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**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) |

**DEBTORS' MOTION FOR ENTRY OF
AN ORDER (I) AUTHORIZING AND APPROVING
PROCEDURES TO REJECT OR ASSUME EXECUTORY
CONTRACTS AND UNEXPIRED LEASES, (II) APPROVING
THE FORM AND MANNER OF THE (A) REJECTION NOTICE AND
(B) ASSUMPTION NOTICE, AND (III) GRANTING RELATED RELIEF**

* Subject to pending proceedings pursuant to 11 U.S.C. § 327.

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.veritaglobal.net/enviva. The location of the Debtors' corporate headquarters is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.



The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) file this *Motion for Entry of an Order (I) Authorizing and Approving Procedures to Reject or Assume Executory Contracts and Unexpired Leases, (II) Approving the Form and Manner of the (A) Rejection Notice and (B) Assumption Notice, and (III) Granting Related Relief* (the “**Motion**”) and in support respectfully submit:

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 sections 105(a), 363, 365, and 554 of title 11 of the United States Code (the “**Bankruptcy Code**”), Bankruptcy Rules 6004, 6006, 6007, and 9014, and rules 6007-1 and 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 March 12, 2024 (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. On March 14, 2024, the Court entered an order authorizing the procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). *See* Docket No. 84. On March 25, 2024, the Office of the United States Trustee appointed an official committee of unsecured creditors (the “*Committee*”). *See Appointment of Unsecured Creditors Committee* [Docket No. 172]. No request for the appointment of a trustee or examiner has been made 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* [Docket No. 27] (the “*First Day Declaration*”), which was filed on the Petition Date, and is incorporated herein by reference.²

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

RELIEF REQUESTED

7. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “*Order*”) (a) approving procedures (as described herein, the “*Contract Procedures*”) for rejecting or assuming executory contracts and unexpired leases (each a “*Contract*,” and collectively, the “*Contracts*”), (b) approving the proposed form and manner of (i) the Rejection Notice and (ii) the Assumption Notice (each as defined herein, attached to the Order as Exhibit 1 and Exhibit 2, respectively, and each incorporated by reference herein), and (c) granting related relief.

8. The Debtors also request authority to remove or abandon personal property of the Debtors, including, without limitation, equipment, fixtures, furniture, and other personal property that may be located on, or have been installed in, leased premises that are subject to a rejected Contract after the effective date of any proposed rejection.

THE DEBTORS’ CONTRACTS AND PROPOSED CONTRACT PROCEDURES

9. The Debtors are party to approximately 800 Contracts, which include agreements with vendors for the supply of goods and services and other contracts related to the Debtors’ business, and leases with respect to real and personal property, approximately eight of which may be considered nonresidential real property leases.

10. Beginning in fall 2023, a subset of the Debtors’ management team and advisors (the “*RTB Team*”) set out to aggressively re-negotiate, or “raise the bridge” (“*RTB*”) on, the terms of the Debtors’ existing, long-term take-or-pay offtake contracts with customers in the United Kingdom, the European Union, and Japan to make the profitability metrics sufficiently sustainable for the Debtors. Since November 2023, the RTB Team has worked tirelessly to renegotiate mutually agreeable terms, where possible, with contract counterparties. In order to finalize the outcomes that were achieved by the RTB Team’s focused efforts, the Debtors propose these

procedures, in part, to facilitate the streamlined assumption (as amended through consensual negotiations with relevant counterparties) or rejection, as applicable, of multiple contracts to secure the RTB results.

11. The Debtors seek entry of the Order authorizing and approving the procedures with respect to rejection of certain Contracts (the “**Rejection Procedures**”) and assumption or assumption and assignment of certain Contracts (the “**Assumption Procedures**”), each as set forth in the Order. In addition, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Debtors request that the assignment of any Contract pursuant to the Assumption Procedures be free and clear of liens and claims.

12. The Contract Procedures will ensure that all parties in interest have sufficient access to the necessary information to preserve and protect the rights they are afforded under the Bankruptcy Code. Specifically, the Contract Procedures describe the key aspects of the assumption and rejection process, including: (a) information about the affected Contract, including (if applicable) any proposed assignee of the Contract, and any personal property intended to be abandoned; (b) information needed to file an objection to the Debtors’ proposed treatment of such Contract, the timeframe for doing so, and the implications of failing to timely file such response; (c) the consequences of failing to file such a response; and (d) the manner for resolving any objections. In addition, the proposed Rejection Notice and Assumption Notice will be served on each party to an affected Contract and provide the information necessary for such contract counterparty to protect or preserve its rights.

13. The Contract Procedures will mitigate potential costs to, and administrative burdens on, the Debtors’ estates. At the same time, the Contract Procedures will preserve contract

counterparties' rights under the Bankruptcy Code and provide adequate notice for objection to a proposed assumption (or assumption and assignment) or rejection.

BASIS FOR RELIEF

A. Rejection, Assumption, and Assignment of the Contracts is a Sound Exercise of the Debtors' Business Judgment.

14. Section 365(a) of the Bankruptcy Code provides that a debtor in possession, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). The decision to assume or reject an executory contract or unexpired lease is a matter within the "business judgment" of the debtor. *See In re Lawson*, 146 B.R. 663, 664–65 (Bankr. E.D. Va. 1992) ("The Fourth Circuit has adopted the 'business judgment' test as the appropriate standard in determining whether to permit a debtor to reject an executory contract A court will defer to a debtor's determination that rejection of a contract would be advantageous unless that decision is clearly erroneous."); *NLRB v. Bildisco & Bildisco (In re Bildisco)*, 682 F.2d 72, 79 (3d Cir. 1982) ("The usual test for rejection of an executory contract is simply whether rejection would benefit the estate, the 'business judgment' test." (citation omitted)), *aff'd*, 465 U.S. 513 (1984); *In re Orion Pictures Corp.*, 4 F.3d 1095, 1099 (2d Cir. 1993) (holding that the court should use its business judgment to determine if assumption or rejection would benefit the estate rather than ruling on underlying legal issues).

15. The business judgment standard mandates that a court approve a debtor's business decision unless the decision is the product of bad faith, whim, or caprice. *See Lubrizol Enters., Inc. v. Richmond Metal Finishers, Inc. (In re Richmond Metal Finishers, Inc.)*, 756 F.2d 1043, 1047 (4th Cir. 1985), *cert. denied*, 475 U.S. 1057 (1986) ("[The business judgment test,] as applied to a bankrupt's decision to reject an executory contract because of perceived business advantage

requires that the decision be accepted by courts unless it is shown that the bankrupt's decision was one taken in bad faith or in gross abuse of the bankrupt's retained business discretion.”).

16. The business judgment standard is satisfied when a debtor determines that assumption or rejection will benefit the estate. *See In re Trans World Airlines, Inc.*, No. 01-0056, 2001 Bankr. LEXIS 722, at*7–8 (Bankr. D. Del. Mar. 16, 2001) (noting that the standard under section 365 requires consideration of the benefit of the rejection to the debtor's estate); *In re TS Indus., Inc.*, 117 B.R. 682, 685 (Bankr. D. Utah 1990) (“[Section 365(a)] allows the debtor-in-possession to assume contracts that are beneficial to the estate and reject those that are burdensome thereby facilitating its reorganization.”); *In re Del Grosso*, 115 B.R. 136, 138 (Bankr. N.D. Ill. 1990) (applying the business judgment standard to the approval of an assumption under section 365).

17. As with the assumption or rejection of an executory contract or an unexpired lease under section 365, any amendment to an executory contract or unexpired lease that may be deemed outside the ordinary course of business is authorized under section 363 of the Bankruptcy Code when there is a “sound business purpose” that justifies such action. *See In re Borders Grp. Inc.*, 453 B.R. 477, 482 (Bankr. S.D.N.Y. 2011) (“In approving a transaction conducted pursuant to section 363(b)(1), courts consider whether the debtor exercised sound business judgment.”); *see also Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983).

18. The Debtors have determined, in their sound business judgment, that the rejection, assumption, or assumption and assignment (and any amendments thereto) of Contracts in accordance with the Contract Procedures proposed herein is and will be in the best interest of the Debtors' estates.

B. The Contract Procedures Are in the Best Interests of the Debtors' Estates.

19. The Court may also authorize the Contract Procedures under section 105(a) of the Bankruptcy Code. Section 105(a) codifies a bankruptcy court's inherent equitable powers, and allows the Court to "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). Accordingly, a bankruptcy court's exercise of its authority under section 105(a) of the Bankruptcy Code is appropriately used to carry out one of the central policies underlying chapter 11—*i.e.*, to preserve value and maximize property available to satisfy a debtor's stakeholders.

20. Establishing the Contract Procedures will streamline the administration of these chapter 11 cases and enhance the efficiency of the chapter 11 process by eliminating substantial legal expenses that would otherwise be incurred if multiple rejection, assumption, or assumption and assignment motions were filed and separate hearings were held for each. The Contract Procedures are reasonable and fair to Contract counterparties because they afford parties in interest the opportunity to be heard with respect to the rejection, assumption, or assumption and assignment of the Contracts (and any amendments to Contracts or abandonment of property related thereto).

21. The Debtors submit that the information provided on the Rejection Notices and Assumption Notices will provide the Court and interested parties with sufficient information to establish that the Debtors are entitled to make such a rejection, assumption, or assumption and assignment (and any amendments thereto) in their sound business judgment. Accordingly, the Court should approve the Contract Procedures.

22. Courts in this jurisdiction and others have entered orders granting similar relief as requested in this Motion. *See, e.g., In re Express, Inc.*, No. 24-10831 (KBO) (Bankr. D. Del. May 17, 2024) (approving procedures for the rejection or assumption of executory contracts and unexpired leases); *In re Gol Linhas Aereas Inteligentes S.A.*, No. 24-10118 (MG) (Bankr. S.D.N.Y.

March 7, 2024) (same); *In re Genesis Global Holdco, LLC*, 23-10063 (SHL) (Bankr. S.D.N.Y. Oct. 12, 2023) (approving procedures for the rejection of executory contracts and the abandonment of related assets); *In re ViewRay, Inc.*, No. 23-10935 (KBO) (Bankr. D. Del. Aug. 23, 2023) (approving procedures for the rejection of executory contract and unexpired leases); *In re PGX Holdings, Inc.* No. 23-10718 (CTG) (Bankr. D. Del. July 19, 2023) (same); *In re Paper Source, Inc.*, No. 21-30660 (KLP) (Bankr. E.D. Va. Apr. 1, 2021) (approving procedures for the rejection of executory contracts and unexpired leases, and the abandonment of property); *In re Intelsat S.A.*, No. 20-32299 (KLP) (Bankr. E.D. Va. Sept. 1, 2020) (approving procedures for the rejection or assumption of executory contracts and unexpired leases); *In re Le Tote, Inc.*, No. 20-33332 (KLP) (Bankr. E.D. Va. Aug. 28, 2020) (approving procedures for the rejection of executory contracts and unexpired leases, and the abandonment of property); *In re Ascena Retail Group, Inc.*, No. 20-33113 (KRH) (Bankr. E.D. Va. Aug. 27, 2020) (approving procedures for the rejection or assumption of executory contracts and unexpired leases); *In re Chinos Holdings, Inc.*, No. 20-32181 (KLP) (Bankr. E.D. Va. May 6, 2020) (approving procedures for the rejection of executory contracts and unexpired leases, and the abandonment of property); *In re Pier 1 Imports, Inc.*, No. 20-30805 (KRH) (Bankr. E.D. Va. Mar. 19, 2020) (approving expedited procedures for the rejection of unexpired leases); *In re Gemstone Solutions Group, Inc.*, No. 19-30258 (KLP) (Bankr. E.D. Va. Feb. 20, 2019) (same); *In re Toys “R” Us, Inc.*, No. 17-34665 (KLP) (Bankr. E.D. Va. Dec. 8, 2017) (approving procedures for rejection and assumption of executory contracts and unexpired leases).

C. The Assignment of Contracts Should be Approved Free and Clear of Interests.

23. Section 363(f) of the Bankruptcy Code permits a debtor to sell property free and clear of another party’s interest in such property if: (a) applicable nonbankruptcy law permits such a free and clear sale; (b) the holder of the interest consents; (c) the interest is a lien and the sale

price of the property exceeds the value of all liens on the property; (d) the interest is in bona fide dispute; or (e) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest. 11 U.S.C. § 363(f).

24. Executory contracts and unexpired leases are property of a debtor's estate. To the extent the Debtors assume and assign a Contract pursuant to the Assumption Procedures, such assignment is tantamount to a sale of estate property, and may be transferred free and clear of the interests in such property held by an entity other than the estate, so long as one of the criteria under section 363(f) of the Bankruptcy Code is satisfied. The Debtors propose that if a party in interest fails to timely object to an assumption and assignment consistent with the Assumption Procedures, such party shall be deemed to "consent" to such assumption and assignment within the meaning of section 363(f)(2) of the Bankruptcy Code. If a party in interest timely objects to an assumption and assignment consistent with the Assumption Procedures, and such objection is not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection; if such objection is overruled or withdrawn, the Contract(s) in question shall be assumed. The requirements of section 363(f) of the Bankruptcy Code would thus be satisfied for any proposed "transfer" of a Contract free and clear of liens, claims, encumbrances and other interests.

25. Courts in this district and others have granted similar relief. *See, e.g., In re Express, Inc.*, No. 24-10831 (KBO) (Bankr. D. Del. May 17, 2024) (authorizing the assignment of contracts and leases free and clear of liens and claims); *In re Gol Linhas Aereas Inteligentes S.A.*, No. 24-10118 (MG) (Bankr. S.D.N.Y. March 7, 2024) (same); *In re Intelsat S.A.*, No. 20-32299 (KLP) (Bankr. E.D. Va. Sept. 1, 2020) (same); *In re Pier 1 Imports, Inc.*, No. 20-30805 (KRH) (Bankr. E.D. Va. Mar. 19, 2020) (same); *In re Toys "R" Us Property Company I, LLC*, No. 18-34665

(KLP) (Bankr. E.D. Va. July 25, 2018) (same); *In re Toys “R” Us, Inc.*, No. 17-34665 (KLP) (Bankr. E.D. Va. Dec. 8, 2017) (same).

D. Abandonment by the Debtors of Personal Property is Proper Under Section 554(a).

26. With respect to the Debtors’ request for authority to abandon property, the Debtors submit that the standard set forth in section 554(a) of the Bankruptcy Code is satisfied. Section 554(a) of the Bankruptcy Code provides that a debtor in possession may abandon, subject to court approval, “property of the estate that . . . is of inconsequential value and benefit to the estate.” 11 U.S.C. § 554(a). Before authorizing abandonment of property, a Bankruptcy Court must find that either (a) the property is burdensome to the estate or (b) the property is both of inconsequential value and inconsequential benefit to the estate. *See Midlantic Nat’l Bank v. N.J. Dep’t of Env’tl. Prot.*, 474 U.S. 494, 497 (1986); *Matter of Boogaard*, 89 B.R. 397, 307 (Bankr. D. Del. 1988); *In re Pilz Compact Disc, Inc.*, 229 B.R. 630 (Bankr. E.D. Pa. 1999). The personal property proposed to be abandoned in connection with any future rejections of real property leases would primarily consist of fixtures, furniture, and other office equipment that is (a) of minimal or no material value or benefit to the Debtors’ estates and/or (b) burdensome insofar as the costs and expenses of removal and storage of such property are likely to exceed the net proceeds realizable from their sale.

E. The Contract Procedures Satisfy Due Process.

27. The counterparties to the Contracts will not be prejudiced by the Contract Procedures because, upon receipt of an Assumption Notice or a Rejection Notice, such counterparties will have received advance notice of the Debtors’ intent to reject, assume, or assume and assign their respective Contract as of the effective date of such assumption or rejection.³

³ *See e.g., In re Thane Int’l, Inc.*, 586 B.R. 540, 548 (Bankr. D. Del. 2018) (finding that the requirements of the Bankruptcy Code are meant to protect the interests of the non-debtor parties to executory contracts, so they may

Additionally, in the event that the Debtors reject any unexpired leases of nonresidential real property, the Debtors would likely turn possession of the property over to the counterparties before or upon serving the Rejection Notice.⁴

28. As a procedural matter, “[a] proceeding to assume, reject, or assign an executory contract or unexpired lease . . . is governed by Rule 9014.” Fed. R. Bankr. P. 6006(a). Bankruptcy Rule 9014 provides that “[i]n a contested matter . . . not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought.” Fed. R. Bankr. P. 9014(a). The notice and hearing requirements for contested matters in Bankruptcy Rule 9014 are satisfied if appropriate notice and an opportunity for hearing are given *in light of the particular circumstances*. See 11 U.S.C. § 102(1)(A) (defining “after notice and a hearing” or a similar phrase to mean such notice and an opportunity for hearing “as [are] appropriate in the particular circumstances”).

29. Under Bankruptcy Rule 6006(f), a debtor may join requests for authority to assume or reject multiple executory contracts or unexpired leases in one motion, subject to Bankruptcy Rule 6006(e). See Fed. R. Bankr. P. 6006(f). Bankruptcy Rule 6006(f) sets forth six requirements that motions to assume or reject multiple executory contracts or unexpired leases must satisfy.

avoid having to deal with an assumption of which they had no notice and which they had no opportunity to contest); *In re Mid Region Petrol., Inc.*, 111 B.R. 968, 970 (Bankr. N.D. Okla. 1990) (holding effective date of rejection of leases was the date the trustee gave notice to lessor of intent to reject), *aff'd*, 1 F.3d 1130 (10th Cir. 1993); *In re Carlisle Homes, Inc.*, 103 B.R. 524, 535 (Bankr. D.N.J. 1988) (finding debtor may reject executory contract by clearly communicating intention to reject).

⁴ See e.g., *Adelphia Bus. Solutions, Inc. v. Abnos*, 482 F.3d 602, 608–09 (2d Cir. 2007) (holding bankruptcy court did not abuse its discretion in finding balance of equities favored making rejection of a nonresidential lease of real property retroactive to date tenant vacated premises, as tenant’s action provided landlord with opportunity to relet premises); *In re New Valley Corp.*, No. 98-982, 2000 U.S. Dist. LEXIS 12663, at *44–46 (D.N.J. Aug. 31, 2000) (holding that bankruptcy court properly exercised its discretion in adjusting the effective date of rejection from the date the court signed the order authorizing rejection to the date on which the debtor vacated and the landlord exercised control over the property); *In re Amber’s Stores, Inc.*, 193 B.R. 819, 827 (Bankr. N.D. Tex. 1996) (holding that lease at issue should be deemed rejected as of the petition date due to equities of the case where debtor turned over keys and vacated premises and served motion to reject lease as soon as possible).

These requirements are procedural in nature. A motion to assume or reject multiple executory contracts or unexpired leases that are not between the same parties shall:

- a. state in a conspicuous place that parties receiving the omnibus motion should locate their names and their contracts or leases listed in the motion;
- b. list parties alphabetically and identify the corresponding contract or lease;
- c. specify the terms, including the curing of defaults, for each requested assumption or assignment;
- d. specify the terms, including the identity of each assignee and the adequate assurance of future performance by each assignee, for each requested assignment;
- e. be numbered consecutively with other omnibus motions to assume, assign, or reject executory contracts or unexpired leases; and
- f. be limited to no more than 100 executory contracts or unexpired leases.

Fed. R. Bankr. P. 6006(f).

30. The clear purpose of Bankruptcy Rule 6006(f), as amended, is to protect the due process rights of counterparties to the Contracts. Counterparties must be able to locate their Contracts and readily determine whether their Contracts are being assumed or rejected.

31. The Contract Procedures satisfy Bankruptcy Rule 6006(f).

32. In accordance with Bankruptcy Rule 6007(a), the Debtors will provide the U.S. Trustee and other parties in interest with the requisite notice and an opportunity to object to any proposed abandonment of property.

33. As a result, the Contract Procedures afford Contract counterparties and all other parties in interest their due process rights by providing notice and the opportunity to be heard. Moreover, court oversight is maintained in the event of an objection. For the foregoing reasons, the Contract Procedures should be approved, and the Debtors should be authorized to reject, assume, and assume and assign the Contracts consistent with the terms of such procedures.

34. In sum, the Contract Procedures will minimize costs to the Debtors' estates and reduce the burden on this Court's docket while protecting parties in interest by providing notice and the opportunity to object and obtain a hearing.

NOTICE

35. 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) Akin Gump Strauss Hauer & Feld LLP as co-counsel to the Committee; (c) Hirschler Fleischer PC as co-counsel to the Committee; (d) Davis Polk & Wardwell LLP as co-counsel to the Ad Hoc Group; (e) McGuireWoods LLP as co-counsel to the Ad Hoc Group; (f) McDermott Will & Emery LLP as counsel to the agent under the DIP Facility; (g) Cahill Gordon & Reindel LLP as counsel to the agent under the Senior Secured Credit Facility; (h) Kilpatrick Townsend & Stockton LLP as counsel to the indenture trustee under the 2026 Notes; (i) Kramer Levin Naftalis & Frankel LLP as counsel to the indenture trustees under the Bond Green Bonds and the Epes Green Bonds; (j) those persons who have formally appeared in these chapter 11 cases and requested service pursuant to Bankruptcy Rule 2002; (k) the United States Attorney's Office for the Eastern District of Virginia; (l) the Securities and Exchange Commission; (m) the Internal Revenue Service; and (n) all applicable government agencies or other parties to the extent required by the Bankruptcy Rules or the Local Rules (collectively, the "*Notice Parties*").

36. In light of the nature of the relief requested in this Motion, the Debtors submit that no further notice is necessary.

NO PRIOR REQUEST

37. No prior request for the relief sought in this Motion has been made to this or any other court.

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

Richmond, Virginia
Dated: June 27, 2024

/s/ Jeremy S. Williams

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*Proposed counsel to the Debtors and Debtors in Possession**

* Subject to pending proceedings pursuant to 11 U.S.C. § 327.

Exhibit A

Proposed Order

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**”), (i) authorizing and approving procedures for rejecting or assuming executory contracts and unexpired leases, (ii) approving the form and manner of the (a) Rejection Notice and the (b) Assumption Notice, and (iii) granting related relief, all as more fully set forth in the Motion; and the Court having 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; 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 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’ estates, their creditors, and other parties in interest; and the Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; 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 (the “**Hearing**”); and the 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 upon all of the proceedings had before the Court; 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 following procedures (the “**Rejection Procedures**”) are approved in connection with rejecting Contracts:

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

- a. **Rejection Notice.** The Debtors shall file a notice substantially in the form attached hereto as **Exhibit 1** (the “**Rejection Notice**”) to reject a Contract or Contracts pursuant to section 365 of the Bankruptcy Code, which Rejection Notice shall set forth, among other things: (i) the Contract or Contracts to be rejected; (ii) the names and addresses of the counterparties to such Contracts (in alphabetical order); (iii) the effective date of the rejection for each such Contract (the “**Rejection Date**”); (iv) if any such Contract is a lease, the personal property to be abandoned, if any, and if practicable an estimate of the book value of such property (the “**Abandoned Property**”); and (v) the deadlines and procedures for filing objections to the Rejection Notice (as set forth below). The Rejection Notice may list multiple Contracts; *provided* that the number of counterparties to Contracts listed on the Rejection Notice shall be limited to no more than 100.

- b. **Service of Rejection Notice.** The Debtors will cause the Rejection Notice to be served (i) by overnight delivery service and email, where available, upon the Contract counterparties affected by the Rejection Notice at the notice address provided in the applicable Contract (and their counsel, if known) and all parties who may have any interest in any Abandoned Property, and (ii) by first class mail, email, or fax upon: (a) the Office of the United States Trustee for the Eastern District of Virginia (the “**U.S. Trustee**”), (b) Akin Gump Straus Hauer & Feld LLP and Hirschler Fleischer, P.C. as co-counsel for the Official Committee of Unsecured Creditors (the “**Creditors’ Committee**”), (c) Davis Polk & Wardwell LLP and McGuireWoods LLP as co-counsel to the Ad Hoc Group, and (d) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the “**Service Parties**”).

- c. **Objection Procedures.** Parties objecting to a proposed rejection must file and serve a written objection so that such objection is filed with the Court and **actually received** by the following parties (collectively, the “**Objection Service Parties**”) no later than 14 days after the date the Debtors serve the applicable Rejection Notice (the “**Rejection Objection Deadline**”): (i) the Debtors, Enviva Inc., 7272 Wisconsin Avenue, 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), and 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, 1021 East Cary Street, Suite 810, Richmond, Virginia 23219, Attn: Peter J. Barrett (peter.barrett@kutakrock.com), Jeremy S. Williams (jeremy.williams@kutakrock.com) and Adolyn C. Wyatt (adolyn.wyatt@kutakrock.com); (iii) co-counsel to the Ad Hoc Group, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 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) co-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 Hirschler Fleischer, P.C. 1676 International Drive, Suite 1350, Tysons, Virginia 22102, Attn: Lawrence A. Katz (lkatz@hirschlerlaw.com) and Kristen E. Burgers (kburgers@hirschlerlaw.com); and (v) the U.S. Trustee, 200 Granby Street, Room 625, Norfolk, Virginia, 23510 Attn: Nicholas S. Herron (nicholas.s.herron@usdoj.gov) and Kenneth N. Whitehurst (kenneth.n.whitehurst@usdoj.gov).

- d. ***No Objection.*** If no objection to the rejection of any Contract is timely filed, each Contract listed in the applicable Rejection Notice shall be rejected as of (a) the applicable Rejection Date set forth in the Rejection Notice, (b) such other date as the Debtors and the counterparty or counterparties to such Contract(s) agree, or (c) such other date as the Court may so order.
- e. ***Unresolved Objections.*** If an objection to the rejection of any Contract(s) listed in the applicable Rejection Notice is timely filed and not withdrawn or consensually resolved, the Debtors shall file a notice for a hearing to be held on not less than 14 days' notice to the applicable Contract counterparty and the objecting party to consider the objection for the Contract(s) to which such objection relates. The Debtors may adjourn the hearing to a later date from time to time upon filing an amended notice of hearing. If such objection is overruled or withdrawn, such Contract(s) shall be rejected as of (a) the applicable Rejection Date set forth in the Rejection Notice, (b) such other date as the Debtors and the counterparty or counterparties to such Contract(s) agree, or (c) such other date as the Court may so order.
- f. ***No Application of Security Deposits.*** If the Debtors have deposited monies with a Contract counterparty as a security deposit or other arrangement, such Contract counterparty may not set off, recoup, or otherwise use such monies without further order of the Court, unless the Debtors and the counterparty or counterparties to such Contract(s) otherwise agree.
- g. ***Abandoned Property.*** The Debtors are authorized, but not directed, at any time on or before the applicable Rejection Date, to remove or abandon any of the Debtors' personal property that may be located on the Debtors' leased premises that are subject to a rejected Contract. If the Debtors decide to abandon any personal property, the Debtors shall generally describe the

abandoned personal property in the Rejection Notice. Absent a timely objection, the property will be deemed abandoned pursuant to section 554 of the Bankruptcy Code, as is, effective as of the Rejection Date.

- h. ***Proofs of Claim.*** Pursuant to the *Order (I) Establishing Bar Dates and Procedures and (II) Approving the Form and Manner of Notice Thereof* [Docket No. 321], subject to certain exceptions, all proofs of claim against the Debtors in these chapter 11 cases must have been filed with Verita Global, the Debtors' claims and noticing agent,³ by June 14, 2024. Proofs of claim with respect to Claims, if any, arising out of the rejection of a Contract pursuant to these Rejection Procedures, must be filed before 5:00 p.m., Prevailing Eastern Time, on the date that is 30 days after the effective date of the rejection of such Contract. If no such proof of claim is timely filed, such claimant shall be forever barred from asserting a claim for damages arising from the rejection and from participating in any distributions on such a claim that may be made in connection with these chapter 11 cases.

3. The following procedures (the "***Assumption Procedures***") are approved in connection with assuming and assigning Contracts:

- a. ***Assumption Notice.*** The Debtors shall file a notice substantially in the form attached hereto as **Exhibit 2** (the "***Assumption Notice***") to assume a Contract or Contracts pursuant to section 365 of the Bankruptcy Code, which shall set forth, among other things: (i) the Contract or Contracts to be assumed; (ii) the names and addresses of the counterparties to such Contracts; (iii) the identity of the proposed assignee of such Contracts (the "***Assignee***"), if applicable; (iv) the effective date of the assumption for each such Contract (the "***Assumption Date***"); (v) the proposed cure amount, if any for each such Contract; (vi) a general description of any material amendments to the Contract made outside of the ordinary course of business; and (vii) the deadlines and procedures for filing objections to the Assumption Notice (as set forth below). The Assumption Notice may list multiple Contracts; *provided* that the number of counterparties to Contracts listed on the Assumption Notice shall be limited to no more than 100.
- b. ***Service of Assumption Notice and Evidence of Adequate Assurance.*** The Debtors will cause the Assumption Notice to be served (i) by overnight delivery service (or email, where available) upon the Contract counterparties affected by the Assumption Notice at the address set forth in

³ Kurtzman Carson Consultants LLC has rebranded as Verita Global.

the notice provision of the applicable Contract (and their counsel, if known) and (ii) by first class mail, email, or fax upon the Service Parties.⁴

- c. **Objection Procedures.** Parties objecting to a proposed assumption and assignment, as applicable, must file and serve a written objection so that such objection is filed with the Court and *actually received* by the Objection Service Parties no later than 14 days after the date the Debtors serve the relevant Assumption Notice (the “**Assumption Objection Deadline**”).
- d. **No Objection.** If no objection to the assumption of any Contract is timely filed, each Contract shall be assumed as of (a) the Assumption Date set forth in the applicable Assumption Notice, (b) such other date as the Debtors and the counterparty or counterparties to such Contract(s) agree, or (c) such other date as the Court may order and the proposed cure amount shall be binding on all counterparties to such Contract and no amount in excess thereof shall be paid for cure purposes.
- e. **Unresolved Objections.** If an objection to the assumption of any Contract(s) is timely filed and not withdrawn or consensually resolved, the Debtors shall file a notice for a hearing to be held on not less than 14 days’ notice to the applicable Contract counterparty to consider the objection for the Contract(s) to which such objection relates. The Debtors may adjourn the hearing to a later date from time to time upon filing an amended notice of hearing. If such objection is overruled or withdrawn, such Contract(s) shall be assumed as of (a) the Assumption Date set forth in the applicable Assumption Notice, (b) such other date as the Debtors and the counterparty or counterparties to such Contract(s) agree, or (c) such other date as the Court may order.

4. The Rejection Notice, substantially in the form attached hereto as **Exhibit 1**, but which may be modified from time to time, as necessary and appropriate, to address issues specific to particular Contracts, is hereby approved as the form by which the Debtors shall provide notice to parties whose Contracts are the subject of an applicable rejection.

5. The Assumption Notice, substantially in the form attached hereto as **Exhibit 2**, but which may be modified from time to time, as necessary and appropriate, to address issues specific to particular Contracts, is hereby approved as the form by which the Debtors shall provide notice

⁴ The Debtors shall serve a counterparty to a Contract to be assumed under the Contract Procedures with evidence of adequate assurance upon such counterparty’s written request to the Debtors’ counsel.

to parties whose Contracts are the subject of an applicable assumption or assumption and assignment.

6. With regard to Contracts to be assigned, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the assignment of any Contract shall: (a) be free and clear of (i) all liens (and any liens shall attach to the proceeds in the same order and priority subject to all existing defenses, claims, setoffs, and rights) and (ii) any and all claims (as that term is defined in section 101(5) of the Bankruptcy Code), obligations, demands, guarantees of or by the Debtors, debts, rights, contractual commitments, restrictions, interests, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of these chapter 11 cases, and whether imposed by agreement, understanding, law, equity, or otherwise (including, without limitation, claims, and encumbrances that purport to give to any party a right or option to effect any forfeiture, modification, or termination of the interest of any Debtor or Assignee, as the case may be, in the Contract(s) (but only in connection with the assignment by the Debtor to the Assignee)), and (b) constitutes a legal, valid, and effective transfer of such Contract(s) and vests the applicable Assignee with all rights, titles, and interests to the applicable Contract(s). For the avoidance of doubt, all provisions of the applicable assigned Contract, including any provision limiting assignment, shall be binding on the applicable Assignee.

7. Subject to the other provisions of this Order and the Assumption Procedures, the Debtors are hereby authorized in accordance with sections 365(b) and (f) of the Bankruptcy Code to (a) assume and assign to any Assignee the applicable Contracts with any applicable Assignee being responsible only for the post-assignment liabilities or defaults under the applicable Contracts except as otherwise provided for in this Order and (b) execute and deliver to any applicable

Assignee such assignment documents as may be reasonably necessary to sell, assign, and transfer any such Contract.

8. To the maximum extent permitted by law, to the extent that any provision in any executory contract or unexpired lease assumed or assumed and assigned by the Debtors restricts or prevents, or purports to restrict or prevent, or is breached or deemed breached by, the assumption or assumption and assignment of such executory contract or unexpired lease (including any “change of control” provision), then such provision shall be deemed modified such that the transactions contemplated by the Contract Procedures, this Order and any further order of the Court shall not entitle the non-Debtor party thereto to terminate such executory contract or unexpired lease or to exercise any other default-related rights with respect thereto.

9. Approval of the Contract Procedures and this Order does not prevent the Debtors from seeking to reject or assume a Contract by separate motion.

10. The 14-day stay required of any assignment of any Contract pursuant to Bankruptcy Rule 6006(d) is hereby waived.

11. All rights and defenses of the Debtors are preserved, including all rights and defenses of the Debtors with respect to a claim for damages arising as a result of a Contract rejection, including any right to assert an offset, recoupment, counterclaim, or deduction. In addition, nothing in this Order or the Motion shall limit the Debtors’ ability to subsequently assert that any particular Contract is expired or terminated and is no longer an executory contract or unexpired lease, respectively.

12. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief (including any payment made in accordance therewith), nothing in this Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against the

Debtors under the Bankruptcy Code, any foreign bankruptcy or insolvency law, 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 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 this Order or the Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, priority, amount, or perfection or seek avoidance of all such liens.

13. Notwithstanding the relief granted in this Order, all authorizations herein and all payments and actions pursuant hereto shall be subject to the *Final Order (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. 457] (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.

14. Notwithstanding the relief granted herein or any action taken hereunder, nothing contained in this Order shall create any rights in favor of or enhance the status of any claim held by any party in interest.

15. 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.

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

17. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order.

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

Dated: _____
Alexandria, Virginia

United States Bankruptcy Judge

WE ASK FOR THIS:

/s/ Jeremy S. Williams

Michael A. Condyles (VA 27807)

Peter J. Barrett (VA 46179)

Jeremy S. Williams (VA 77469)

KUTAK ROCK LLP

1021 East Cary Street, Suite 810

Richmond, Virginia 23219-0020

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- and -

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Trammell Crow Center

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Facsimile: (214) 220-7716

Co-Counsel and 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/ Jeremy S. Williams

Exhibit 1

Proposed Rejection Notice

Adolyn C. Wyatt (adolyn.wyatt@kutakrock.com); (c) co-counsel to the Ad Hoc Group, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 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); (d) co-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 Hirschler Fleischer, P.C. 1676 International Drive, Suite 1350, Tysons, Virginia 22102, Attn: Lawrence A. Katz (lkatz@hirschlerlaw.com) and Kristen E. Burgers (kburgers@hirschlerlaw.com); and (e) the Office of the United States Trustee for the Eastern District of Virginia, 200 Granby Street, Room 625, Norfolk, Virginia, 23510 Attn: Nicholas S. Herron (nicholas.s.herron@usdoj.gov) and Kenneth N. Whitehurst (kenneth.n.whitehurst@usdoj.gov). Only those responses that are timely filed, served, and received will be considered at the hearing.

PLEASE TAKE FURTHER NOTICE that, absent a timely objection, the rejection of each Contract shall become effective on (a) the Rejection Date set forth in **Schedule 2**, (b) such other date as the Debtors and the counterparty or counterparties to such Contract(s) agree, or (c) such other date as the Court may order.³

PLEASE TAKE FURTHER NOTICE that, if an objection to the rejection of any Contract is timely filed and not withdrawn or consensually resolved, the Debtors shall file a notice for a hearing to be held on not less than 14 days' notice to the applicable Contract counterparty to consider the objection for the Contract(s) to which such objection relates. If such objection is overruled or withdrawn, such Contract or Contracts shall be rejected as of (a) the Rejection Date set forth in **Schedule 2**, (b) such other date as the Debtors and the counterparty or counterparties to such Contract(s) agree, or (c) such other date as the Court may order.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Procedures Order, if the Debtors have deposited monies with a Contract counterparty as a security deposit or other arrangement, the Contract counterparty may not set off or recoup or otherwise use such monies without further order of the Court, unless the Debtors and the counterparty or counterparties to such Contracts otherwise agree.

PLEASE TAKE FURTHER NOTICE that, absent timely objection, any personal property of the Debtors that is listed and described in **Schedule 2** shall be deemed abandoned as of the Rejection Date.

³ An objection to the rejection of any particular Contract listed in this Rejection Notice shall not constitute an objection to the rejection of any other Contract listed in this Rejection Notice. Any objection to the rejection of any particular Contract listed in this Rejection Notice must state with specificity the Contract to which it is directed. For each particular Contract whose rejection is not timely or properly objected to, such rejection will be effective in accordance with this Rejection Notice and the Order.

PLEASE TAKE FURTHER NOTICE that, to the extent you wish to assert a claim(s) with respect to the rejection of your Contract(s) pursuant to the Rejection Procedures, you must do so by 5:00 p.m., prevailing Eastern Time, on the date that is 30 days after the effective date of the rejection of your Contract(s). **IF YOU FAIL TO TIMELY SUBMIT A PROOF OF CLAIM IN THE APPROPRIATE FORM BY THE DEADLINE SET FORTH HEREIN, YOU WILL BE, FOREVER BARRED, ESTOPPED, AND ENJOINED FROM (1) ASSERTING SUCH CLAIM AGAINST ANY OF THE DEBTORS AND THEIR CHAPTER 11 ESTATES, (2) VOTING ON ANY CHAPTER 11 PLAN FILED IN THESE CASES ON ACCOUNT OF SUCH CLAIM, AND (3) PARTICIPATING IN ANY DISTRIBUTION IN THE DEBTORS' CHAPTER 11 CASES ON ACCOUNT OF SUCH CLAIM.**

[Remainder of page intentionally left blank]

Richmond, Virginia
Dated: June 27, 2024

/s/ Jeremy S. Williams

Michael A. Condyles (VA 27807)
Peter J. Barrett (VA 46179)
Jeremy S. Williams (VA 77469)
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*Proposed counsel to the Debtors and Debtors in Possession**

* Subject to pending proceedings pursuant to 11 U.S.C. § 327.

Schedule 1

Procedures Order

Schedule 2

Rejected Contracts

| Counterparty | Debtor Counterparty | Description of Contract¹ | Abandoned Personal Property | Rejection Date |
|---------------------|----------------------------|--|------------------------------------|-----------------------|
| | | | | |
| | | | | |

¹ The inclusion of a Contract on this list does not constitute an admission as to the executory or non-executory nature of the Contract, or as to the existence or validity of any claims held by the counterparty or counterparties to such Contract.

Exhibit 2

Proposed Assumption Notice

**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) |
| |) | |

**NOTICE OF ASSUMPTION OF CERTAIN
EXECUTORY CONTRACTS AND/OR UNEXPIRED LEASES**

PLEASE TAKE NOTICE that on [●], 2024, the United States Bankruptcy Court for the Eastern District of Virginia (the “*Court*”) entered an order on the motion (the “*Motion*”) ² of debtors and debtors in possession (the “*Debtors*”), pursuant to Sections 105(a), 363, 365, and 554 of the Bankruptcy Code and Bankruptcy Rule 6006 approving expedited procedures for the rejection, assumption, or assumption and assignment of executory contracts and unexpired leases and granting related relief [Docket No. [●]] (the “*Procedures Order*”) attached hereto as **Schedule 1**.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Procedures Order and by this written notice (this “*Assumption Notice*”), the Debtors hereby notify you that they have determined, in the exercise of their business judgment, that each Contract set forth on **Schedule 2** attached hereto is hereby assumed or assumed and assigned effective as of the date (the “*Assumption Date*”) set forth in **Schedule 2**.

PLEASE TAKE FURTHER NOTICE that, the [Debtor/Assignee], has the financial wherewithal to meet all future obligations under the Contract, which may be evidenced upon written request by the counterparty to the Contract, thereby demonstrating that the Debtor or Assignee has the ability to comply with the requirements of adequate assurance of future performance.³

PLEASE TAKE FURTHER NOTICE that, parties seeking to object to the proposed assumption or assumption and assignment of any of the Contracts must file and serve a written

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.veritaglobal.net/enviva. The location of the Debtors’ corporate headquarters is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.

² Capitalized terms used in this Notice and not immediately defined have the meanings given to such terms in the Motion.

³ The Debtors shall serve the counterparty to the Contract with evidence of adequate assurance upon such counterparty’s written request to Debtors’ counsel.

objection so that such objection is filed with the Court and is *actually received* no later than 14 days after the date that the Debtors served this Notice by the following parties: (a) the Debtors, Enviva Inc., 7272 Wisconsin Avenue, Suite 1800, Bethesda, Maryland 20814, Attn: Jason E. Paral (jason.paral@envivabiomass.com); (b) 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), and 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, 1021 East Cary Street, Suite 810, Richmond, Virginia 23219, Attn: Peter J. Barrett (peter.barrett@kutakrock.com), Jeremy S. Williams (jeremy.williams@kutakrock.com), and Adolyn C. Wyatt (adolyn.wyatt@kutakrock.com); (c) co-counsel to the Ad Hoc Group, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 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); (d) 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 (e) the Office of the United States Trustee for the Eastern District of Virginia, 200 Granby Street, Room 625, Norfolk, Virginia, 23510 Attn: Nicholas S. Herron (nicholas.s.herron@usdoj.gov) and Kenneth N. Whitehurst (kenneth.n.whitehurst@usdoj.gov). Only those responses that are timely filed, served, and received will be considered at the hearing.

PLEASE TAKE FURTHER NOTICE that, absent an objection being timely filed, the assumption or assumption and assignment of each Contract shall become effective on (a) the Assumption Date set forth in **Schedule 2**, (b) such other date as the Debtors and the counterparty or counterparties to such Contract agree, or (c) such other date as the Court may order.⁴

PLEASE TAKE FURTHER NOTICE that, if an objection to the assumption of any Contract(s) is timely filed and not withdrawn or consensually resolved, the Debtors shall file a notice for a hearing to be held on not less than 14 days' notice to the applicable Contract counterparty to consider the objection for such Contract(s). If such objection is overruled or withdrawn, such Contract(s) shall be assumed as of (a) the Assumption Date set forth in **Schedule 2**, (b) such other date as the Debtors and the counterparty or counterparties to such Contract agree, or (c) such other date as the Court may order.

⁴ An objection to the assumption of any particular Contract listed in this Assumption Notice shall not constitute an objection to the assumption of any other Contract listed in this Assumption Notice. Any objection to the assumption of any particular Contract listed in this Assumption Notice must state with specificity the Contract to which it is directed. For each particular Contract whose assumption is not timely or properly objected to, such assumption will be effective in accordance with this Assumption Notice and the Procedures Order.

Richmond, Virginia
Dated: June 27, 2024

/s/ Jeremy S. Williams

Michael A. Condyles (VA 27807)
Peter J. Barrett (VA 46179)
Jeremy S. Williams (VA 77469)
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*Proposed counsel to the Debtors and Debtors in Possession**

* Subject to pending proceedings pursuant to 11 U.S.C. § 327.

Schedule 1

Procedures Order

Schedule 2

Assumed Contracts

| Counterparty | Debtor Counterparty | Description of Contract¹ | Cure Amount | Assumption Date |
|---------------------|----------------------------|--|--------------------|------------------------|
| | | | | |
| | | | | |

¹ The inclusion of a Contract on this list does not constitute an admission as to the executory or non-executory nature of the Contract, or as to the existence or validity of any claims held by the counterparty or counterparties to such Contract.