

KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
Anup Sathy, P.C. (*pro hac vice* pending)
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
anup.sathy@kirkland.com

-and-

Matthew C. Fagen, P.C. (*pro hac vice* pending)
Francis Petrie (*pro hac vice* pending)
Evan Swager (*pro hac vice* pending)
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
matthew.fagen@kirkland.com
francis.petrie@kirkland.com
evan.swager@kirkland.com

Proposed Co-Counsel to the Debtors and Debtors in Possession

COLE SCHOTZ P.C.
Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Felice R. Yudkin, Esq.
Jacob S. Frumkin, Esq.
Court Plaza North, 25 Main Street
Hackensack, New Jersey 07601
Telephone: (201) 489-3000
msirota@coleschotz.com
wusatine@coleschotz.com
fyudkin@coleschotz.com
jfrumkin@coleschotz.com

Proposed Co-Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

THRASIO HOLDINGS, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11840 (CMG)

(Joint Administration Requested)

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

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

¹ The last four digits of Debtor Thrasio Holdings, Inc.'s tax identification number are 8327. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://www.kccllc.net/Thrasio>. The Debtors' service address for purposes of these chapter 11 cases is 85 West Street, 3rd Floor, Walpole, MA, 02081.



The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state the following in support of this application (this “Application”):²

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”), authorizing the Debtors to appoint Kurtzman Carson Consultants LLC (“KCC”) as the claims and noticing agent (the “Claims and Noticing Agent”) in the Debtors’ chapter 11 cases effective as of the Petition Date pursuant to the terms and conditions of that certain services agreement dated October 12, 2023 and the amendment thereto dated February 14, 2024, by and between the Debtors and KCC (collectively, the “Services Agreement”) attached to the Order as Exhibit 1. In support of this Application, the Debtors submit the Declaration of Evan J. Gershbein, Executive Vice President of KCC (the “Gershbein Declaration”), attached hereto as **Exhibit B**.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the District of New Jersey (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11*, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.). The Debtors confirm their consent to the Court entering a final order in connection with this Application 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 A description of the Debtors and their businesses, and the facts and circumstances supporting this Application and the Debtors’ chapter 11 cases, are set forth in greater detail in the *Declaration of Josh Burke, Chief Financial Officer of Thrasio Holdings, Inc., in Support of First Day Motions* (the “First Day Declaration”), filed contemporaneously with the Debtors’ voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), on February 28, 2024 (the “Petition Date”). Capitalized terms used but not otherwise defined in this Application shall have the meanings ascribed to them in the First Day Declaration.

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

4. The bases for the relief requested herein are section 156(c) of Title 28 of the United States Code, 28 U.S.C. §§ 1–5001, section 105(a) of the Bankruptcy Code, and rule 2002(f) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Background

5. On the Petition Date, the Debtors filed a motion requesting joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). The Debtors are operating their business and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases and no official committees have been appointed or designated.

KCC’s Qualifications

6. KCC is a leading chapter 11 administrator and is comprised of industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. KCC has acted as official claims and noticing agent in many large bankruptcy cases in this district and others. *See, e.g., In re Invitae Corp.*, No. 24-11362 (MBK) (Bankr. D.N.J. Feb. 16, 2024) (authorizing the employment and retention of KCC as debtors’ claims and noticing agent); *In re Cyxtera Techs., Inc.*, No. 23-14853 (JKS) (Bankr. D.N.J. June 6, 2023) (same); *In re Cloudeeva, Inc.*, No. 14-24874 (KCF) (Bankr. D.N.J. July 24, 2014) (same); *In re RIH Acquisitions NJ, LLC*, No. 13-34483 (GMB) (Bankr. D.N.J. Nov. 8, 2013) (same); *In re Wave2Wave Comms., Inc.*, No. 12-13896 (DHS) (Bankr. D.N.J. Mar. 29, 2012) (same); *In re the Newark Group, Inc.*, No. 10-27694 (NLW) (Bankr. D.N.J. June 6, 2010) (same); *In re Adamar of New Jersey, Inc.*, No. 09-20711 (JHW) (Bankr. D.N.J. May 1, 2009) (same); *In re Tarragon Corp.*, No. 09-10555 (DHS) (Bankr. D.N.J. Jan. 19, 2009) (same); *In re Avaya Inc.*, No. 23-90088 (DRJ) (Bankr. S.D. Tex. Feb. 14, 2023) (same); *In re Carestream Health, Inc.*,

No. 22-10778 (JKS) (Bankr. D. Del. Aug. 24, 2022) (same); *In re First Guaranty Mortgage Corp.*, No. 22-10584 (CTG) (Bankr. D. Del. July 1, 2022) (same); *In re Philippine Airlines, Inc.*, No. 21-11569 (SCC) (Bankr. S.D.N.Y. Sept. 9, 2021) (same); *In re Superior Energy Services, Inc.*, No. 20-35812 (DRJ) (Bankr. S.D. Tex. Dec. 8, 2020) (same); *In re Oasis Petrol, Inc.*, No. 20-34771 (MI) (Bankr. S.D. Tex. Sept. 8, 2020) (same); *In re Briggs & Stratton Corp.*, No. 20-43597-399 (BSS) (Bankr. E.D. Mo. Aug. 20, 2020) (same); *In re Hi-Crush Inc.*, No. 20-33495 (DRJ) (Bankr. S.D. Tex. July 13, 2020) (same); *In re Extraction Oil & Gas, Inc.*, No. 20-11548 (CSS) (Bankr. D. Del. June 16, 2020) (same); *In re Skillsoft Corp.*, No. 20-11532 (MFW) (Bankr. D. Del. June 16, 2020) (same); *In re Avianca Holdings S.A.*, No. 20-11133 (MG) (Bankr. S.D.N.Y. May 13, 2020) (same); *In re Speedcast Int'l Ltd.*, No. 20-32243 (MI) (Bankr. S.D. Tex. Apr. 24, 2020) (same); *In re the McClatchy Co.*, No. 20-10418 (MEW) (Bankr. S.D.N.Y. Feb. 14, 2020) (same); *In re Halcon Res. Corp.*, No. 19-34446 (DRJ) (Bankr. S.D. Tex. Aug. 7, 2019) (same); *In re Legacy Reserves Inc.*, No. 19-33395 (MI) (Bankr. S.D. Tex. June 6, 2019) (same); *In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. Feb. 28, 2019) (same); *In re Waypoint Leasing Holdings Ltd.*, No. 18-13648 (SMB) (Bankr. S.D.N.Y. Nov. 27, 2018) (same); *In re ATD Corp.*, No. 18-12221 (KJC) (Bankr. D. Del. Oct. 5, 2018) (same).

7. Appointing KCC as the Claims and Noticing Agent in these chapter 11 cases will expedite and maximize the efficiency of the distribution of notices and the processing of claims, as well as relieve the Office of the Clerk of the Bankruptcy Court of the District of New Jersey (the “Clerk”) of the administrative burden of processing an overwhelming number of claims. The Debtors submit that KCC’s rates are competitive and reasonable given KCC’s quality of services and expertise. The terms of KCC’s engagement are set forth in the Services Agreement.

Services to Be Provided by KCC

8. This Application pertains only to the work to be performed by KCC under the Clerk's delegation of duties as permitted by 28 U.S.C. § 156(c). Any work to be performed by KCC outside of this scope is not covered by this Application or by any order of the Court granting approval hereof.³

9. Subject to the Court's approval, at the request of the Debtors, and to the extent necessary, KCC will perform the following tasks in its role as the Claims and Noticing Agent in these chapter 11 cases (collectively, the "Claims and Noticing Services"), as well as all quality control relating thereto:

- (a) preparing and serving required notices and documents in these chapter 11 cases in accordance with the Bankruptcy Code and the Bankruptcy Rules in the form and manner directed by the Debtors or the Court, including, without limitation: (i) notice of the commencement of these chapter 11 cases and the initial meeting of creditors under section 341(a) of the Bankruptcy Code (if any); (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' chapter 11 plan or plans, 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 the Court may deem necessary or appropriate for an orderly administration of these chapter 11 cases;
- (b) if necessary, maintaining an official copy of the Debtors' schedules of assets and liabilities and statements of financial affairs (collectively, the "Schedules"), listing the Debtors' known creditors and the amounts owed thereto;
- (c) maintaining a (i) list of all potential creditors, equity holders, and other parties in interest and (ii) "core" service list consisting of all parties described in Bankruptcy Rule 2002(i), (j), and (k), and those

³ As noted herein, the Debtors plan to seek authorization to retain and employ KCC as administrative advisor in these chapter 11 cases by separate application pursuant to section 327(a) of the Bankruptcy Code because the administration of these chapter 11 cases will require KCC to perform duties outside the scope of 28 U.S.C. § 156(c).

parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010, and updating said lists and making said lists available upon request by a party-in-interest or the Clerk;

- (d) furnishing a notice to all potential creditors of the last date for filing proofs of claim and a form for filing a proof of claim, after such notice and form are approved by the Court, and notifying such potential creditors of the existence, amount and classification of their respective claims as set forth in the Schedules, which may be effected 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) maintaining a post office box or address for the purpose of receiving claims and returned mail, and processing all mail received;
- (f) for all notices, motions, orders, or other pleadings or documents served, preparing and filing, or causing 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 number(s) and title(s) of the pleading(s) served; (ii) a list of persons to whom it was served (in alphabetical order) with their mailing or email addresses as appropriate; (iii) the manner of service; and (iv) the date served;
- (g) processing all proofs of claim received, including those received by the Clerk, checking said processing for accuracy, and maintaining the original proofs of claim in a secure area;
- (h) providing an electronic interface for filing proofs of claim;
- (i) maintaining the official claims register for each Debtor (collectively, the “Claims Registers”) on behalf of the Clerk on a case specific website, and, upon the Clerk’s request, providing the Clerk with certified, duplicate unofficial Claims Registers;
- (j) specifying 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) the amount asserted; (v) the asserted classification(s) of the claim (*e.g.*, secured, unsecured, priority, etc.); (vi) the applicable Debtor; and (vii) any disposition of the claim;
- (k) providing public access to the Claims Registers, including complete proofs of claim with attachments, if any, without charge;

- (l) implementing necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;
- (m) recording all transfers of claims and providing any notices of such transfers, as required by Bankruptcy Rule 3001(e);
- (n) relocating, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of KCC, not less than weekly;
- (o) upon completion of the docketing process for all claims received to date for each case, turning over to the Clerk copies of the Claims Registers for the Clerk's review (upon the Clerk's request);
- (p) monitoring the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and making necessary notations on or changes to the Claims Registers and any service or mailing lists, including to identify and eliminate duplicative names and addresses from such lists;
- (q) monitoring the Court's docket in these chapter 11 cases, and, when filings are made in error or contain errors, alerting the filing party of such error and work with them to correct any such error;
- (r) assisting in the dissemination of information to the public and responding 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 or call center;
- (s) if these chapter 11 cases are converted to cases under chapter 7 of the Bankruptcy Code, contacting the Clerk's office within three (3) days of KCC receiving notice to KCC of entry of the order converting the cases;
- (t) thirty (30) days prior to the close of these chapter 11 cases, to the extent practicable, requesting that the Debtors submit to the Court a proposed order dismissing KCC as Claims and Noticing Agent and terminating its services in such capacity upon completion of its duties and responsibilities and upon the closing of these chapter 11 cases;
- (u) within seven (7) days of notice to KCC of entry of an order closing these chapter 11 cases, providing to the Court the final version of the Claims Registers as of the date immediately before the close of the chapter 11 cases; and
- (v) at the close of these chapter 11 cases: (i) boxing and transporting all original documents, in proper format, as provided by the Clerk,

to (1) the Philadelphia Federal Records Center, located at 14700 Townsend Road, Philadelphia, PA 19154, or (2) any other location requested by the Clerk.

10. The Claims Registers shall be open to the public for examination without charge during regular business hours and on a case-specific website maintained by KCC.

Professional Compensation

11. The Debtors respectfully request that the undisputed fees and expenses incurred by KCC in the performance of the Claims and Noticing Services in accordance with the terms of the Services Agreement be treated as administrative expenses of the Debtors' chapter 11 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.

12. KCC agrees to maintain records of all services showing dates, categories of services, fees charged, and expenses incurred. KCC further agrees to serve monthly invoices on (a) the Debtors, (b) the Office of the United States Trustee for the District of New Jersey (the "U.S. Trustee"), (c) counsel for the Debtors, (d) counsel for any official committee appointed to monitor the expenses of the Debtors in these chapter 11 cases, and (e) any other party-in-interest that specifically requests service of the monthly invoices. If any dispute arises relating to the Services Agreement or KCC's monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute. If a resolution is not achieved, the parties may seek resolution of the matter from the Court.

13. Prior to the Petition Date, the Debtors provided KCC a retainer in the amount of \$100,000. KCC seeks to first apply the retainer to all prepetition invoices, and, thereafter, to have the retainer replenished to the original retainer amount, and, thereafter, to hold the retainer during these chapter 11 cases as security for the payment of fees and expenses incurred pursuant to the Services Agreement.

14. Additionally, under the terms of the Services Agreement, the Debtors have agreed to indemnify, defend, and hold harmless KCC and its affiliates, members, directors, officers, employees, consultants, subcontractors, and agents under certain circumstances specified in the Services Agreement, except in circumstances resulting solely from KCC's gross negligence or willful misconduct or as otherwise provided in the Services Agreement or any order of this court. The Debtors believe that such an indemnification obligation is customary, reasonable, and necessary to retain the services of a claims and noticing agent in these chapter 11 cases.

KCC's Disinterestedness

15. Although the Debtors do not propose to employ KCC under section 327 of the Bankruptcy Code pursuant to this Application, KCC has nonetheless reviewed its electronic database to determine whether it has any relationships with the creditors and parties in interest provided by the Debtors, and the Debtors have been advised that, to the best of KCC's knowledge, information and belief, and except as disclosed in the Gershbein Declaration, 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.

16. Moreover, in connection with its appointment as Claims and Noticing Agent, KCC represents in the Gershbein Declaration, among other things, that:

- (a) KCC is not a creditor of the Debtors;
- (b) 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;
- (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 in connection with these chapter 11 cases;
- (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) 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;
- (h) in its capacity as the Claims and Noticing Agent in these chapter 11 cases, KCC will not intentionally misrepresent any fact to any person;
- (i) KCC shall be under the supervision and control of the Clerk with respect to the receipt and recordation of claims and claim transfers;
- (j) KCC will comply with all requests of the Clerk and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c); and
- (k) none of the services provided by KCC as the Claims and Noticing Agent in these chapter 11 cases shall be at the expense of the Clerk.

17. If any new facts or circumstances are discovered that require additional disclosure, KCC will supplement its disclosure to the Court.

Basis for Relief Requested

I. Retention and Employment of KCC as Claims and Noticing Agent Is Permitted.

18. Bankruptcy Rule 2002 generally regulates what notices must be given to creditors and other parties in interest in bankruptcy cases. Fed. R. Bankr. P. 2002(f). Under Bankruptcy Rule 2002(f), the Court may direct that some person other than the Clerk give notice of the various matters described below. Moreover, section 156(c) of title 28 of the United States Code, which governs the staffing and expenses of a bankruptcy court, authorizes the Court to use “facilities” or

“services” other than the Clerk for administration of bankruptcy cases. 28 U.S.C. § 156(c).

Specifically, the statute states, in relevant part:

Any court may utilize facilities or services, either on or off the court’s premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

28 U.S.C. § 156(c).

19. Accordingly, Bankruptcy Rule 2002, and section 156(c) of title 28 of the United States Code empower the Court to utilize outside agents and facilities for notice and claims purposes, provided that the Debtors’ estates bear the cost of such services.

20. For all of the foregoing reasons, the Debtors believe that the retention of KCC as the Claims and Noticing Agent in these in the chapter 11 cases is necessary and in the best interests of the Debtors, their estates and creditors, and all parties in interest. Furthermore, the Debtors respectfully submit that the fees and expenses that would be incurred by KCC under the proposed engagement would be administrative in nature and, therefore, should not be subject to standard fee application procedures of professionals.

21. By separate application, the Debtors intend to seek authorization to retain and employ KCC as the administrative agent in these chapter 11 cases, pursuant to section 327(a) of the Bankruptcy Code, because the administration of the chapter 11 cases will require KCC to perform duties outside the scope of 28 U.S.C. § 156(c).

II. Relief Effective as of the Petition Date Is Appropriate.

22. Pursuant to the Debtors’ request, KCC has agreed to serve as the Claims and Noticing Agent on and after the Petition Date with assurances that the Debtors would seek approval

of its employment and retention effective as of the Petition Date, so that KCC may be compensated for its services prior to approval of this Application. Such relief is appropriate in light of 28 U.S.C. § 156(c) and in order to relieve the Court and the Clerk's office of the heavy administrative burdens these chapter 11 cases stand to impose. The Debtors believe that no party in interest will be prejudiced by granting the employment effective as of the Petition Date, as provided in this Application, because KCC has provided and continues to provide valuable services to the Debtors' estates in the interim period. In view of the number of anticipated claimants and the complexity of these chapter 11 cases, the Debtors submit that the appointment of a Claims and Noticing Agent is in the best interests of the Debtors' estates, their creditors, and all parties in interest.

The Requirements of Bankruptcy Rule 6003(b) Are Satisfied

23. Bankruptcy Rule 6003 empowers a court to grant relief within the first twenty-one (21) days after the Petition Date "to the extent that relief is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003. As set forth in this Application, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors' operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first thirty (30) days of these chapter 11 cases would severely disrupt the Debtors' operations at this critical juncture. For the aforementioned reasons, appointing a claims and noticing agent is vital to a smooth transition into chapter 11. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 to support the relief requested herein.

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

24. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

Waiver of Memorandum of Law

25. The Debtors respectfully request that the Court waive the requirement to file a separate memorandum of law pursuant to Rule 9013-1(a)(3) of the Local Rules for the United States Bankruptcy Court for the District of New Jersey (the “Local Rules”) because the legal basis upon which the Debtors rely is set forth herein and the Application does not raise any novel issues of law.

No Prior Request

26. No prior request for the relief sought in this Application has been made to this Court or any other court.

Notice

27. The Debtors will provide notice of this Application to the following parties and/or their respective counsel, as applicable: (a) the Office of the United States Trustee for the District of New Jersey; (b) the Debtors’ 30 largest unsecured creditors (on a consolidated basis); (c) Gibson, Dunn & Crutcher LLP, as counsel to the Ad Hoc Group; (d) counsel to the Administrative Agent under the Revolving Credit Facility; (e) United States Attorney’s Office for the District of New Jersey; (f) the Internal Revenue Service; (g) the attorneys general in the states where the Debtors conduct their business operations; (h) the U.S. Securities and Exchange Commission; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtors respectfully request that the Court enter the Order, substantially in the form attached hereto as **Exhibit A**, and granting such other relief as is just and proper.

Dated: February 28, 2024

/s/ Michael D. Sirota

COLE SCHOTZ P.C.

Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Felice R. Yudkin, Esq.
Jacob S. Frumkin, Esq. (*pro hac vice* pending)
Court Plaza North, 25 Main Street
Hackensack, New Jersey 07601
Telephone: (201) 489-3000
Email: msirota@coleschotz.com
wusatine@coleschotz.com
fyudkin@coleschotz.com
jfrumkin@coleschotz.com

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

Anup Sathy, P.C. (*pro hac vice* pending)
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
Email: anup.sathy@kirkland.com

-and-

Matthew C. Fagen, P.C. (*pro hac vice* pending)
Francis Petrie (*pro hac vice* pending)
Evan Swager (*pro hac vice* pending)
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Email: matthew.fagen@kirkland.com
Email: francis.petrie@kirkland.com
Email: evan.swager@kirkland.com

*Proposed Co-Counsel to the Debtors
and Debtors in Possession*

Exhibit A

Proposed Order

Caption in Compliance with D.N.J. LBR 9004-1(b)

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
In re: THRASIO HOLDINGS, INC., <i>et al.</i> , Debtors. ¹	Chapter 11 Case No. 24-11840 (CMG) (Joint Administration Requested)

**ORDER AUTHORIZING THE APPOINTMENT OF
KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS
AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE**

The relief set forth on the following pages, numbered three (3) through ten (10), is
ORDERED.

¹ The last four digits of Debtor Thrasio Holdings, Inc.’s tax identification number are 8327. A complete list of the Debtors in these chapter 11 cases and each such Debtor’s tax identification number may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://www.kccllc.net/Thrasio>. The Debtors’ service address for purposes of these chapter 11 cases is 85 West Street, 3rd Floor, Walpole, MA, 02081.

Caption in Compliance with D.N.J. LBR 9004-1(b)

**KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP**

Anup Sathy, P.C. (*pro hac vice* pending)
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
anup.sathy@kirkland.com

-and-

Matthew C. Fagen, P.C. (*pro hac vice* pending)
Francis Petrie (*pro hac vice* pending)
Evan Swager (*pro hac vice* pending)
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
matthew.fagen@kirkland.com
francis.petrie@kirkland.com
evan.swager@kirkland.com

COLE SCHOTZ P.C.

Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Felice R. Yudkin, Esq.
Jacob S. Frumkin, Esq.
Court Plaza North, 25 Main Street
Hackensack, New Jersey 07601
Telephone: (201) 489-3000
msirota@coleschotz.com
wusatine@coleschotz.com
fyudkin@coleschotz.com
jfrumkin@coleschotz.com

Proposed Co-Counsel to the Debtors and Debtors in Possession

(Page | 3)

Debtors: THRASIO HOLDINGS, INC., *et al.*

Case No. 24-11840 (CMG)

Caption of Order: ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE

Upon the *Debtors' Application for Entry of an Order Authorizing the Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Effective as of the Petition Date* (the "Application"),² of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), for entry of an order (this "Order") authorizing the Debtors to appoint Kurtzman Carson Consultants LLC ("KCC") as claims and noticing agent in the Debtors' chapter 11 cases (the "Claims and Noticing Agent"), pursuant to the terms of the Services Agreement, effective as of the Petition Date, all as more fully set forth in the Application; and upon the First Day Declaration; and the Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); and this 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 this Court having found sufficient cause exists for the relief set forth herein; and this Court having found that the Debtors' notice of the Application was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Application and having heard the statements in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Application 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:**

(Page | 4)

Debtors: THRASIO HOLDINGS, INC., *et al.*

Case No. 24-11840 (CMG)

Caption of Order: ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE

1. The Application is **GRANTED** as set forth herein.
2. The Debtors are authorized to retain KCC as Claims and Noticing Agent, effective as to the Petition Date, pursuant to the terms of the Services Agreement, in the form attached hereto as **Exhibit 1**, and KCC is authorized and directed to perform the Claims and Noticing Services, which include, among other things, performing noticing services and receiving, maintaining, recording, and otherwise administering the proofs of claim filed in these chapter 11 cases, and all related tasks, all as described in the Application.
3. Any services KCC will provide relating to the Debtors' schedules of assets and liabilities and statements of financial affairs shall be limited to administrative and ministerial services. The Debtors shall remain responsible for the content and accuracy of their schedules of assets and liabilities and statements of financial affairs.
4. 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 chapter 11 cases and is authorized and directed to maintain official claims registers for each of the Debtors and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.
5. KCC is authorized and directed to provide public access to every proof of claim unless otherwise ordered by the Court and to obtain a post office box or address for the receipt of proofs of claim.

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

(Page | 5)

Debtors: THRASIO HOLDINGS, INC., *et al.*

Case No. 24-11840 (CMG)

Caption of Order: ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE

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

7. The Debtors are authorized to compensate KCC for the Claims and Noticing Services in accordance with the terms of the Services 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 this Court's approval for the payment of compensation for its services and reimbursement of its expenses.

8. KCC shall maintain records of all services performed, showing dates, categories of services, fees charged, and expenses incurred, and shall serve monthly invoices on (a) the Debtors, (b) the U.S. Trustee, (c) counsel to the Debtors, (d) counsel to any official committee appointed to monitor the expenses of the Debtors in these chapter 11 cases, and (e) any party-in-interest who specifically requests service of the monthly invoices.

9. Parties shall have ten (10) days from receipt of the invoice to review such invoice and raise any objections, either formally through the filing of an objection with the Court or informally through a writing served on KCC, to the fees and expenses being requested by KCC. If an objection is interposed, the parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Services Agreement or KCC's monthly invoices; *provided* that the parties may seek resolution of the matter from the Court if such efforts prove unsuccessful. If no objection has been raised, the Debtors are authorized to pay KCC the full amount of the requested

(Page | 6)

Debtors: THRASIO HOLDINGS, INC., *et al.*

Case No. 24-11840 (CMG)

Caption of Order: ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE

fees and expenses upon expiration of the ten (10) day review without further order of the Court.

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.

10. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC under this Order shall be an administrative expense of the Debtors' estates. KCC may apply its retainer to all prepetition invoices, which retainer shall be replenished to the original retainer amount and, thereafter, KCC may hold the retainer under the Services Agreement during these chapter 11 cases as security for the payment of fees and expenses incurred under the Services Agreement.

11. The indemnification, contribution and reimbursement provisions in the Services Agreement are approved, subject to the following modifications, applicable during the pendency of these chapter 11 cases:

- (a) KCC shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Services Agreement unless the indemnification, contribution, or reimbursement is approved by the Court.
- (b) Notwithstanding anything to the contrary in the Services 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 (that determination having become final) to have arisen from KCC's gross negligence, willful misconduct, bad faith, self-dealing, or fraud; (ii) for a contractual dispute in which the Debtors allege the breach of KCC's obligations under the Services Agreement, unless the Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled without the Debtors' consent prior to a judicial determination as to sub-clauses (a) or (b) above, but determined by this Court, after notice and a hearing, to be a claim or expense for which KCC should not receive indemnity,

(Page | 7)

Debtors: THRASIO HOLDINGS, INC., *et al.*

Case No. 24-11840 (CMG)

Caption of Order: ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE

contribution, or reimbursement under the terms of the Services Agreement, as modified by this Order.

- (c) If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal) and (ii) the entry of an order closing these chapter 11 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 Services Agreement, as modified by this Order, including, without limitation, the advancement of defense costs, KCC must file an application therefor in this Court, and the Debtors may not pay any such amounts to KCC before the entry of an order of this Court approving the payment. This subparagraph (c) 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, and/or reimbursement and not a provision limiting the duration of the Debtors' obligation to indemnify or make contributions or reimbursements to KCC. All parties in interest shall retain the right to object to any demand by KCC for indemnification, contribution, or reimbursement.

12. In the event KCC is unable to provide the Claims and Noticing Services, KCC will immediately notify the Clerk and the Debtors' counsel and, upon approval of this Court, cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and the Debtors' counsel.

13. KCC declares that it does not now have, nor has it ever had any contract or agreement with XClaim Inc. or with any other party under which KCC provides, provided, or will provide exclusive access to claims data and/or under which KCC would be compensated for claims data made available by KCC.

14. Notwithstanding anything to the contrary contained in the Services Agreement, by this Order the Court is not authorizing KCC to establish accounts with financial institutions on behalf of the Debtors.

(Page | 8)

Debtors: THRASIO HOLDINGS, INC., *et al.*

Case No. 24-11840 (CMG)

Caption of Order: ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE

15. Notwithstanding anything to the contrary in the Services Agreement, in the event that any of these chapter 11 cases convert to a case under chapter 7 of the Bankruptcy Code, the chapter 7 trustee appointed to such case or cases shall have no obligation to continue the engagement of KCC.

16. Notwithstanding anything to the contrary contained in the Services Agreement, (i) the 1.5% late charge in paragraph II(E) of the Services Agreement shall not be assessed during the pendency of these chapter 11 cases; (ii) the payment of invoices within ten (10) days of receipt in paragraph II(E) of the Services Agreement shall not be applicable during the pendency of these cases; (iii) solely during the pendency of these chapter 11 cases, if any advance payment of an invoice is reasonably expected to exceed \$10,000 in any single month as set forth in paragraph II(E) of the Services Agreement, at the time KCC requests advance payment from the Debtors, KCC shall also provide notice to the U.S. Trustee and any statutory committee appointed in these cases; and (iv) solely during the pendency of these chapter 11 cases, prior to any prepayment of fees and expenses for print notice and media publication as set forth in paragraph II(E) of the Services Agreement, KCC shall provide three (3) business days' notice to the U. S. Trustee and any statutory committee appointed in these cases.

17. Notwithstanding anything to the contrary contained in the Services Agreement, including section XIII thereof, the Court shall have exclusive jurisdiction over KCC's engagement during the pendency of these chapter 11 cases.

(Page | 9)

Debtors: THRASIO HOLDINGS, INC., *et al.*

Case No. 24-11840 (CMG)

Caption of Order: ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE

18. Notwithstanding anything to the contrary contained in the Services Agreement, including paragraph II(A) thereof, KCC shall provide at least thirty (30) days' notice of any increases in its billing rates, subject to the parties-in-interest's right to object to any such increases.

19. The Debtors may submit a separate retention application, pursuant to section 327(a) of the Bankruptcy Code or any applicable law, for work that is to be performed by KCC but is not specifically authorized by this Order.

20. Notwithstanding any term in the Application, the Gershbein Declaration, or the Services Agreement to the contrary, during the chapter 11 cases, any limitation of liability including, but not limited to, section IX of the Services Agreement shall be of no force or effect.

21. Notwithstanding anything to the contrary contained in the Services Agreement, including section VI thereof, termination of KCC's retention shall only commence upon entry of an order by this Court terminating KCC's retention.

22. KCC shall not cease providing claims processing services during these chapter 11 cases for any reason, including nonpayment, without an order of this Court.

23. The Debtors and KCC are authorized to take all steps necessary or appropriate to carry out this Order.

24. In the event of any inconsistency between the Services Agreement, the Application, the Gershbein Declaration, and this Order, the terms of this Order shall govern.

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

(Page | 10)

Debtors: THRASIO HOLDINGS, INC., *et al.*

Case No. 24-11840 (CMG)

Caption of Order: ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE

26. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Application or otherwise deemed waived.

27. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Order shall be effective and enforceable immediately upon entry hereof.

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

29. The requirement set forth in Local Rule 9013-1(a)(3) that any motion be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Application or otherwise waived.

30. Any party may move for modification of this Order in accordance with Local Rule 9013-5(e).

31. The Debtors shall serve a copy of this Order on all required parties pursuant to Local Rule 9013-5(f).

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

Exhibit 1

Services Agreement



KCC AGREEMENT FOR SERVICES

This Agreement is entered into as of the 12th day of October 2023, between Thrasio Holdings, Inc. (together with its affiliates and 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 15%, 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 transportation, lodging, and meal expenses incurred in connection with services provided under this Agreement; provided that any expenses under this section exceeding \$10,000 in the aggregate require pre-approval by the Company, not to be unreasonably withheld or delayed.

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, except to the extent caused by KCC's breach of this Agreement, gross negligence or wrongful conduct, 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. Notwithstanding the foregoing, Company shall not be liable to KCC for any income tax.

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



KCC AGREEMENT FOR SERVICES

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 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.

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. KCC agrees that all Company data submitted to KCC by or on behalf of the Company shall remain the exclusive property of Company.

IV. NON-SOLICITATION

The Company agrees that neither it nor its subsidiaries shall directly solicit for employment employees of KCC during the term of this Agreement and for a period of twelve (12) months after termination of this Agreement unless KCC provides prior written consent to such solicitation or retention; provided, however, nothing shall restrict Company from employing such employees who contact the Company in response to a general solicitation of employment (e.g., a job posting).

V. CONFIDENTIALITY



KCC AGREEMENT FOR SERVICES

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.

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) material breach of contract by, or gross negligence or willful misconduct of, KCC, (ii) the failure of the Company to pay KCC undisputed invoices for more than sixty (60) days from the date of receipt 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 Agreement 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' written notice. Notwithstanding any term herein to the contrary, following entry of the Retention Order, if any, 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



KCC AGREEMENT FOR SERVICES

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, if any.

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

B. Except as provided herein, each Party's ("Indemnitor") liability to the other Party ("Indemnitee") or any person making a claim through or under the Indemnitor for any Losses of any kind, even if Indemnitor has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of Indemnitee, shall be limited to the total amount billed or billable to the Company for the portion of the particular work which gave rise to the alleged Loss. In no event shall Indemnitor 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 either Party's liability to the other Party 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



KCC AGREEMENT FOR SERVICES

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. Pursuant to Section V of this Agreement, KCC and its employees, agents, professionals, and representatives shall safeguard and protect the confidentiality of the Company's non-public records, systems, procedures, software and other information received in connection with the services provided under this Agreement with no less care than KCC would take to safeguard and protect the confidentiality of its own confidential information.

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.

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

Company Thrasio Holdings, Inc.
Address 85 West Street
City, ST Zip Walpole, MA 02081
Attn: General Counsel
Tel: 203-539-9538
Fax: N/A
E-Mail: mike@thrasio.com



KCC AGREEMENT FOR SERVICES

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 New York.

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 that it has the authority to enter into 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 this Agreement can be assigned without written consent 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.



AMENDMENT TO KCC AGREEMENT FOR SERVICES

This Amendment (the “Amendment”) to the KCC Agreement for Services between Thrasio Holdings, Inc. (together with its affiliates and subsidiaries, the “Company”),¹ and Kurtzman Carson Consultants LLC (together with its affiliates and subcontractors, “KCC,”) dated October 12, 2023 (the “Services Agreement”) is entered into as of the 14th day of February 2024. 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:

To the extent permitted by applicable law, KCC shall receive a supplemental retainer in the amount of \$50,000 (the “Supplemental Retainer,” and together with the Retainer, the “Total Retainer”) that may be held by KCC as security for the Company’s payment obligations under the Agreement. The Supplemental Retainer is due upon execution of this Agreement. In the event of a Chapter 11 Filing, KCC will first apply the Total Retainer to all pre-petition invoices, and thereafter, will have the Total Retainer replenished to the original amount. KCC shall be entitled to hold the Total Retainer until the termination of the Agreement. Following termination of the Agreement, KCC shall return to the Company any amount of the Total Retainer that remains following application of the Total Retainer to the payment of unpaid invoices.

This Amendment is to be read and construed with the Services Agreement as constituting one and the same agreement. Except as specifically modified by this Amendment, all provisions, terms and conditions of the Services Agreement shall remain in full force and effect and the parties agree to be bound by the terms thereof. All capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Services Agreement. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Amendment shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, which delivery may be made by exchange of copies of the signature page by facsimile or e-mail (in PDF format) transmission.

[SIGNATURE PAGE FOLLOWS]

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.

Exhibit B

Gershbein Declaration

KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
Anup Sathy, P.C. (*pro hac vice* pending)
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
anup.sathy@kirkland.com

-and-

Matthew C. Fagen, P.C. (*pro hac vice* pending)
Francis Petrie (*pro hac vice* pending)
Evan Swager (*pro hac vice* pending)
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
matthew.fagen@kirkland.com
francis.petrie@kirkland.com
evan.swager@kirkland.com

Proposed Co-Counsel to the Debtors and Debtors in Possession

COLE SCHOTZ P.C.
Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Felice R. Yudkin, Esq.
Jacob S. Frumkin, Esq.
Court Plaza North, 25 Main Street
Hackensack, New Jersey 07601
Telephone: (201) 489-3000
msirota@coleschotz.com
wusatine@coleschotz.com
fyudkin@coleschotz.com
jfrumkin@coleschotz.com

Proposed Co-Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

THRASIO HOLDINGS, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11840 (CMG)

(Joint Administration Requested)

**DECLARATION OF EVAN J. GERSHBEIN IN SUPPORT OF
DEBTORS' APPLICATION FOR ENTRY OF AN ORDER AUTHORIZING
THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS
CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE**

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

¹ The last four digits of Debtor Thrasio Holdings, Inc.'s tax identification number are 8327. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://www.kccllc.net/Thrasio>. The Debtors' service address for purposes of these chapter 11 cases is 85 West Street, 3rd Floor, Walpole, MA, 02081.

1. I am the Executive Vice President of Kurtzman Carson Consultants LLC (“KCC”), whose offices are located at 222 N. Pacific Coast Hwy, 3rd Floor, El Segundo, CA 90245. Except as otherwise noted, 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 Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Effective as of the Petition Date* (the “Application”).²

3. KCC is a leading chapter 11 administrator and is comprised of industry-leading professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. KCC has acted as official claims and noticing agent in many large bankruptcy cases in this district and others. *See, e.g., In re Invitae Corp.*, No. 24-11362 (MBK) (Bankr. D.N.J. Feb. 16, 2024) (authorizing the employment and retention of KCC as debtors’ claims and noticing agent); *In re Cyxtera Techs., Inc.*, No. 23-14853 (JKS) (Bankr. D.N.J. June 6, 2023) (same); *In re Cloudeeva, Inc.*, No. 14-24874 (KCF) (Bankr. D.N.J. July 24, 2014) (same); *In re RIH Acquisitions NJ, LLC*, No. 13-34483 (GMB) (Bankr. D.N.J. Nov. 8, 2013) (same); *In re Wave2Wave Comms., Inc.*, No. 12-13896 (DHS) (Bankr. D.N.J. Mar. 29, 2012) (same); *In re the Newark Group, Inc.*, No. 10-27694 (NLW) (Bankr. D.N.J. June 6, 2010) (same); *In re Adamar of New Jersey, Inc.*, No. 09-20711 (JHW) (Bankr. D.N.J. May 1, 2009) (same); *In re Tarragon Corp.*, No. 09-10555 (DHS) (Bankr. D.N.J. Jan. 19, 2009) (same); *In re Avaya Inc.*, No. 23-90088 (DRJ) (Bankr. S.D. Tex. Feb. 14, 2023) (same); *In re Carestream Health, Inc.*, No. 22-10778 (JKS) (Bankr. D. Del. Aug. 24, 2022) (same); *In re First Guaranty Mortgage*

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

Corp., No. 22-10584 (CTG) (Bankr. D. Del. July 1, 2022) (same); *In re Philippine Airlines, Inc.*, No. 21-11569 (SCC) (Bankr. S.D.N.Y. Sept. 9, 2021) (same); *In re Superior Energy Services, Inc.*, No. 20-35812 (DRJ) (Bankr. S.D. Tex. Dec. 8, 2020) (same); *In re Oasis Petrol, Inc.*, No. 20-34771 (MI) (Bankr. S.D. Tex. Sept. 8, 2020) (same); *In re Briggs & Stratton Corp.*, No. 20-43597-399 (BSS) (Bankr. E.D. Mo. Aug. 20, 2020) (same); *In re Hi-Crush Inc.*, No. 20-33495 (DRJ) (Bankr. S.D. Tex. July 13, 2020) (same); *In re Extraction Oil & Gas, Inc.*, No. 20-11548 (CSS) (Bankr. D. Del. June 16, 2020) (same); *In re Skillsoft Corp.*, No. 20-11532 (MFW) (Bankr. D. Del. June 16, 2020) (same); *In re Avianca Holdings S.A.*, No. 20-11133 (MG) (Bankr. S.D.N.Y. May 13, 2020) (same); *In re Speedcast Int'l Ltd.*, No. 20-32243 (MI) (Bankr. S.D. Tex. Apr. 24, 2020) (same); *In re the McClatchy Co.*, No. 20-10418 (MEW) (Bankr. S.D.N.Y. Feb. 14, 2020) (same); *In re Halcon Res. Corp.*, No. 19-34446 (DRJ) (Bankr. S.D. Tex. Aug. 7, 2019) (same); *In re Legacy Reserves Inc.*, No. 19-33395 (MI) (Bankr. S.D. Tex. June 6, 2019) (same); *In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. Feb. 28, 2019) (same); *In re Waypoint Leasing Holdings Ltd.*, No. 18-13648 (SMB) (Bankr. S.D.N.Y. Nov. 27, 2018) (same); *In re ATD Corp.*, No. 18-12221 (KJC) (Bankr. D. Del. Oct. 5, 2018) (same).

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, the noticing and claims-related services specified in the Application and Services Agreement. 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).

5. KCC represents, among other things, the following:

- (a) KCC is not a creditor 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) 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;
- (h) in its capacity as Claims and Noticing Agent in these chapter 11 cases, KCC will not intentionally misrepresent any fact to any person;
- (i) KCC will be under the supervision and control of the Clerk with respect to the receipt and recordation of claims and claim transfers;
- (j) 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
- (k) none of the services provided by KCC as Claims and Noticing Agent in these chapter 11 cases will be at the expense of the Clerk.

6. Although the Debtors do not propose to retain KCC under section 327(a) 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

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

Debtors' current and former directors and officers, secured creditors, top thirty unsecured 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 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 & Co. entities are included on the list of Potential Parties in Interest. There are information barriers between JPMIM and the lines of business where JPMorgan Chase & Co. 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 Debtors, 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. KCC may have relationships with other professionals to be retained by the Debtors. Certain former partners and associates of Kirkland & Ellis LLP (“K&E”), proposed counsel to the Debtors, currently are employed by KCC. Albert Kass, KCC’s Senior Executive Vice President of Corporate Restructuring Services, is a former K&E associate. Mr. Kass’ work at K&E was unrelated to the Debtors and these chapter 11 cases. Beth Friedman, a Senior Director with KCC’s Corporate Restructuring Services, is a former K&E Restructuring Department Coordinator. Adam Gorman, a Director with KCC’s Corporate Restructuring Services, is a former K&E project assistant.

13. To the best of my knowledge, neither KCC nor any of its partners or employees represents 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.

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.

Respectfully submitted,

Dated: February 28, 2024

/s/ Evan J. Gershbein

Evan J. Gershbein

Executive Vice President

Kurtzman Carson Consultants LLC

Proposed Claims and Noticing Agent of the Debtors and Debtors in Possession