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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)	
)	(Jointly Administered)

**ORDER (I) AUTHORIZING THE DEBTORS TO RETAIN
 AND COMPENSATE PROFESSIONALS UTILIZED IN THE
 ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF**

Upon the Motion² filed by the above-referenced debtors and debtors in possession (collectively, the “*Debtors*”) for entry of an order (this “*Order*”), authorizing the retention and compensation of professionals utilized in the ordinary course of the Debtors’ business, effective as of the Petition Date or such later date, as applicable, without the necessity for submission of

¹ Due to the large number of Debtors in these jointly administered chapter 11 cases, 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’ claims and noticing agent at www.kcellc.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 Motion.



formal retention and fee applications for each individual professional, all as more fully set forth in the Motion; and the Court having jurisdiction over the matters raised in the Motion 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 reviewed the Motion; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion 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 Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth in this Order.
2. The Debtors are authorized to retain and compensate the professionals identified on the OCP List (collectively, the “*OCPs*”), attached hereto as Exhibit 2-A and Exhibit 2-B, in the ordinary course of business pursuant to the following OCP Procedures:
 - a. Within 30 days of the later of (a) the date of entry of an order granting the relief requested herein and (b) the date on which an OCP commences postpetition work for the Debtors, such OCP shall cause a declaration of disinterestedness (each, a “*Declaration of Disinterestedness*” substantially in the form annexed to Exhibit A as Exhibit 1), to be filed with the Court and served upon: (i) the Debtors, 7272 Wisconsin Ave., Suite 1800, Bethesda, Maryland 20814, Attn: Jason E. Paral (jason.paral@envivabiomass.com); (ii) proposed co-counsel to the Debtors, Vinson & Elkins LLP, 1114 Avenue of the Americas,

32nd floor, New York, New York 10036, Attn: David S. Meyer (dmeyer@velaw.com) and Jessica C. Peet (jpeet@velaw.com), 2001 Ross Avenue, Suite 3900, Dallas, Texas 75201, Attn: Matthew J. Pyeatt (mpyeatt@velaw.com) and Trevor G. Spears (tspears@velaw.com), and Kutak Rock LLP, 901 East Byrd Street, Suite 1000, Richmond, Virginia 23219, Attn: Michael A. Condyles (michael.condyles@kutakrock.com), Peter J. Barrett (peter.barrett@kutakrock.com) and Jeremy S. Williams (jeremy.williams@kutakrock.com); (iii) co-counsel to the Ad Hoc Group, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Damian S. Schaible (damian.schaible@davispolk.com), David Schiff (david.schiff@davispolk.com), and Hailey W. Klabo (hailey.klabo@davispolk.com), and McGuireWoods LLP, 800 East Canal Street, Richmond, Virginia 23219, Attn: Dion W. Hayes (dhayes@mcguirewoods.com), K. Elizabeth Sieg (bsieg@mcguirewoods.com), and Connor W. Symons (csymons@mcguirewoods.com); (iv) proposed counsel to the Committee, Akin Gump Strauss Hauer & Feld LLP, 2001 K Street N.W., Washington, D.C. 20006, Attn: Scott L. Alberino (salberino@akingump.com) and Alexander F. Antypas (aantypas@akingump.com) and One Bryant Park, New York, NY 10036, Attn: Jason P. Rubin (jrubin@akingump.com); and (v) the United States Trustee for the Eastern District of Virginia (the “*U.S. Trustee*”), 200 Granby Street, Room 625, Norfolk, Virginia 23510, Attn: Kenneth N. Whitehurst (kenneth.n.whitehurst@usdoj.gov) and Nicholas S. Herron (nicholas.s.herron@usdoj.gov) (collectively, the “*OCP Notice Parties*”).

- b. The OCP Notice Parties and other parties in interest in these chapter 11 cases shall have 14 days after the date of filing of each OCP’s Declaration of Disinterestedness (the “*Objection Deadline*”) to object to the retention of such OCP. The objecting party shall file any such objection and serve such objection upon the OCP Notice Parties and the respective OCP on or before the Objection Deadline. If any such objection cannot be resolved within 14 days of its receipt, the matter shall be scheduled for a hearing before the Court at the next regularly scheduled omnibus hearing date that is no less than 14 days from that date, or on a date otherwise agreeable to the parties. The Debtors shall not be authorized to retain and compensate such OCP until all outstanding objections have been withdrawn, resolved, or overruled by order of the Court.
- c. If no objection is received from any of the OCP Notice Parties by the Objection Deadline with respect to any particular OCP, the Debtors shall be authorized to: (i) retain such OCP as of the date

such OCP commenced providing services to the Debtors; and (ii) compensate such OCP as set forth below.

- d. Once the Debtors retain an OCP in accordance with the OCP Procedures, the Debtors shall be authorized to pay, without formal application to the Court by any OCP, 100 percent of fees and disbursements to each of the OCPs retained by the Debtors pursuant to the OCP Procedures upon submission to the Debtors of an appropriate invoice setting forth, in reasonable detail, the nature of the services rendered after the Petition Date; *provided*, that any fees paid to each OCP, excluding costs and disbursements, may not exceed for each OCP set forth on **Exhibit 2-A** attached hereto (“**Tier 1 OCPs**”), \$100,000 per month, per OCP in the aggregate (the “**Tier 1 OCP Monthly Cap**”) and for each OCP set forth on **Exhibit 2-B** attached hereto (“**Tier 2 OCP**”), \$50,000 per month, per OCP in the aggregate (the “**Tier 2 OCP Monthly Cap**” and, together with the Tier 1 OCP Monthly Cap, the “**OCP Monthly Caps**”), each calculated as an average over a rolling three-month period while these chapter 11 cases are pending, it being understood and agreed that there shall be no application of a rolling three-month average for the first month; *provided, further*, that, the total amount disbursed during the pendency of the chapter 11 cases, for each Tier 1 OCP, does not exceed \$450,000 per OCP (the “**Tier 1 OCP Case Cap**”) and for each Tier 2 OCP, does not exceed \$225,000 (the “**Tier 2 OCP Case Cap**” and, together with the Tier 1 OCP Case Cap, the “**OCP Case Caps**” and, together with the Monthly Caps, collectively, the “**OCP Caps**”). The OCP Monthly Caps may be increased without further order of the Court by mutual agreement between the Debtors, the Committee and the U.S. Trustee; *provided*, that the Debtors shall file a notice with the Court and submit notice to the Notice Parties of any such agreed increase.
- e. All invoices for fees or expenses submitted by an OCP shall clearly state the Debtor entity or entities with which such fees or expenses are primarily related.
- f. If an OCP’s fees and expenses exceed the applicable OCP Monthly Cap, such OCP will file a fee application (a “**Monthly Fee Application**”) for all fees and expenses of the applicable month in which the OCP Monthly Cap was exceeded and apply for compensation and reimbursement of such amount in compliance with sections 330 and 331 of the Bankruptcy Code and applicable provisions of the Bankruptcy Rules, the Local Rules, and any other procedures and orders of the Court, provided that the Debtors may make an interim payment to the OCP prior to the hearing on the Monthly Fee Application of up to 80% of the fees sought and 100% of the expenses incurred. Any such OCP will make a reasonable

effort to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the Guidelines for Reviewing Applications for Compensation filed under 11 U.S.C. § 330 in connection with such Monthly Fee Application.

- g. If an OCP's fees and expenses exceed the Tier 1 OCP Case Cap or the Tier 2 OCP Case Cap, as applicable, the Debtors shall submit a professional retention application seeking to retain such Ordinary Course Professional under section 327 of the Bankruptcy Code.
- h. Beginning for the period ending May 31, 2024, and for each three month interval thereafter during which these chapter 11 cases are pending, the Debtors shall within 30 days of the end of such quarter file with the Court and serve on the OCP Notice Parties a statement with respect to each OCP paid during the immediately preceding three month period (the "*Quarterly Statement*"). Each Quarterly Statement shall include: (i) the name of the OCP; (ii) the aggregate amounts paid as compensation for services rendered and reimbursement of expenses incurred by that OCP during the reported quarter; and (iii) a general description of the services rendered by that OCP.
- i. The Debtors reserve the right, in consultation with the Committee and with the Ad Hoc Group, to retain additional OCPs from time to time during these chapter 11 cases by: (i) including such OCPs on an amended or supplemental version of the OCP List that is filed with the Court and served on the OCP Notice Parties; and (ii) having such OCPs comply with the OCP Procedures. The OCP Notice Parties and other parties in interest in these chapter 11 cases shall have 14 days after the date of filing of each OCP's Declaration of Disinterestedness to object to the retention of such additional OCP(s). If no objections to an OCP's Declaration of Disinterestedness are received in accordance with paragraph (b) of the OCP Procedures, the Debtors shall be authorized to retain and compensate the additional OCPs set forth on the amended version of the OCP List in accordance with the OCP Procedures.

3. The Debtors are authorized to supplement the OCP List as necessary to add or remove OCPs, from time to time in consultation with the Committee and with the Ad Hoc Group, without the need for any further hearing and without the need to file individual retention applications for newly-added OCPs. In such event, the Debtors shall file the amended OCP List with this Court and serve such list on the OCP Notice Parties. Each additional OCP listed in the

OCP List shall file with this Court and serve a Declaration of Disinterestedness on the OCP Notice Parties, as provided in the OCP Procedures. If no objections are filed within 14 days to any such additional OCP's Declaration of Disinterestedness, then retention of such OCPs shall be deemed approved by this Court pursuant to this Order without a hearing or further order.

4. The form of declaration attached hereto as **Exhibit 1** is hereby approved.

5. Nothing contained herein shall affect the Debtors' or any appropriate party in interest's ability to dispute any invoice submitted by an OCP, and nothing contained herein shall preclude the Debtors from seeking authority to pay any OCP in an amount greater than the OCP Caps, subject to the rights of any party in interest to oppose any such request.

6. This Order shall not apply to any professional retained by the Debtors pursuant to a separate order of this Court.

7. Nothing herein shall limit or supersede any provision of the interim and final order entered by the Court in respect of the *Motion of Debtors 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* [Docket No. 24] (collectively, such interim and final orders, the "***DIP Order***"), or the terms of the DIP Documents (as defined in the DIP Order).

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

9. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion, and the requirements of the Bankruptcy Rules and the Bankruptcy Local Rules are satisfied by such notice.

10. Notwithstanding anything in the Bankruptcy Rules or Local Bankruptcy Rules to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

11. The Court retains exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: Apr 12 2024
Alexandria, Virginia

/s/ Keith L Phillips
UNITED STATES BANKRUPTCY JUDGE

Entered On Docket: Apr 12 2024

WE ASK FOR THIS:

/s/ Peter J. Barrett

Michael A. Condyles (VA 27807)

Peter J. Barrett (VA 46179)

Jeremy S. Williams (VA 77469)

KUTAK ROCK LLP

901 East Byrd Street, Suite 1000

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Proposed Co-Counsel to the Debtors and Debtors in Possession

Seen and No Objection:

/s/Nicholas S. Herron permission to affix electronic signature provided via in person on April 11, 2024 at 3:23 p.m.

Nicholas S. Herron

Office of the U.S. Trustee

200 Granby Street, Room 625

Norfolk, VA 23510

(757) 441-6012

(757) 441-3266 (fax)

nicholas.s.herron@usdoj.gov

Trustee

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/ Peter J. Barrett

EXHIBIT 1

Form Declaration of Disinterestedness

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Jessica C. Peet (admitted *pro hac vice*)
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**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) (Jointly Administered)
)
_____)

**DECLARATION OF DISINTERESTEDNESS OF [ENTITY]
PURSUANT TO THE ORDER (I) AUTHORIZING THE DEBTORS
TO RETAIN AND COMPENSATE PROFESSIONALS UTILIZED IN THE
ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF**

I, [NAME], declare under penalty of perjury:

1. I am a [POSITION] of [ENTITY], located at [STREET, CITY, STATE, ZIP CODE] (the "*Firm*").

¹ Due to the large number of Debtors in these jointly administered chapter 11 cases, 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' claims and noticing agent at www.kcellc.net/enviva. The location of the Debtors' corporate headquarters is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.

2. Enviva Inc. and certain of its affiliates, as debtors and debtors in possession (collectively, the “*Debtors*”), have requested that the Firm provide [SPECIFIC DESCRIPTION] services to the Debtors, and the Firm has consented to provide such services.

3. The Firm may have performed services in the past, may currently perform services, and may perform services in the future in matters unrelated to these chapter 11 cases for persons that are parties in interest in the Debtors’ chapter 11 cases. The Firm, however, does not perform services for any such person in connection with these chapter 11 cases, or have any relationship with any such person, their attorneys, or accountants that would be adverse to the Debtors or their estates.

4. As part of its customary practice, the Firm is retained in cases, proceedings, and transactions involving many different parties, some of whom may represent or be employed by the Debtors, claimants, and parties in interest in these chapter 11 cases.

5. Neither I nor any principal, partner, director, officer, or employee of, or professional employed by, the Firm has agreed to share or will share any portion of the compensation to be received from the Debtors with any other person other than the principal and regular employees of the Firm.

6. Neither I nor any principal, partner, director, officer, or employee of, or professional employed by the Firm, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors or their estates with respect to the matter(s) upon which the Firm is to be employed.

7. [The Debtors owe the Firm \$[] for prepetition services, the payment of which is subject to limitations contained in title 11 of the United States Code, 11 U.S.C. §§ 101–1532.]

8. As of the petition date, which was the date on which the Debtors commenced these chapter 11 cases, the Firm [was/was not] party to an agreement for indemnification with certain of the Debtors. [A copy of such agreement is attached as **Exhibit 1** to this declaration.]

9. As of the petition date, the Firm may have held a retainer, the amount of which is disclosed as the following: \$[].

10. The Firm is conducting further inquiries regarding its retention by any creditors of the Debtors, and upon conclusion of that inquiry, or at any time during the period of its employment, if the Firm should discover any facts bearing on the matters described herein, the Firm will supplement the information contained in this declaration.

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: _____

[DECLARANT'S NAME]
[POSITION, FIRM]

EXHIBIT 2-A

TIER 1 OCP LIST

Name	Services Provided	Provider Type
Womble Bond Dickinson US LLP	Legal Services – Project Development	Law Firm
Kilpatrick Townsend & Stockton LLP	Government Relations & Legal Services – Permitting	Law Firm
Butler Snow LLP	Legal Services – Project Development	Law Firm
Maynard Nexsen, PC	Legal Services – Project Development	Law Firm

EXHIBIT 2-B

TIER 2 OCP LIST

Name	Services Provided	Provider Type
Nelson Mullins Riley & Scarborough LLP	Legal Services – Commercial	Law Firm
Hunton Andrews Kurth LLP	Legal Services – Immigration & Real Estate	Law Firm
Holmes Murphy and Associates LLC	HR Brokerage Services - Benefits	Other
Meridian Compensation Partners LLC	HR Services - Compensation	Other
Fisher and Phillips LLP	Legal Services – OSHA & Safety	Law Firm
Guidepoint LLC	Government Relations	Other
Monument Policy Group LLC	Government Relations	Other
Alpine Group Partners LLC	Government Relations	Other
Hill Dickinson LLP	Legal Services – Commercial	Law Firm
Bradley Arant Boult Cummings LLP	Government Relations	Law Firm
Osha Bergman Watanabe and Burton LLP	Legal Services – Intellectual Property	Law Firm
Dentons Europe (Germany) GmbH & Co. KG	Legal Services – Employment	Law Firm
Dentons UK and Middle East LLP	Legal Services – Employment	Law Firm
Mosaic Consulting Group LLC	HR Information System Services	Other
Ogletree Deakins Nash Smoak & Stewart PC	Legal Services – Employment	Law Firm
Miller & Chevalier Chartered	Legal Services – Compliance	Law Firm

Holland & Hart LLP	Legal Services – Commercial	Law Firm
Ashley Gunn Attorney at Law PLLC	Legal Services – Project Development	Law Firm
TA Lawyers GKJ	Legal Services – Corporate	Law Firm
Kenison Dudley & Crawford LLC	Legal Services – Project Development	Law Firm
White & Case LLP	Legal Services – Commercial	Law Firm
Ramboll	Environmental Services – Project Development	Other
CBRE	Site Selection Services – Project Development	Other
Adams & Reese	Legal Services – Project Development	Law Firm
Checkmate Government Relations	Government Relations	Other