

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:

Zosano Pharma Corporation,¹

Debtor.

Chapter 11

Case No. 22-10506 (JKS)

**APPLICATION OF THE DEBTOR FOR ENTRY OF AN ORDER AUTHORIZING
THE EMPLOYMENT AND RETENTION OF KURTZMAN CARSON
CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT
EFFECTIVE AS OF THE PETITION DATE**

The above-captioned debtor and debtor-in-possession (the “**Debtor**”) submits this application (the “**Application**”), pursuant to § 156(c) of title 28 of the United States Code, §§ 105(a), 327(a), 328, and 330 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”), Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure, and Rules 2002-1(f), 2014-1, and 2016 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**”), authorizing the employment and retention of Kurtzman Carson Consultants LLC (“**KCC**”) as the claims and noticing agent effective as of the Petition Date (as defined below). In support of the Application, the Debtor respectfully states as follows:

Jurisdiction and Venue

1. The United States Bankruptcy Court for the District of Delaware (the “**Court**”) has jurisdiction over the Application pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended*

¹ The business address and the last four (4) digits of the Debtor’s federal tax identification number is Zosano Pharma Corporation, 34790 Ardentech Court, Fremont, California 94555 (8360).



Standing Order of Reference from the United States District Court for the District of Delaware, dated as of February 29, 2012. Venue is proper in the District of Delaware pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Pursuant to Local Rule 9013-1(f), the Debtor consents to the entry of a final judgment or order with respect to the Application if it is determined that the Court lacks authority under Article III of the United States Constitution to enter such final order or judgment absent consent of the parties.

Background

3. On June 1, 2022 (the “**Petition Date**”), the Debtor commenced this case (the “**Case**”) by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Court.

4. The Debtor continues to operate its business and manage its property as debtor-in-possession pursuant to Bankruptcy Code §§ 1107(a) and 1108. As of the date hereof, no trustee, examiner, or official committee of unsecured creditors has been appointed in the Case.

5. Additional information regarding the Debtor’s business and operations, as well as the events precipitating the commencement of the Case, is set forth in the *Declaration of Steven Lo in Support of the Debtor’s Chapter 11 Petition and Requests for First Day Relief* (the “**First Day Declaration**”), filed on or shortly following the Petition Date and incorporated herein by reference.

Relief Requested

6. By the Application, the Debtor requests entry of an order appointing KCC to act as the claims and noticing agent in order to assume full responsibility for the distribution of notices and the maintenance, processing, and docketing of proofs of claim filed in the Case.

7. The Debtor may seek authority, by separate application, to retain and employ KCC as administrative agent in the Case pursuant to Bankruptcy Code § 327(a), if the administration of the Case requires KCC to perform duties outside the scope of 28 U.S.C. § 156(c).

Basis for Relief Requested

A. KCC's Qualifications

8. The Debtor submits, based on all engagement proposals obtained and reviewed, KCC's rates are competitive and reasonable, especially when considering KCC's quality of service and expertise. The terms of retention are set forth in the *KCC Agreement for Services* dated May 24, 2022, which is attached hereto as **Exhibit B** (the "**Engagement Agreement**"); *provided, however*, that KCC is seeking approval solely on the terms and provisions as set forth in the Application.

9. KCC is comprised of leading industry professionals with significant experience in both the legal and administrative aspects of chapter 11 cases. KCC's professionals also have experience in matters of this size and complexity. KCC's professionals have acted as administrative agent and/or official claims and noticing agent in many large bankruptcy cases in this district and in other districts nationwide. KCC has been approved to act as claims and noticing agent in several recent cases in this district, including: *In re Sequential Brands Group, Inc., et al.*, Case No. 21-11194 (JTD) (Bankr. D. Del. September 1, 2021) [Docket No. 66]; *In re Alex and Ani, LLC, et al.*, Case No. 21-10918 (CTG) (Bankr. D. Del. June 11, 2021) [Docket No. 66]; *In re Tect Aerospace Group Holdings, Inc., et al.*, Case No. 21-10670 (KBO) (Bankr. D. Del. April 7, 2021) [Docket No. 29]; *In re Medley LLC*, Case No. 21-10526 (KBO) (Bankr. D. Del. March 10, 2021) [Docket No. 36]; *In re Extraction Oil & Gas, Inc., et al.*, Case No. 20-11548 (CSS) Bankr. D. Del. June 16, 2020) [Docket No. 81]; *In re Proteus Digital Health, Inc.*, Case No. 20-11580 (BLS) (Bankr. D. Del. June 8, 2020) [Docket No. 43]; among others.

10. Although the Debtor has not yet filed its schedules of assets and liabilities, it anticipates that there will be in excess of two hundred creditors or parties-in-interest to be noticed. *See* Local Rule 2002-1(f) (“[i]n all cases with more than two hundred (200) creditors or parties-in-interest listed on the creditor matrix, unless the Court orders otherwise, the debtor shall file [a] motion [to retain a claims and noticing agent] on the first day of the case or within seven (7) days thereafter”). In view of the number of anticipated parties-in-interest and the complexity of the Debtor’s business, the Debtor submits that the appointment of a claims and noticing agent is both necessary and in the best interests of both the Debtor’s estate and its creditors.

B. Services Performed

11. By appointing KCC as the claims and noticing agent in the Case, the distribution of notices and the processing of claims will be expedited, and the Clerk of the Court (the “**Clerk**”) will be relieved of the administrative burden of processing what may be an overwhelming number of claims. In support of the Application, the Debtor submits the *Declaration of Robert Jordan in Support of the Application of the Debtor for Entry of an Order Authorizing the Employment and Retention of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Effective as of the Petition Date*, which is attached hereto as **Exhibit C** (the “**Jordan Declaration**”).

12. The Application pertains only to the work to be performed by KCC under the Clerk’s delegation of duties permitted by 28 U.S.C. § 156(c) and Local Rule 2002-1(f), and any work to be performed by KCC outside of this scope is not covered by the Application or by any order granting approval hereof. Specifically, KCC will perform the following tasks in its role as claims and noticing agent (the “**Claims and Noticing Services**”), as well as all quality control relating thereto:

- a. Prepare and serve required notices and documents in the Case in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and the Local Rules in the form and manner directed by the Debtor and/or the Court, including (i) notice of the commencement of the Case and

the initial meeting of creditors under section 341(a) of the Bankruptcy Code, (ii) notice of any claims bar date, (iii) notices of transfers of claims and objections to such transfers, (iv) notices of objections to claims, (v) notices of any hearings on a sale motion, disclosure statement, and confirmation of the Debtor's plan of reorganization, including under Bankruptcy Rule 3017(d), (vi) notice of the effective date of any plan, (vii) notice of any motion to convert, dismiss, appoint a trustee, or appoint an examiner filed by the Office of the United States Trustee, and (viii) all other notices, orders, pleadings, publications, and other documents as the Debtor or the Court may deem necessary or appropriate for an orderly administration of the Case;

- b. Maintain an official copy of the Debtor's schedules of assets and liabilities and statements of financial affairs (collectively, the "**Schedules**"), listing the Debtor's known creditors and the amounts owed thereto;
- c. Maintain (i) a list of all potential creditors, equity holders, and other parties-in-interest; and (ii) a "core" mailing list consisting of all parties described in Bankruptcy Rule 2002(i), (j) and (k), and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010. Update such lists and make such lists available upon request by a party-in-interest or the Clerk;
- d. Furnish a notice to all potential creditors of the last date for the filing of proofs of claim and a form for the filing of a proof of claim, after such notice and form are approved by the Court, and notify 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. Maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;
- f. For all notices, motions, orders, or other pleadings or documents served, prepare and file or caused to be filed with the Clerk an affidavit or certificate of service within seven business days of service which includes: (i) either a copy of the notice served or the docket numbers(s) and title(s) of the pleading(s) served, (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses, (iii) the manner of service, and (iv) the date served;
- g. Process all proofs of claim or proofs of interest received, including those received by the Clerk, check such processing for accuracy, and maintain the original proofs of claim or proofs of interest in a secure area;
- h. Maintain the official claims register for the Debtor (the "**Claims Register**") on behalf of the Clerk. Upon the Clerk's request, provide the Clerk with a certified, duplicate, unofficial Claims Register and specify in the Claims Register 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 Debtor, and (vii) any disposition of the claim;

- i. File a quarterly updated Claims Register with the Court in alphabetical and numerical order;
- j. Allow public access to claims and the Claims Register at no charge;
- k. Implement necessary security measures to ensure the completeness and integrity of the Claims Register and the safekeeping of the original claims;
- l. Record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
- m. Relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of KCC, not less than weekly;
- n. Upon completion of the docketing process for all claims received to date for each case, turn over to the Clerk a copy of the Claims Register for the Clerk's review (upon the Clerk's request);
- o. Monitor the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the Claims Register;
- p. Assist in the dissemination of information to the public and respond to requests for administrative information regarding the Case as directed by the Debtor or the Court, including through the use of a case website and/or call center;
- q. If the Case is converted to a chapter 7 under the Bankruptcy Code, contact the Clerk within three days of the notice to KCC of the entry of the order converting the Case;
- r. Thirty days prior to the close of the Case, to the extent practicable, request that the Debtor submit to the Court a proposed order dismissing KCC and terminating its services upon completion of its duties and responsibilities and upon the closing of the Case;
- s. Within fourteen days of entry of an order dismissing the Case or within thirty days of entry of a final decree, (a) forward to the Clerk an electronic version of all imaged claims; (b) upload the creditor mailing list into CM/ECF; and (c) docket the final Claims Register. If a case has jointly administered entities, one combined register shall be docketed in the lead case containing claims of all cases. KCC shall further box and transport all original claims to the Philadelphia Federal Records Center, 14470 Townsend Road, Philadelphia, Pennsylvania 19154 and docket a completed SF-135 Form indicating the accession and location numbers of the archived claims; and

- t. Within fourteen days of entry of an order converting the Case, (i) forward to the Clerk an electronic version of all imaged claims; (ii) upload the creditor mailing list into CM/ECF and (iii) docket the final Claims Register. If a case has jointly administered entities, one combined register shall be docketed in the lead case containing claims of all cases. A final claims register shall also be docketed in each jointly-administered case containing the claims of only that specific case. KCC shall further box and transport all original claims to the Philadelphia Federal Records Center, 14470 Townsend Road, Philadelphia, Pennsylvania 19154 and docket a completed SF-135 Form indicating the accession and location numbers of the archived claims.

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

14. KCC shall not employ any past or present employee of the Debtor for work that involves the Case.

C. KCC's Compensation

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

16. Prior to the Petition Date, the Debtor provided KCC with an advanced retainer totaling \$50,000.00. KCC seeks to apply the retainer first to all prepetition invoices, and thereafter,

to hold the balance of the retainer under the Engagement Agreement during the Case as security for the payment of fees and expenses incurred under the Engagement Agreement.

17. Additionally, under the terms of the Engagement Agreement, the Debtor has agreed to indemnify, defend, and hold harmless KCC and its members, officers, employees, representatives, and agents under certain circumstances specified in the Engagement Agreement, except in circumstances resulting solely from KCC's gross negligence or willful misconduct or as otherwise provided in the Engagement Agreement or Proposed Order. The Debtor believes that such an indemnification obligation is customary, reasonable, and necessary to retain the services of a claims and noticing agent in the Case.

D. KCC's Representation of Disinterestedness

18. Although the Debtor does not propose to employ KCC under section 327 of the Bankruptcy Code pursuant to the 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 Debtor, and, to the best of the Debtor's knowledge, information, and belief, and except as disclosed in the Jordan Declaration, KCC has represented that it neither holds nor represents any interest materially adverse to the Debtor's estate in connection with any matter on which it would be employed.

19. Additionally, KCC is an indirect subsidiary of Computershare Limited ("**Computershare**"). Computershare is a financial services and technologies provider for the global securities industry. Within the Computershare corporate structure, KCC operates as a separate, segregated business unit. As such, any relationships that Computershare and its affiliates maintain do not create an interest of KCC that is materially adverse to the Debtor's estate or any class of creditors or security holders. Computershare is the transfer agent for the Debtor.

20. In connection with its retention as the claims and noticing agent (the “**Claims and Noticing Agent**”), KCC represents in the Jordan Declaration, among other things, that:

- a. KCC is not a creditor of the Debtor;
- b. KCC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the claims and noticing agent in the Case;
- c. By accepting employment in the Case, KCC waives any rights to receive compensation from the United States government in connection with the Case;
- d. In KCC’s capacity as the Claims and Noticing agent in the Case, KCC will not be an agent of the United States and will not act on behalf of the United States;
- e. KCC will not employ any past or present employees of the Debtor in connection with its work as the Claims and Noticing Agent in the Case;
- f. KCC shall be under the supervision and control of the Clerk with respect to the receipt and recordation of claims and claim transfers;
- g. 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);
- h. None of the services provided by KCC as the Claims and Noticing Agent in the Case shall be at the expense of the Clerk’s office;
- i. KCC will supplement its disclosure to the Court if any facts or circumstances are discovered that would require such additional disclosure;
- j. In its capacity as Claims and Noticing Agent in the Case, KCC will not intentionally misrepresent any fact to any person; and
- k. KCC is a “disinterested person” as that term is defined in Bankruptcy Code § 101(14) with respect to the matters upon which it is to be engaged.

21. To the extent that there is any inconsistency between the Application, the Proposed Order, and the Engagement Agreement, the Proposed Order shall govern.

22. The Debtor’s selection of KCC to act as the claims and noticing agent has satisfied the Court’s *Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c)*, in that the Debtor has obtained and reviewed engagement proposals from at least two other court-

approved claims and noticing agents to ensure selection through a competitive process. *See* Local Rule 2002-1(f). The Application further conforms to the standard application for such services in use in the Court.

Relief as of the Effective Date is Appropriate

23. Pursuant to the Debtor's request, KCC has agreed to serve as the Claims and Noticing Agent on and after the Petition Date with assurances that the Debtor 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 the Application. The Debtor believes that no party-in-interest will be prejudiced by the granting the employment as of the Petition Date, as provided in the Application, because KCC has provided and continues to provide valuable services to the Debtor's estate in the interim period. The Local Rules empower courts in this district to approve employment as of the date of the filing of the application, and the Debtor submits that such approval is justified here. *See, e.g.*, Local Rule 2014-1(b) ("If the retention [application] is granted, the retention shall be effective as of the date the [application] was filed, unless the Court orders otherwise.").

24. Courts in this jurisdiction have routinely approved relief similar to that requested herein, in matters comparable to this matter. *E.g.*, *In re Sequential Brands Group, Inc., et al.*, Case No. 21-11194 (JTD) (Bankr. D. Del. September 1, 2021) [Docket No. 66]; *In re Alex and Ani, LLC, et al.*, Case No. 21-10918 (CTG) (Bankr. D. Del. June 11, 2021) [Docket No. 66]; *In re Tect Aerospace Group Holdings, Inc., et al.*, Case No. 21-10670 (KBO) (Bankr. D. Del. April 7, 2021) [Docket No. 29]; *In re Extraction Oil & Gas, Inc., et al.*, Case No. 20-11548 (CSS) Bankr. D. Del. June 16, 2020) [Docket No. 81]; *In re Proteus Digital Health, Inc.*, Case No. 20-11580 (BLS) (Bankr. D. Del. June 8, 2020) [Docket No. 43].

Notice

25. Notice of the Application has been given to the following parties or, in lieu thereof, to their counsel, if known: (a) the Office of the United States Trustee for the District of Delaware; (b) creditors holding the twenty (20) largest unsecured claims against the Debtor; (c) the Office of the United States Attorney for the District of Delaware; (d) the Internal Revenue Service; (e) the Securities & Exchange Commission; (f) the Delaware Secretary of State; (f) the Delaware State Treasury; (h) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (i) any other party entitled to notice pursuant to Local Rule 9013-1(m)(iii). As the Application is seeking “first day” relief, within two business days of the hearing on the Application, the Debtor will serve copies of the Application and any order entered with respect to the Application in accordance with Local Rule 9013-1(m)(iv). The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

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

[Signature on Next Page]

Conclusion

WHEREFORE, the Debtor respectfully requests that the Court enter an order granting the relief requested herein and such other and further relief as is just and proper.

Dated: June 2, 2022

GREENBERG TRAURIG, LLP

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*Proposed Counsel for the Debtor
and Debtor-in-Possession*

Exhibit A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:

Zosano Pharma Corporation,¹

Debtor.

Chapter 11

Case No. 22-10506 (JKS)

Ref. Docket No.

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

Upon the application (the “**Application**”)² of the above-captioned debtor and debtor-in-possession (the “**Debtor**”) for entry of an order, pursuant to 28 U.S.C. §156(c), Bankruptcy Code § 105(a), and Local Rule 2002-1(f), authorizing the retention and appointment of Kurtzman Carson Consultants LLC (“**KCC**”) as the claims and noticing agent to, among other things: (i) distribute required notices to parties-in-interest, (ii) receive, maintain, docket and otherwise administer the proofs of claim filed in the Case, and (iii) provide such other administrative services—as required by the Debtor—that would fall within the purview of services to be provided by the Clerk; and upon the Jordan Declaration submitted in support of the Application; the Debtor having estimated that there are in excess of two hundred creditors in the Case, it appearing that the notice requirements in the Case and the receiving, docketing, and maintaining of proofs of claim would be unduly time consuming and burdensome for the Clerk; the Court being authorized under 28 U.S.C. § 156(c) to utilize, at the Debtor’s expense, outside agents and facilities to provide noticing services to parties in chapter 11 cases and to receive, docket, maintain, photocopy, and transmit proofs of claim; the Court being satisfied that KCC has the capability and experience to provide

¹ The business address and the last four (4) digits of the Debtor’s federal tax identification number is Zosano Pharma Corporation, 34790 Ardentech Court, Fremont, CA 94555 (8360).

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

such services and that KCC does not hold an interest adverse to the Debtor or the Debtor's estate respecting the matters upon which it is to be engaged; good and sufficient notice of the Application having been given under the circumstances and in accordance with the Bankruptcy Rules and Local Rules and no other or further notice being required; and finding sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Application is GRANTED as set forth herein.
2. The Debtor is authorized to retain KCC, effective as of the Petition Date, under the terms of the Engagement Agreement, as may be modified herein, and KCC is authorized to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in the Case, and all related tasks, all as described in the Application (the "**Claims and Noticing Services**").
3. KCC shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in the Case and is authorized to maintain official claims registers for the Debtor and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.
4. KCC is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim.
5. KCC is authorized to take such other actions to comply with all duties set forth in the Application.
6. Without further order of the Court, the Debtor is authorized to compensate KCC in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and to reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for KCC to file fee applications or otherwise seek

Court approval for the compensation of its services and reimbursement of its expenses; provided, however, that the Debtor, the United States Trustee for the District of Delaware, any official committee appointed in the Case, and any other party-in-interest who specifically requests service of the monthly invoices (together, the “**Notice Parties**”) shall be provided copies of KCC’s invoices and shall have a period of ten calendar days to object to the amount of such invoice prior to the Debtor’s payment of such amounts or such shorter time as agreed by the Notice Parties.

7. KCC shall maintain records of all services showing dates, categories of services, fees charged, and expenses incurred.

8. The parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Engagement Agreement or monthly invoices, and the parties may seek resolution of the matter from the Court if consensual resolution is not achieved.

9. Pursuant to Bankruptcy Code § 503(b)(1)(A), the fees and expenses of KCC under this order (the “**Order**”) shall be an administrative expense of the Debtor’s estate.

10. KCC may apply its retainer to all prepetition invoices. Thereafter, the retainer shall be replenished by the Debtor to the original retainer amount, and KCC may hold the retainer under the Engagement Agreement during the Case as security for the payment of fees and expenses incurred under the Engagement Agreement.

11. The Debtor shall indemnify KCC under the terms of the Engagement Agreement, as modified by ¶¶ 12, 13, and 14 herein.

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

13. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtor shall have no obligation to indemnify KCC, or provide contribution or reimbursement to KCC, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from KCC's gross negligence, willful misconduct, or fraud; (ii) for a contractual dispute in which the Debtor alleges the breach of KCC's contractual obligations, unless the Court determines that indemnification, contribution or reimbursement would be permissible pursuant to *In re United Artists Theatre Co., et al.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination under (i) or (ii) in this paragraph, but determined by the Court, after notice and a hearing, to be a claim or expense for which KCC should not receive indemnity, contribution or reimbursement under the terms of the Engagement Agreement as modified by the Order.

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

15. In the event KCC is unable to provide the services set forth in the Order, KCC will immediately notify the Clerk and Debtor's counsel and cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the consent of the Clerk, counsel to the Debtor, and further order of the Court. KCC will not terminate its services with the Debtor without the Court's approval.

16. KCC shall comply with all relevant statutory provisions and rules of procedure, including the Local Rules, general orders, and applicable guidelines.

17. Counsel to the Debtor shall notify both KCC and the Clerk within seven days of an order of dismissal or conversion of the Case.

18. At the end of the Case or upon the termination of KCC's services, the Debtor must obtain a termination order to terminate the services provided.

19. Any limitation of liability provisions in the Engagement Agreement are hereby deemed null and void.

20. The Debtor may submit a separate retention application, pursuant to Bankruptcy Code § 327 and/or any applicable law, for work that is to be performed by KCC, but which is not specifically authorized by this Order.

21. The Debtor and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to the Order in accordance with the Application.

22. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of the Order.

23. KCC shall not cease providing claims processing services during the Case for any reason, including nonpayment, without an order of the Court.

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

Exhibit B

Engagement Agreement

KCC AGREEMENT FOR SERVICES

This Agreement is entered into as of the 24th day of May 2022, between Zosano Pharma Corporation (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.



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.

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

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

E. KCC agrees to submit its invoices to the Company monthly and the Company agrees that the amount invoiced is due and payable upon the Company's receipt of the invoice. KCC's invoices will contain reasonably detailed descriptions of charges for both hourly (fees) and non-hourly (expenses) case specific charges. Where total invoice amounts are expected to exceed \$10,000 in any single month and KCC reasonably believes it will not be paid, KCC may require advance payment from the Company due and payable upon demand and prior to the performance of services hereunder. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, the Company further agrees to pay a late charge, calculated as one and one-half percent (1-1/2%) of the total amount unpaid every thirty (30) days. In the case of a dispute in the invoice amount, the Company shall give written notice to KCC within ten (10) days of receipt of the invoice by the Company. The undisputed portion of the invoice will remain due and payable immediately upon receipt of the invoice. Late charges shall not accrue on any amounts in dispute or any amounts unable to be paid due to Court order or applicable law. Unless otherwise agreed to in writing, the fees for print notice and media publication (including commissions) must be paid at least three (3) days in advance of those fees and expenses being incurred. Certain fees and charges may need to be adjusted due to availability related to the COVID-19 (novel coronavirus) global health issue.

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



KCC AGREEMENT FOR SERVICES

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 \$40,000.00 (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.

IV. NON-SOLICITATION

The Company agrees that neither it nor its subsidiaries or other affiliated companies shall directly or indirectly solicit for employment, employ or otherwise retain 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.

V. CONFIDENTIALITY

Each of KCC and the Company, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the services provided under this Agreement; provided, however, that if either party reasonably believes that it is required to produce any such information by order of any governmental agency



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or other regulatory body it may, upon not less than five (5) business days' written notice to the other party, release the required information. Further, KCC and its employees, agents, professionals and representatives agree not to use confidential, non-public information received in the course of the KCC engagement to trade in the securities of the Company.

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) gross negligence or willful misconduct of KCC that causes serious and material harm to the Company's reorganization under chapter 11 of the Bankruptcy Code, (ii) the failure of the Company to pay KCC invoices for more than sixty (60) days from the date of invoice, or (iii) the accrual of invoices or unpaid services in excess of the retainer held by KCC where KCC reasonably believes it will not be paid.

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

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

VII. SYSTEM IMPROVEMENTS

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



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VIII. BANK ACCOUNTS

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

IX. LIMITATIONS OF LIABILITY AND INDEMNIFICATION

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

B. Except as provided herein, KCC's liability to the Company or any person making a claim through or under the Company for any Losses of any kind, even if KCC has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of KCC, 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 KCC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the services provided for in this Agreement. In no event shall KCC's liability to the Company for any Losses, whether direct or indirect, arising out of this Agreement exceed the total amount billed to the Company and actually paid to KCC for the services contemplated under the Agreement; provided, however, that this limitation shall not apply to the Company during any chapter 11 case in which the Company is a debtor.

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

D. The Company agrees that except as expressly set forth herein, KCC makes no representations or warranties, express or implied, including, but not limited to, any implied or



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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

Zosano Pharma Corporation
34790 Ardentech Court
Fremont, California 94555
Attn: Steven Lo
Tel: 510-745-1200
E-Mail: slo@zosanopharma.com

With a copy to:

John D. Elrod
Greenberg Traurig, LLP
3333 Piedmont Road, NE
Suite 2500
Atlanta, GA 30305
E-Mail: elrodj@gtlaw.com

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



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XIII. APPLICABLE LAW

The validity, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California. The exclusive venue for any litigation arising out of this Agreement shall be in the Bankruptcy Court in which the Company's bankruptcy case is pending.

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. The Company 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.

Exhibit C

Jordan Declaration

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:

Zosano Pharma Corporation,¹

Debtor.

Chapter 11

Case No. 22-10506 (JKS)

**DECLARATION OF ROBERT JORDAN IN SUPPORT OF THE APPLICATION OF
THE DEBTOR FOR ENTRY OF AN ORDER AUTHORIZING THE EMPLOYMENT
AND RETENTION OF KURTZMAN CARSON CONSULTANTS LLC AS
CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE**

I, Robert Jordan, hereby declare, under penalty of perjury, as follows:

1. I am a Senior Managing Director of Kurtzman Carson Consultants LLC (“KCC”), an administrative services firm that specializes in the administration of large chapter 11 cases, whose offices are located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, CA, 90245, and I am authorized to make and submit this declaration (the “**Application Declaration**”) on behalf of KCC. The statements contained herein are based upon personal knowledge.

2. I submit the Application Declaration in support of the *Application of the Debtor for Entry of an Order Authorizing the Employment and Retention of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Effective as of the Petition Date* (the “**Application**”)² filed concurrently herewith by the Debtor in the above-captioned chapter 11 case (the “**Case**”) for the entry of an order authorizing the retention of KCC as claims and noticing agent (the “**Claims and Noticing Agent**”) pursuant to § 156(c) of title 28 of the United States Code, Bankruptcy Code § 105 and Local Rule 2002-1(f), and in accordance with the terms set forth in that certain *KCC*

¹ The business address and the last four (4) digits of the Debtor’s federal tax identification number is Zosano Pharma Corporation, 34790 Ardentech Court, Fremont, California 94555 (8360).

² All capitalized terms used but otherwise not defined herein shall have the same meanings set forth in the Application.

Agreement for Services, dated May 24, 2022 (the “**Engagement Agreement**”), which is attached hereto as **Exhibit B**.

KCC’s Qualifications

3. KCC is one of the nation’s leading chapter 11 administrators, with extensive experience in claims processing, noticing, claims reconciliation and distribution, and other related services critical to the effective administration of chapter 11 cases. Indeed, KCC has developed efficient and cost-effective methods to properly handle the voluminous mailings associated with the claims processing and noticing portions of chapter 11 cases to ensure the orderly and fair treatment of creditors, equity security holders, and all parties-in-interest. Further, KCC will work with the Clerk to ensure that such methodology conforms with all of the Court’s procedures, the Local Rules, and the provisions of any orders entered by the Court.

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 claims and noticing related services specified in the Application and the Engagement Agreement. In addition, at the Debtor’s request, KCC will perform such other claims, noticing, administrative, technical, and supportive services specified in the Application and the Engagement Agreement.

5. KCC has acted as official claims agent in numerous recent chapter 11 cases filed in Delaware (and in other jurisdictions nationwide), including *In re Sequential Brands Group, Inc., et al.*, Case No. 21-11194 (JTD) (Bankr. D. Del. September 1, 2021) [Docket No. 66]; *In re Alex and Ani, LLC, et al.*, Case No. 21-10918 (CTG) (Bankr. D. Del. June 11, 2021) [Docket No. 66]; *In re Tect Aerospace Group Holdings, Inc., et al.*, Case No. 21-10670 (KBO) (Bankr. D. Del. April 7, 2021) [Docket No. 29]; *In re Medley LLC*, Case No. 21-10526 (KBO) (Bankr. D. Del. March 10, 2021) [Docket No. 36]; *In re Extraction Oil & Gas, Inc., et al.*, Case No. 20-11548 (CSS)

Bankr. D. Del. June 16, 2020) [Docket No. 81]; *In re Proteus Digital Health, Inc.*, Case No. 20-11580 (BLS) (Bankr. D. Del. June 8, 2020) [Docket No. 43].

KCC's Compensation

6. The Engagement Agreement sets forth the fees KCC charges for the services it will provide to the Debtor. The proposed compensation arrangement is consistent with, and typical of, arrangements of KCC and its competitor firms to provide claims and noticing agent services in chapter 11 cases. KCC will submit invoices summarizing, in reasonable detail, the services and expenses for which compensation is sought.

7. In addition, the indemnification provisions set forth in the Engagement Agreement reflect standard and customary terms of engagement contained in KCC's engagement letters both in and outside of bankruptcy. Based on my experience, these indemnification provisions are similar to provisions in the engagement letters of other similarly situated companies in engagements both in and outside of bankruptcy.

8. Prior to the Petition Date, KCC received an advance retainer totaling \$50,000.00 from the Debtor. KCC seeks to apply the retainer first to all prepetition invoices, and thereafter, to hold the balance of the retainer under the Engagement Agreement during the Case as security for the payment of fees and expenses incurred under the Engagement Agreement.

KCC's Disinterestedness

9. Although the Debtor does not propose to employ KCC under Bankruptcy Code § 327 pursuant to the Application (such retention will be sought by separate 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 Debtor, and, to the best of the Debtor's knowledge, information, and belief, and except as disclosed in the Application Declaration, KCC has

represented that it neither holds nor represents any interest materially adverse to the Debtor's estate in connection with any matter on which it would be employed.

10. KCC is not aware of any relationship which would present a disqualifying conflict of interest. KCC may have relationships with certain of the Debtor's creditors as vendors or in connection with cases in which KCC serves or has served in a neutral capacity as the claims and noticing agent for another chapter 11 debtor or as the class action settlement administrator. To the best of my knowledge, such relationships are materially unrelated to the Case.

11. In addition, KCC personnel may have relationships with some of the Debtor's creditors or other parties-in-interest. However, to the best of my knowledge, such relationships, to the extent they exist, are of a financial nature and completely unrelated to the Case. KCC has and will continue to work with clients in matters materially unrelated to the Case. In addition, KCC has had 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 Case in unrelated matters.

12. Moreover, KCC is an indirect subsidiary of Computershare Limited ("**Computershare**"). Computershare is a financial services and technologies provider for the global securities industry. Within the Computershare corporate structure, KCC operates as a separate, segregated business unit. As such, any relationships that Computershare and its affiliates maintain do not create an interest of KCC that is materially adverse to the Debtor's estate or any class of creditors or security holders. Computershare is the transfer agent for the Debtor.

13. To the best of my knowledge and except as disclosed herein, KCC is a "disinterested person" within the meaning of Bankruptcy Code § 101(14). Specifically, KCC and its professional personnel: (a) are not creditors, equity security holders or insiders of the Debtor;

(b) are not and were not, within two years prior to the filing of the Case, directors, officers or employees of the Debtor; (c) hold no interest materially adverse to the Debtor and its estate with respect to matters that the Debtor seek to employ KCC to handle; and (d) KCC has no material connection to the Debtor, their creditors, or related parties other than as set forth herein. KCC will supplement its disclosure to the Court if any facts or circumstances are discovered that would require disclosure.

14. KCC represents, among other things, that:

- a. KCC is not a creditor of the Debtor;
- b. KCC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the claims and noticing agent in the Case;
- c. By accepting employment in the Case, KCC waives any rights to receive compensation from the United States government in connection with the Case;
- d. In KCC's capacity as the Claims and Noticing agent in the Case, KCC will not be an agent of the United States and will not act on behalf of the United States;
- e. KCC will not employ any past or present employees of the Debtor in connection with its work as the Claims and Noticing Agent in the Case;
- f. KCC shall be under the supervision and control of the Clerk with respect to the receipt and recordation of claims and claim transfers;
- g. 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);
- h. None of the services provided by KCC as the Claims and Noticing Agent in the Case shall be at the expense of the Clerk's office;
- i. KCC will supplement its disclosure to the Court if any facts or circumstances are discovered that would require such additional disclosure; and
- j. In its capacity as Claims and Noticing Agent in the Case, KCC will not intentionally misrepresent any fact to any person.

15. In accordance with Bankruptcy Code § 504 and Bankruptcy Rule 2016, except with respect to its partners and affiliates, neither I nor KCC has entered into any agreement, express or

implied, with any other party-in-interest, including the Debtor, any creditor, or any attorney for such party-in-interest in the Case regarding the sharing of compensation KCC is to receive for services provided in the Case.

16. Should KCC discover any new or 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.

17. 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).

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

Dated: June 2, 2022

Signed: /s/ Robert Jordan
Robert Jordan
Senior Managing Director