the matters raised in the Application pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found based upon the representation made in the Application and the Agent Affidavit that the employment of KCC as Agent is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that and that KCC does not hold an interest adverse to the Debtors or the estates respecting the matters upon which it is to be engaged; and the Court having found that proper and adequate notice of the Application and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Application after having given due deliberation upon the Application and all of the proceedings had before the Court in connection with the Application, it is HEREBY ORDERED THAT:

1. Notwithstanding the terms of the Engagement Agreement attached to the Application, the Application is approved solely as set forth in this Retention Order.
2. The Debtors are authorized to retain KCC as Agent effective as of the Petition Date, under the terms of the Engagement Agreement, and KCC is authorized and directed to perform

noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in these cases, and all related tasks, all as described in the Application.

3. KCC shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these cases and is authorized and directed to maintain official claims registers for each of the Debtors, to provide public access to every proof of claim unless otherwise ordered by the Court and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

4. KCC is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim. KCC shall provide public access to the claims register, including complete proofs of claim with attachments, if any, without charge.

5. KCC is authorized to take such other action to comply with all duties set forth in the Application.

6. The Debtors are authorized to compensate KCC in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and to reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for KCC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

7. KCC shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtors, the office of the United States Trustee, counsel for the Debtors, counsel for any official committee, if any,

monitoring the expenses of the Debtors and any party in interest who specifically requests service of the monthly invoices.

8. The parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Engagement Agreement or monthly invoices, and that the parties may seek resolution of the matter from the Court if resolution is not achieved. If an objection has been raised, the Debtors may not pay the objected to amount pending agreement of the parties or entry of an order of this Court authorizing payment. Notwithstanding anything to the contrary contained in the Services Agreement no late charges shall accrue on any invoices.

9. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC as Agent under this Retention Order shall be an administrative expense of the Debtors' estates.

10. KCC may apply its retainer to all pre-petition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, KCC may hold its retainer under the Engagement Agreement during the chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

11. The Debtors shall indemnify KCC under the terms of the Engagement Agreement as modified by this Order.

12. KCC shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Engagement Agreement for services other than the services provided under the Engagement Agreement, unless such services and the indemnification, contribution or reimbursement therefore are approved by the Court.

13. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtors shall have no obligation to indemnify KCC, or provide contribution or reimbursement to

KCC, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from KCC's gross negligence, willful misconduct, or fraud; (ii) for a contractual dispute in which the Debtors allege the breach of KCC's contractual obligations if the Court determines that indemnification, contribution or reimbursement would not be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination under (i) or (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which KCC should not receive indemnity, contribution or reimbursement under the terms of the Engagement Agreement as modified by this Retention Order.

14. Notwithstanding anything contained in the Application, Declaration, or the Services Agreement to the contrary, any limitation of liability shall be of no force or effect during the chapter 11 cases.

15. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), or (ii) the entry of an order closing these cases, KCC believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Engagement Agreement (as modified by this Retention Order), including without limitation the advancement of defense costs, KCC must file an application in this Court, and the Debtors may not pay any such amounts to KCC before the entry of an order by this Court approving the payment. This paragraph is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by KCC for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify KCC. All parties in interest shall retain the right to object to any demand by KCC for indemnification, contribution, or reimbursement.

16. In the event KCC is unable to provide the services set out in this order, KCC will immediately notify the Clerk and Debtors' attorney and cause to have all original proofs of claim and computer information turned over to another Agent with the advice and consent of the Clerk and Debtors' attorney.

17. The Debtors may submit a separate retention application, pursuant to section 327 of the Bankruptcy Code and/or any applicable law, for work that is to be performed by Agent but is not specifically authorized by this Retention Order.

18. The Debtors and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Retention Order in accordance with the Application.

19. Agent shall not cease providing claims processing services during the chapter 11 cases for any reason, including nonpayment, without an order of the Court.

20. In the event of any inconsistency between the Engagement Agreement, the Application and this Retention Order, this Retention Order shall govern.

21. Notwithstanding the relief granted in this Order, all authorizations herein and all payments and actions pursuant hereto shall be subject to each interim and final order entered by the Court in respect of the *Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief*, filed contemporaneously herewith (collectively, such interim and final orders, the "**DIP Order**"), including compliance with any budget or cash flow forecast in connection therewith and any other terms and conditions thereof. Nothing herein is intended to modify, alter, or waive, in any way, any terms, provisions, requirements, or restrictions of the DIP

Order or the DIP Documents (as defined in the DIP Order). To the extent there is any inconsistency between the terms of the DIP Order or the DIP Documents and the terms of this Order or any action taken or proposed to be taken hereunder, the terms of the DIP Order or the DIP Documents, as applicable, shall control.

22. The requirement under Local Rule 9013-1(F) to file a memorandum of law in connection with the Motion is waived.

23. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Retention Order.

Dated: _____
Alexandria, Virginia

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

/s/

Michael A. Condyles (VA 27807)

Peter J. Barrett (VA 46179)

Jeremy S. Williams (VA 77469)

KUTAK ROCK LLP

901 East Byrd Street, Suite 1000

Richmond, Virginia 23219-4071

Telephone: (804) 644-1700

Facsimile: (804) 783-6192

- and -

David S. Meyer (*pro hac vice* pending)

Jessica C. Peet (*pro hac vice* pending)

VINSON & ELKINS LLP

The Grace Building

1114 Avenue of the Americas, 32nd Floor

New York, New York 10036-7708

Telephone: (212) 237-0000

Facsimile: (212) 237-0100

- and -

Matthew J. Pyeatt (*pro hac vice* pending)

Trevor G. Spears (*pro hac vice* pending)

VINSON & ELKINS LLP

Trammell Crow Center

2001 Ross Avenue, Suite 3900

Dallas, TX 75201

Telephone: (214) 220-7700

Facsimile: (214) 220-7716

Proposed Co-Counsel to the Debtors and Debtors in Possession

CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)

Pursuant to Local Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/

EXHIBIT B

Engagement Agreement



KCC AGREEMENT FOR SERVICES

This Agreement is entered into as of the 5th day of February 2024, between Enviva Inc. (together with its subsidiaries, the “Company”),¹ and Kurtzman Carson Consultants LLC (together with its affiliates and subcontractors, “KCC”). In consideration of the premises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Terms and Conditions

I. SERVICES

A. KCC agrees to provide the Company with consulting services regarding noticing, claims management and reconciliation, plan solicitation, balloting, disbursements and any other services agreed upon by the parties or otherwise required by applicable law, government regulations or court rules or orders.

B. KCC further agrees to provide (i) computer software support and training in the use of the support software, (ii) KCC’s standard reports as well as consulting and programming support for the Company requested reports, (iii) program modifications, (iv) data base modifications, and/or (v) other features and services in accordance with the fees outlined in a pricing schedule provided to the Company (the “KCC Fee Structure”).

C. Without limiting the generality of the foregoing, KCC may, upon request by the Company, (i) provide a communications plan including, but not limited to, preparation of communications materials, dissemination of information and a call center staffed by KCC and/or (ii) provide confidential on-line workspaces or virtual data rooms and publish documents to such workspaces or data rooms (which publication shall not be deemed to violate the confidentiality provisions of this Agreement).

D. The price listed for each service in the KCC Fee Structure represents a bona fide proposal for such services, which may be accepted in whole or in part. Services will be provided when requested by the Company or required by applicable law, government regulations or court rules or orders. Services are mutually exclusive and are deemed delivered and accepted by the Company when provided by KCC.

E. The Company acknowledges and agrees that KCC will often take direction from the Company’s representatives, employees, agents and/or professionals (collectively, the “Company Parties”) with respect to the services being provided under this Agreement. The parties agree that KCC may rely upon, and the Company agrees to be bound by, any requests, advice or information provided by the Company Parties to the same extent as if such requests, advice or information were provided by the Company. The Company agrees and understands that KCC shall not provide the Company or any other party with any legal advice.

¹ The term Company shall include, to the extent applicable, the Company, as debtor and debtor in possession in its chapter 11 case, together with any affiliated debtors and debtors in possession whose chapter 11 cases are jointly administered with the Company’s chapter 11 case.



KCC AGREEMENT FOR SERVICES

II. PRICES, CHARGES AND PAYMENT

A. KCC agrees to charge and the Company agrees to pay KCC for its services at the rates and prices set by KCC that are in effect as of the date of this Agreement and in accordance with the KCC Fee Structure. KCC's prices are generally adjusted periodically to reflect changes in the business and economic environment and are inclusive of all charges. KCC reserves the right to reasonably increase its prices, charges and rates; provided, however, that if any such increase exceeds 10%, KCC will give thirty (30) days written notice to the Company.

B. In addition to fees and charges for services, the Company agrees to pay KCC's reasonable and documented, out-of-pocket transportation, lodging, and meal expenses incurred in connection with services provided under this Agreement.

C. In addition to all fees for services and expenses hereunder, the Company shall pay to KCC (i) any fees and charges related to, arising out of, or as a result of any error or omission made by the Company or the Company Parties, as mutually determined by KCC and the Company, and (ii) all taxes that are applicable to this Agreement or that are measured by payments made under this Agreement and are required to be collected by KCC or paid by KCC to a taxing authority.

D. Where the Company requires services that are unusual or beyond the normal business practices of KCC, or are otherwise not provided for in the KCC Fee Structure, the cost of such services shall be charged to the Company at a competitive rate.

E. KCC agrees to submit its invoices to the Company monthly and the Company agrees that the amount invoiced is due and payable upon the Company's receipt of the invoice. KCC's invoices will contain reasonably detailed descriptions of charges for both hourly (fees) and non-hourly (expenses) case specific charges. Where total invoice amounts are expected to exceed \$10,000 in any single month and KCC reasonably believes it will not be paid, KCC may require advance payment from the Company due and payable upon demand and prior to the performance of services hereunder. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, the Company further agrees to pay a late charge, calculated as one and one-half percent (1-1/2%) of the total amount unpaid every thirty (30) days. In the case of a dispute in the invoice amount, the Company shall give written notice to KCC within ten (10) days of receipt of the invoice by the Company. The undisputed portion of the invoice will remain due and payable immediately upon receipt of the invoice. Late charges shall not accrue on any amounts in dispute or any amounts unable to be paid due to Court order or applicable law. Unless otherwise agreed to in writing, the fees for print notice and media publication (including commissions) must be paid at least three (3) days in advance of those fees and expenses being incurred.

F. In the event that the Company files for protection pursuant to chapter 11 of the United States Bankruptcy Code (a "Chapter 11 Filing"), the parties intend that KCC shall be employed pursuant to 28 U.S.C. § 156(c) to the extent possible and otherwise in accordance with applicable Bankruptcy law and that all amounts due under this Agreement shall, to the extent possible, be paid as administrative expenses of the Company's chapter 11 estate. As soon as practicable following a Chapter 11 Filing (and otherwise in accordance with applicable law and rules and orders of the Bankruptcy Court), the Company shall cause pleadings to be filed with the Bankruptcy Court seeking entry of an order or orders approving this Agreement (the "Retention



KCC AGREEMENT FOR SERVICES

Order”). The form and substance of the pleadings and the Retention Order shall be reasonably acceptable to KCC. If any Company chapter 11 case converts to a case under chapter 7 of the Bankruptcy Code, KCC will continue to be paid for its services in accordance with the terms of this Agreement. The parties recognize and agree that if there is a conflict between the terms of this Agreement and the terms of the Retention Order, the terms of the Retention Order shall govern during the chapter 11 or other proceeding.

G. To the extent permitted by applicable law, KCC shall receive a retainer in the amount of \$50,000 (the “Retainer”) that may be held by KCC as security for the Company’s payment obligations under the Agreement. The Retainer is due upon execution of this Agreement. In the event of a Chapter 11 Filing, KCC will first apply the Retainer to all pre-petition invoices, and thereafter, will have the Retainer replenished to the original amount. KCC shall be entitled to hold the Retainer until the termination of the Agreement. Following termination of the Agreement, KCC shall return to the Company any amount of the Retainer that remains following application of the Retainer to the payment of unpaid invoices not subject to a dispute.

III. RIGHTS OF OWNERSHIP

A. The parties understand that the software programs and other materials furnished by KCC pursuant to this Agreement and/or developed during the course of this Agreement by KCC are the sole property of KCC. The term “program” shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. The Company agrees not to copy or permit others to copy the source code from the support software or any other programs or materials furnished pursuant to this Agreement.

B. The Company further agrees that any ideas, concepts, know-how or techniques relating to data processing or KCC’s performance of its services developed or utilized during the term of this Agreement by KCC shall be the exclusive property of KCC. Fees and expenses paid by the Company do not vest in the Company any rights in such property, it being understood that such property is only being made available for the Company’s use during and in connection with the services provided by KCC under this Agreement.

IV. [RESERVED]

V. CONFIDENTIALITY

Each of KCC and the Company, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the services provided under this Agreement; provided, however, that if either party reasonably believes that it is required to produce any such information by order of any governmental agency or other regulatory body it may, upon not less than five (5) business days’ written notice to the other party, release the required information.



KCC AGREEMENT FOR SERVICES

VI. SUSPENSION OF SERVICE AND TERMINATION

A. This Agreement shall remain in force until terminated or suspended by either party (i) upon thirty (30) days' written notice to the other party or (ii) immediately upon written notice for Cause (defined herein). As used herein, the term "Cause" means (i) bad faith, gross negligence, actual fraud or willful misconduct of KCC that causes serious and material harm to the Company's reorganization under chapter 11 of the Bankruptcy Code, (ii) the failure of the Company to pay KCC invoices for more than sixty (60) days from the date of invoice, or (iii) the accrual of invoices or unpaid services in excess of the retainer held by KCC where KCC reasonably believes it will not be paid.

B. In the event that this contract is terminated, regardless of the reason for such termination, KCC shall coordinate with the Company and, to the extent applicable, the clerk of the Bankruptcy Court, to maintain an orderly transfer of record keeping functions and KCC shall provide all necessary staff, services and assistance required for an orderly transfer. The Company agrees to pay for such services in accordance with KCC's then existing prices for such services. If such termination occurs following entry of the Retention Order, the Company shall immediately seek entry of an order (in form and substance reasonably acceptable to KCC) that discharges KCC from service and responsibility in the Company's bankruptcy case.

C. Any data, programs, storage media or other materials furnished by the Company to KCC or received by KCC in connection with the services provided under the terms of this Agreement may be retained by KCC until the services provided are paid for, or until this Agreement is terminated with the services paid in full. The Company shall remain liable for all fees and expenses imposed under this Agreement as a result of data or physical media maintained or stored by KCC. KCC shall dispose of the data and media in the manner requested by the Company. The Company agrees to pay KCC for reasonable expenses incurred as a result of the disposition of data or media. If the Company has not utilized KCC's services under this Agreement for a period of at least ninety (90) days, KCC may dispose of the data or media, and be reimbursed by the Company for the expense of such disposition, after giving the Company thirty (30) days' notice. Notwithstanding any term herein to the contrary, following entry of the Retention Order, the disposition of any data or media by KCC shall be in accordance with any applicable instructions from the clerk of the Bankruptcy Court, local Bankruptcy Court rules and orders of the Bankruptcy Court.

VII. SYSTEM IMPROVEMENTS

KCC strives to provide continuous improvements in the quality of service to its clients. KCC, therefore, reserves the right to make changes in operating procedure, operating systems, programming languages, general purpose library programs, application programs, time period of accessibility, types of terminal and other equipment and the KCC data center serving the Company, so long as any such changes do not materially interfere with ongoing services provided to the Company in connection with the Company's chapter 11 case.



KCC AGREEMENT FOR SERVICES

VIII. BANK ACCOUNTS

At the Company's request and subject to Court approval following any chapter 11 filing, KCC may be authorized to establish accounts with financial institutions in the name of and as agent for the Company. To the extent that certain financial products are provided to the Company pursuant to KCC's agreement with financial institutions, KCC may receive compensation from such financial institutions for the services KCC provides pursuant to such agreement.

IX. LIMITATIONS OF LIABILITY AND INDEMNIFICATION

A. The Company shall indemnify and hold KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, judgments, liabilities and expenses (including reasonable counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to KCC's performance under this Agreement. Such indemnification shall exclude Losses resulting from KCC's bad faith, gross negligence or willful misconduct. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third-parties against any Indemnified Party. The Company shall notify KCC in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that the Company becomes aware of with respect to the services provided by KCC under this Agreement. The Company's indemnification obligations hereunder shall survive the termination of this Agreement.

B. In no event shall KCC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the services provided for in this Agreement. In no event shall KCC's liability to the Company for any Losses, whether direct or indirect, arising out of this Agreement exceed the total amount billed to the Company and actually paid to KCC for the services contemplated under the Agreement; provided, however, that this limitation shall not apply to the Company during any chapter 11 case in which the Company is a debtor.

C. The Company is responsible for the accuracy of the programs, data and information it or any Company Party submits for processing to KCC and for the output of such information. KCC does not verify information provided by the Company and, with respect to the preparation of schedules and statements, all decisions are at the sole discretion and direction of the Company. The Company reviews and approves all schedules and statements filed on behalf of, or by, the Company; KCC bears no responsibility for the accuracy or contents therein. The Company agrees to initiate and maintain backup files that would allow the Company to regenerate or duplicate all programs and data submitted by the Company to KCC.

D. The Company agrees that except as expressly set forth herein, KCC makes no representations or warranties, express or implied, including, but not limited to, any implied or express warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity.



KCC AGREEMENT FOR SERVICES

X. FORCE MAJEURE

KCC will not be liable for any delay or failure in performance when such delay or failure arises from circumstances beyond its reasonable control, including without limitation acts of God, acts of government in its sovereign or contractual capacity, acts of public enemy or terrorists, acts of civil or military authority, war, riots, civil strife, terrorism, blockades, sabotage, rationing, embargoes, epidemics, pandemics, outbreaks of infectious diseases or any other public health crises, earthquakes, fire, flood, other natural disaster, quarantine or any other employee restrictions, power shortages or failures, utility or communication failure or delays, labor disputes, strikes, or shortages, supply shortages, equipment failures, or software malfunctions.

XI. INDEPENDENT CONTRACTORS

The Company and KCC are and shall be independent contractors of each other and no agency, partnership, joint venture or employment relationship shall arise, directly or indirectly, as a result of this Agreement.

XII. NOTICES

All notices and requests in connection with this Agreement shall be given or made upon the respective parties in writing and shall be deemed as given as of the third day following the day it is deposited in the U.S. Mail, postage pre-paid or on the day it is given if sent by facsimile or electronic mail or on the day after the day it is sent if sent by overnight courier to the appropriate address set forth below:

Kurtzman Carson Consultants LLC
222 N. Pacific Coast Highway, 3rd Floor
El Segundo, CA 90245
Attn: Drake D. Foster
Tel: (310) 823-9000
Fax: (310) 823-9133
E-Mail: dfoster@kccllc.com

Enviva Inc.
7272 Wisconsin Ave., Suite 1800
Bethesda, MD 20814
Attn: General Counsel
E-Mail: Jason.Paral@envivabiomass.com

Or to such other address as the party to receive the notice or request so designates by written notice to the other.

XIII. APPLICABLE LAW

The validity, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.

XIV. ENTIRE AGREEMENT/ MODIFICATIONS

Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings, other agreements, and communications oral and written between the parties relating to the subject matter of this Agreement. Each party represents to the other that it has the authority to enter into



KCC AGREEMENT FOR SERVICES

this Agreement, and the Agreement is non-dischargeable under any applicable statute or law. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. This Agreement may be modified only by a written instrument duly executed by an authorized representative of the Company and an officer of KCC.

XV. COUNTERPARTS; EFFECTIVENESS

This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. This Agreement will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, which delivery may be made by exchange of copies of the signature page by facsimile or electronic mail.

XVI. ASSIGNMENT

This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other, with the exception that the Company shall not unreasonably withhold its consent to an assignment by KCC to a wholly-owned subsidiary or affiliate of KCC.

XVII. ATTORNEYS' FEES

In the event that any legal action, including an action for declaratory relief, is brought to enforce the performance or interpret the provisions of this Agreement, the parties agree to reimburse the prevailing party's reasonable attorneys' fees, court costs, and all other related expenses, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which the prevailing party may be entitled.

[SIGNATURE PAGE FOLLOWS]



KCC AGREEMENT FOR SERVICES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the first date mentioned above.

Kurtzman Carson Consultants LLC

DocuSigned by:

Evan J. Gershbein

44878F07BE7747D...

BY: Evan Gershbein

DATE: 09-Feb-2024 | 11:28:12 AM EST

TITLE: EVP, Corporate Restructuring Services

Company

A handwritten signature in blue ink that reads 'J. Paral' followed by 'CRE' in a stylized, cursive script.

BY: Jason E. Paral

DATE: Feb. 8, 2024

TITLE: Executive Vice President, General Counsel, and Secretary

EXHIBIT C

Agent Affidavit

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

In re: ENVIVA INC., <i>et al.</i> , <div style="text-align: right;">Debtors.¹</div>)))))))	Chapter 11 Case No. 24 – 10453 (BFK) (Joint Administration Requested)
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**DECLARATION OF EVAN GERSHBEIN
IN SUPPORT OF DEBTORS’ APPLICATION FOR ENTRY
OF AN ORDER AUTHORIZING THE RETENTION AND APPOINTMENT OF
KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT**

I, Evan Gershbein, being duly sworn, state the following under penalty of perjury:

1. I am an Executive Vice President of Corporate Restructuring Services for Kurtzman Carson Consultants LLC (“**KCC**”), whose offices are located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245. Except as otherwise noted in this declaration (this “**Declaration**”), I have personal knowledge of the matters set forth herein, and if called and sworn as a witness, I could and would testify competently thereto.

2. This declaration (this “**Declaration**”) is made in support of the *Debtors’ Application for Entry of an Order Authorizing the Retention and Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent*, filed contemporaneously herewith (the “**Application**”).²

¹ Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been requested, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list may be obtained on the website of the Debtors’ proposed claims and noticing agent at www.kccllc.net/enviva. The location of the Debtors’ corporate headquarters is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.

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

3. KCC comprises leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. KCC's professionals have experience in noticing, claims administration, solicitation, balloting and facilitating other administrative aspects of chapter 11 cases. KCC has developed efficient and cost-effective methods to handle the voluminous mailings associated with the noticing and claims processing portions of chapter 11 cases to ensure the efficient, orderly, and fair treatment of creditors, equity security holders, and all parties in interest. KCC has acted as official claims and noticing agent in many large bankruptcy cases in this district and in other districts nationwide. KCC's cases include: *In re Alpha Natural Resources, Inc.*, No. 15-33896 (KRH) (Bankr. E.D. Va. Aug. 5, 2016); *In re AMF Bowling Worldwide, Inc.*, No. 12-36495 (KRH) (Bankr. E.D. Va. Nov. 14, 2012); *In re Workflow Management, Inc.*, No. 10-74517 (SCS) (Bankr. E.D. Va. Oct. 8, 2010); *In re Movie Gallery, Inc.*, No. 10-30696 (DOT) (Bankr. E.D. Va. Feb. 3, 2010); *In re Greenbrier Hotel Corp.*, No. 09-31703 (KRH) (Bankr. E.D. Va. Mar. 20, 2009); *In re Aldrich Pump LLC, et al.*, Case No. 20-30608 (Bankr. W.D.N.C. Jun. 25, 2020); *In re Cano Health, Inc.*, Case No. 24-10164 (KBO) (Bank. D. Del. Feb. 6, 2024); *In re InVivo Therapeutics Corp.*, Case No. 24-10137 (MFW) (Bankr. D. Del. Feb. 6, 2024); *In re AN Global, LLC*, Case No. 23-11294 (JKS) (Bankr. D. Del. Aug. 29, 2023); *In re Proterra Inc*, Case No. 23-11120 (BLS) (Bankr. D. Del. Aug. 10, 2023).

4. As agent and custodian of the Court records pursuant to 28 U.S.C. § 156(c), KCC will perform at the request of the Clerk's office the noticing and claims-related services specified in the Application. In addition, at the Debtors' request, KCC will perform such other noticing, claims, technical, administrative, and support services specified in the Application, subject to 28 U.S.C. § 156(c) and the Claims Agent Protocol.

5. KCC represents, among other things, all as fully stated in the Application, the following:

- (a) KCC, its members, and its employees are not and were not within two years before the filing of these chapter 11 cases creditors, equity security holders, insiders, or employees of the Debtors;
- (b) KCC is a “disinterested person” within the meaning of section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code;
- (c) KCC will not consider itself employed by the United States government and will not seek any compensation from the United States government in its capacity as the claims and noticing agent in these chapter 11 cases;
- (d) by accepting employment in these chapter 11 cases, KCC waives any rights to receive compensation from the United States government as claims and noticing agent;
- (e) in its capacity as the claims and noticing agent in these chapter 11 cases, KCC will not be an agent of the United States and will not act on behalf of the United States;
- (f) KCC will not employ any past or present employees of the Debtors in connection with its work as the claims and noticing agent in these chapter 11 cases;
- (g) in its capacity as claims and noticing agent in these chapter 11 cases, KCC will not intentionally misrepresent any fact to any person;
- (h) KCC will be under the supervision and control of the Clerk’s office with respect to the receipt and recordation of claims and claim transfers;
- (i) KCC will comply with all requests of the Clerk’s office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c); and
- (j) none of the services provided by KCC as claims and noticing agent will be at the expense of the Clerk’s office.

6. Although the Debtors do not propose to retain KCC under section 327 of the Bankruptcy Code pursuant to the Application,³ I caused to be submitted for review by our conflicts system the names of all known potential parties-in-interest (the “*Potential Parties in Interest*”) in these chapter 11 cases. The list of Potential Parties in Interest was provided by the Debtors and included, among other things, the Debtors, non-Debtor affiliates, significant equity holders, the Debtors’ current and former directors and officers, secured creditors, vendors, and other parties. The results of the conflict check were compiled and reviewed by KCC professionals under my supervision. At this time, and as set forth in further detail herein, KCC is not aware of any relationship that would present a disqualifying conflict of interest. Should KCC discover any new relevant facts or relationships bearing on the matters described herein during the period of its retention, KCC will use reasonable efforts to promptly file a supplemental declaration.

7. To the best of my knowledge, and based solely upon information provided to me by the Debtors, and except as provided herein, neither KCC, nor any of its professionals, has any materially adverse connection to the Debtors, their creditors or other relevant parties. KCC may have relationships with certain of the Debtors’ creditors as vendors or in connection with cases in which KCC serves or has served in a neutral capacity as claims and noticing agent or administrative advisor for another chapter 11 debtor.

8. On May 1, 2023, funds affiliated with GCP Capital Partners LLC (“*GCP*”) indirectly acquired a controlling equity interest in KCC (the “*Acquisition*”). Pursuant to the Acquisition, an indirect, non-controlling, beneficial minority interest in KCC was acquired by funds affiliated with J.P. Morgan Investment Management Inc. (“*JPMIM*”). GCP is a middle-market private equity investment firm based in New York. GCP has made investments in a number

³ As stated in the Application, such retention may be sought by separate application.

of industries, including tech-enabled business services, payments, and select financials. JPMIM is a U.S. registered investment adviser. Designees of GCP are members of the Board of Managers (the “**Board**”) of KCC’s ultimate parent company, KCC Parent LLC (“**Parent**”). Parent wholly owns KCC Intermediate LLC, which in turn wholly owns KCC Global Administration, LLC, which in turn wholly owns KCC Topco LLC, which in turn wholly owns KCC. One representative of JPMIM is entitled to attend and observe (but not vote) at all meetings of the Board, but no designee of JPMIM is a member of the Board.

9. KCC searched all entities listed in the list of Potential Parties in Interest against an internal database that includes (i) KCC’s parent entities, affiliates, and subsidiaries and (ii) GCP, GCP’s funds, and each such fund’s respective portfolio companies and investments as set forth in the list most recently provided to KCC by GCP. Based solely on the foregoing search, KCC has determined, to the best of its knowledge, that there are no material connections. Certain JP Morgan Chase entities are listed on the Potential Parties in Interest List. There are information barriers between JPMIM and the line of business where JPMorgan may be associated with the Debtors.

10. To the extent KCC learns of any other material connections between the funds or investments included in the above-described conflicts search and the Debtor, KCC will promptly file a supplemental disclosure. In addition, KCC may have had, may currently have, or may in the future have business relationships unrelated to the Debtor with one or more GCP or JPMIM entities including, among others, portfolio companies of GCP.

11. KCC has and will continue to represent clients in matters unrelated to these chapter 11 cases. In addition, KCC and its personnel have and will continue to have relationships in the ordinary course of its business with certain vendors, professionals, and other parties in interest that may be involved in the Debtors’ chapter 11 cases. KCC may also provide professional

services to entities or persons that may be creditors or parties in interest in these chapter 11 cases, which services do not directly relate to, or have any direct connection with, these chapter 11 cases or the Debtors.

12. To the best of my knowledge, neither KCC nor any of its employees represent any interest materially adverse to the Debtors' estates with respect to any matter upon which KCC is to be engaged. Based on the foregoing, I believe that KCC is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code.

[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 information, knowledge, and belief.

Dated: March 12, 2024
El Segundo, California

Respectfully submitted,

/s/ Evan Gershbein
Evan Gershbein
Executive Vice President
Kurtzman Carson Consultants LLC
Telephone: (310) 823-9000