Docket #0014 Date Filed: 2/16/2026

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
Vanderbilt Minerals, LLC,	Case No. 26-60110 (WAK)
Debtor.[1]	

MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTOR TO PAY PREPETITION EMPLOYEE WAGES, BENEFITS AND RELATED ITEMS AND (II) GRANTING CERTAIN RELATED RELIEF

The above-captioned debtor and debtor in possession (the "Debtor"), pursuant to sections 105(a), 363, 503(c), 507(a)(4), 507(a)(5) and 541(d) of the Bankruptcy Code and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), hereby moves (the "Motion") for the entry of interim and final orders substantially in the forms attached hereto as Exhibit A (the "Proposed Interim Order") and Exhibit B (the "Proposed Final Order," and together with the Proposed Interim Order, the "Proposed Orders"): (i) authorizing, but not directing, the Debtor, in accordance with the Approved Budget (as defined in the DIP Financing Motion) to pay (a) prepetition employee wages, salaries, overtime pay, contractual compensation, sales incentive bonuses and other accrued compensation, as well as deductions and related Employer Payroll Taxes (as defined below) (collectively, the "Prepetition Compensation"); (b) prepetition contributions to, and benefits under, employee benefit plans (collectively, the "Prepetition Benefits"); (c) unreimbursed prepetition business expenses (collectively, the "Prepetition Business Expenses"); (d) prepetition fees owed to the Debtor's Payroll Processor (as defined below); and (e) amounts that become due under the Non-Insider

[1] The Debtor is Vanderbilt Minerals, LLC (EIN 13-1432885). The Debtor's noticing address in this Chapter 11 Case is 33 Winfield Street, Norwalk, CT 06855.

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Retention Bonus Program (as defined below); and (ii) granting certain related relief.

In support of this Motion, the Debtor respectfully states as follows:

Jurisdiction and Venue

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding under 28 U.S.C. § 157(b). Venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

I. The Debtor and the Commencement of This Case

2. On the Petition Date,[2] the Debtor commenced a case under chapter 11 of the Bankruptcy Code (the "Chapter 11 Case"). The Debtor is authorized to continue to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtor is a global supplier of mineral products, operating mines and processing facilities in six different states. The Debtor mines bentonite clay, kaolin clay, pyrophyllite and wollastonite and processes and sells products used in industrial applications (e.g., construction coatings, ceramics and refractories) and life sciences (e.g., pharmaceuticals, personal care, animal care, agriculture and horticulture). Prior to 2008, a predecessor in interest to the Debtor mined and sold talc for use in industrial applications, which is the source of the litigation and judgments that have led to the commencement of this Chapter 11 Case.

[2] Capitalized terms otherwise undefined herein shall have the meanings ascribed to them in the First Day Declaration.

4. Concurrently with the filing of this Motion, the Debtor has also filed the Bidding Procedures Motion by which the Debtor seeks to sell substantially all of its assets to one or more bidders through an in-court sale process.

5. Also concurrently with the filing of this Motion, the Debtor has filed the DIP Financing Motion seeking approval of postpetition financing, the proceeds of which the Debtor will utilize to fund the Chapter 11 Case and to continue to operate as a debtor in possession.

6. In addition, the Debtor filed the Settlement Motion contemporaneously herewith, pursuant to which the Debtor seeks authority to enter into the Settlement Agreement with certain of its non-debtor affiliates.

7. A comprehensive description of the Debtor's business and operations, capital structure and the events leading to the commencement of the Chapter 11 Case can be found in the *Declaration of Dean Vomero, Chief Restructuring Officer of Vanderbilt Minerals, LLC, in Support of First Day Motions of Debtor and Debtor in Possession* (the "First Day Declaration"), which was filed contemporaneously herewith and is incorporated by reference.

II. Summary of the Debtor's Workforce and Related Obligations

8. As of the Petition Date, the Debtor has approximately 127 employees (the "Employees").[3] The Debtor's workforce comprises roughly 38 salaried Employees and 89 Employees who are paid on an hourly basis, including one independent contractor. Approximately 13% of the Debtor's Employees are located in Connecticut, where the Debtor is headquartered, and the remaining Employees reside and work all over the United States –

[3] This number includes executive officers. For the avoidance of doubt, nothing in this Motion is intended to be or should be construed as a request to authorize the payment of any amounts subject to section 503(c) of the Bankruptcy Code, provided that nothing in this Motion shall prejudice the Debtor's ability to seek approval of such relief pursuant to section 503(c) of the Bankruptcy Code.

specifically, in five different states. Thirty-seven of the Debtor's Employees, comprising over one-quarter of its workforce, work in this District.

9. A portion of the Debtor's hourly Employees are represented by two collective bargaining agreements (each, a "CBA"): (i) a CBA covering approximately 21 production and maintenance Employees in Bath, South Carolina, which is between the Debtor and the United Steelworkers International Union on behalf of its Local No. 00478 (the "Dixie Clay CBA"); and (ii) a CBA covering approximately 29 production and maintenance Employees at the Debtor's operations located in the townships of Fowler and Diana, New York, between the Debtor and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 420-6 (the "Gouverneur Mineral CBA"). The Dixie Clay CBA's bargaining unit consists of all production and maintenance employees, including truck drivers and excluding office clericals, guards, lab employees and supervisors as defined in the Labor Management Relations Act (the "LMRA"). The Gouverneur Mineral CBA's bargaining unit consists of all production and maintenance employees, excluding office employees, professional employees, and supervisors as defined in the LMRA.

10. To minimize the personal hardship that Employees could suffer if prepetition obligations related thereto remain unpaid during these Chapter 11 Cases, and to enable the Debtor to maintain operations and maximize the value of its estate, the Debtor seeks authority, but not direction, in accordance with the Approved Budget, to: (i) pay and honor, in the ordinary course of business and consistent with prepetition practices, certain prepetition claims relating to, among other things, Prepetition Compensation, Prepetition Benefits, Prepetition Business Expenses,[4] Payroll Processor Fees (as defined below) and the Non-Insider

[4] The descriptions of the Prepetition Compensation, Prepetition Benefits and Prepetition Business Expenses set forth in this Motion constitute a summary only. The actual terms of the relevant agreements, contracts,

Retention Bonus Program (defined below) and (ii) pay all costs related thereto in the ordinary course of business and consistent with prepetition practices. A summary of such payment obligations is set forth in the following table:

Relief Sought	Interim Amount Requested	Final Amount Requested
Wage Obligations	$212,500	$425,000
Employer Payroll Taxes	$18,500	$37,000
Sales Incentive Program[5]	$0	$103,213
Health and Welfare Benefits	$162,500	$325,000
COBRA Benefits	$0	$0
401(k) Non-Union Plans	$15,000	$30,000
Pension Plans	$0	$0
Workers' Compensation Program	$17,500	$35,000
PTO	$100,000	$200,000
Severance	$0	$0
Prepetition Business Expenses	$25,000	$50,000
Payroll Processor Fees	$5,000	$10,000
Non-Insider Retention Bonus Program[6]	$0	$10,000

plans, programs and manuals will govern in the event of any inconsistency with the descriptions in this Motion. The Debtor requests authority to honor obligations related to the Prepetition Compensation, Prepetition Benefits and Prepetition Business Expenses in the ordinary course of business consistent with prepetition practices, and in accordance with the Approved Budget, regardless of whether the Debtor inadvertently failed to include a particular benefit or aspect of compensation in such defined terms, and any such omitted benefit or aspect of compensation is hereby included in such defined terms, as applicable, as used herein and in the Proposed Orders.

5 Relief pursuant to the Proposed Final Order only.

6 Relief pursuant to the Proposed Final Order only.

III. Prepetition Compensation

A. Employee Wages

11. In the ordinary course of business, the Debtor (a) incurs obligations to its Employees for wages, overtime and similar obligations and (b) routinely deducts amounts from its Employees' paychecks on account of garnishments and as required by applicable statutory authority on account of Social Security, Medicare and income taxes for remittance to the appropriate federal, state and local taxing authorities (collectively, the "Wage Obligations"). The majority of the Debtor's payroll is made by direct deposit through electronic transfer of funds to the Employees' bank accounts and other electronic means or checks on a weekly or bi-weekly basis. The Debtors' payroll is administered by their payroll processor, ADP (the "Payroll Processor"). All Wage Obligations accrue on either a salaried or hourly basis. The Wage Obligations are generally paid two weeks in arrears.

12. The Debtor estimates that, as of the Petition Date, the total amount of unpaid Wage Obligations was approximately $425,000. Consistent with sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code, amounts entitled to priority on account of employee wages and benefits are capped at $17,150 per Employee (the "Employee Cap"). Except as otherwise discussed below, the Debtor believes that the amount of Prepetition Compensation and Prepetition Benefits owing to, or on account of, each of its Employees will not exceed the Employee Cap. Payments to or on behalf of Employees on account of prepetition obligations will be limited by the Employee Cap, unless such amounts are above the statutory cap as a result of a cash payment of unpaid PTO, which the Debtor will only pay if any state or other applicable law requires the Debtor to do so, or pursuant to the Sales Incentive Program.

13. Included in the Wage Obligations are union dues withheld from union Employee pay. The CBAs require that union dues and assessments be deducted and remitted pursuant to union check-off provisions. The Dixie Clay CBA provides that the Debtor will check off monthly dues or service charges (including initiation fees and assessments, as applicable) and remit to the International Secretary-Treasurer on a monthly basis with a completed summary. The Gouverneur Mineral CBA likewise provides for union security and check-off, including remittance on or before the tenth day of the month following the month of deduction.

14. A failure to pay any Wage Obligations would inflict substantial financial hardship on the Employees and could lead to significant headcount attrition. Considering the indispensable value the Employees provide to the Debtor's estate and the cost attendant to filling sudden vacancies, it is critical that the Debtor maintains its workforce during the pendency of this Chapter 11 Case. Accordingly, the Debtor requests authority, but not direction, to pay, in accordance with the Approved Budget, prepetition amounts owed on account of the Wage Obligations and to continue honoring the Wage Obligations in the ordinary course of business on a postpetition basis.

B. Employer Payroll Taxes

15. During each applicable payroll period, the Debtor pays employer payroll taxes from its own funds and pays, based on a percentage of gross payroll, additional amounts for federal and state unemployment insurance, and Social Security and Medicare taxes (the "Employer Payroll Taxes"). As of the Petition Date, the Debtor believes there are approximately $37,000 in prepetition amounts withheld but not yet remitted on account of Employer Payroll Taxes.

16. Accordingly, the Debtor seeks authority, but not direction, to pay, in accordance with the Approved Budget, any prepetition obligations outstanding with respect to the Employer Payroll Taxes and to continue honoring its obligations related thereto in the ordinary course of business on a postpetition basis and consistent with prepetition practices.

C. Sales Incentive Program

17. Included in the Prepetition Compensation are prepetition obligations for an incentive program maintained by the Debtors designed to drive performance among their non-insider Employees. Specifically, certain of the Debtor's sales team Employees are eligible for awards based on meeting sales targets and overall company performance (the "Sales Incentive Program").

18. Prior to the Petition Date, at the start of each fiscal year, the Debtor's management and certain non-insider sales team Employees meet and agree upon individualized sales incentive plans, which goals are based in part on overall company performance and in part on personal performance. Participants in the Sales Incentive Program can earn bonuses ranging from 14.5% to 22.0% of their base salaries, with 80% of the earned bonus calculated based on company performance and 20% of the earned bonus calculated based on personal performance. There are five Employees who are not "insiders" (as defined in section 101(31) of the Bankruptcy Code) who participated in, and earned bonuses under, the 2025 Sales Incentive Program.[7]

19. As of the Petition Date, the Debtor owes $103,213 in the aggregate to the five non-insider Employees who participated in the 2025 Sales Incentive Program. Only upon

[7] A sixth Employee who participated in the Sales Incentive Program also served as a Manager on the Debtor's Board of Managers. For the avoidance of doubt, the Debtor does not seek authority to pay this Employee any prepetition amounts on account of the Sales Incentive Program.

entry of the Proposed Final Order, the Debtor seeks authority, but not direction, to make payments on account of prepetition amounts owed under the Sale Incentive Program and in accordance with the Approved Budget.[8]

IV. Prepetition Benefits[9]

20. In the ordinary course of business, the Debtor, through its non-debtor parent R.T. Vanderbilt Holding Company, Inc. ("Holdings"), offers benefit programs (the "Benefit Programs") to its full-time Employees, including (i) plans maintained by the Debtor that provide medical, accident, dental, vision, life, accidental death and dismemberment ("AD&D") and disability insurance; (ii) COBRA Benefits (as defined below); (iii) a 401(k) retirement plan; (iv) a pension plan; (v) a Workers' Compensation Program (as defined below); and (vi) a PTO program (as defined below). Additionally, the Debtor, through Holdings provides a health savings account ("HSA") and flexible spending account ("FSA") programs. The failure to continue the Benefits Programs and to pay prepetition obligations on account of the Benefit Programs could cause Employees to experience severe hardship.

21. Holdings pays and provides for the Prepetition Benefits, with the Debtor reimbursing those costs. The Debtor also withholds from Employee paychecks their individual contributions in respect of the Health and Welfare Benefits (defined below). The Debtor owes

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8 Of these five Employees, four of their awards under the Sales Incentive Program would be above the priority cap of $17,150 in section 507(a)(4) of the Bankruptcy Code on their own, in the amounts of $24,831, $22,071, $22,193 and $23,332. It is possible that the fifth, after accounting for other accrued Prepetition Compensation and Prepetition Benefits, may also end up at or above the statutory cap in the aggregate. The Debtor requests authority, pursuant to section 363 of the Bankruptcy Code, to pay these employees the amounts under the Sales Incentive Program in full upon entry of the Proposed Final Order or, in the alternative, to pay only so much of the Sales Incentive Program to each employee so that the total amount of Prepetition Compensation and Prepetition Benefits received pursuant to the Interim and Final Orders for each applicable Employee equals the priority cap.

9 The descriptions of the Debtor's benefit programs contained herein are provided for convenience only and are qualified in all respects by the actual terms of such programs. Nothing contained herein shall have the effect of modifying the terms of the benefit programs or altering any party's rights and obligations thereunder.

certain Prepetition Benefits as of the Petition Date because various obligations under the Benefit Programs accrued either in whole or in part prior to the Petition Date but will not become payable in the ordinary course of the Debtor's business until a later date. Thus, the Debtor seeks authority to pay, in accordance with the Approved Budget, all Prepetition Benefits that, as of the Petition Date, had accrued but remained unpaid.

22. As of the Petition Date, the Debtor estimates that the total unpaid or accrued amount of Prepetition Benefits is approximately $565,000. The Benefit Programs are described in more detail below.

A. Health and Welfare Benefits

23. Full-time Employees working a minimum of 30 hours per week on a regular basis are eligible for various health and welfare benefits, including medical, dental, vision, life, AD&D and disability insurance (the "Health and Welfare Benefits"). The benefits typically begin 30 days following the date of hire. A summary of the Health and Welfare Benefits is set forth below:

- ***Medical.*** The Debtor's salaried Employees have the choice of medical plan options offered by UnitedHealthcare.
- ***Vision.*** The Debtor's Employees are offered fully insured vision benefits as part of their general health insurance program administered by UnitedHealthcare.
- ***Life Insurance.*** The Debtor's Employees are offered group term life insurance and the option to buy supplemental term life insurance, both through New York Life. Because the Debtor does not pay the costs of the supplemental term life policies, no amounts were owed by the Debtor for these programs as of the Petition Date.
- ***HSA.*** The Debtor's Employees have the option, based on the healthcare plan that an Employee selects, of establishing an HSA administered by Optum. Participating Employees are responsible for contributions to their HSA, while the Debtor pays associated administrative fees.
- ***FSA.*** The Debtor's Employees have the option of establishing an FSA administered by Health Equity. Participating Employees are responsible for contributions to their FSA, while the Debtor pays associated administrative fees.

24. The Dixie Clay CBA provides that union Employees shall participate in, and contribute to, medical insurance on an equal basis and in the same amount as non-union employees through a provider selected by the Debtor. The Dixie Clay CBA also states that, effective August 1, 2024, life and accidental death and dismemberment insurance is increased to $50,000 and that retiree life insurance is $15,000 for those retiring after the effective date.

25. The Gouverneur Mineral CBA provides the Debtor shall provide group medical insurance to union Employees through a provider selected by the Debtor. The Debtor provides a plan that union Employees can participate in, and contribute to, medical insurance on an equal basis and in the same amount as non-union employees through a provider selected by the Debtor. As of the Petition Date, life and accidental death and dismemberment insurance is $46,000 and retiree life insurance is $13,000.

26. The Debtor estimates that, as of the Petition Date, the total amounts unpaid or accrued on account of Health and Welfare Benefits, inclusive of Employee contributions, is approximately $300,000.[10]

B. COBRA

27. Pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (as amended, "COBRA"), the Debtor offers eligible former employees (the "COBRA Employees") the opportunity to elect to continue insurance coverage under certain of the insurance plans maintained by the Debtor (the "COBRA Benefits"). Following an eligible employee's termination, such COBRA Employee is solely responsible for payment of various health insurance premiums and is billed directly. As of the Petition Date, there are no COBRA Employees that have elected to use their COBRA Benefits.

[10] Holdings has a self-insured medical plan, therefore estimated claims incurred but not reported is difficult to estimate. The relief sought is based on approximately 2.5 months of claims based on historical averages.

28. The Debtor estimates that they do not owe any amounts on account of COBRA Benefits. By this Motion, the Debtor seeks to continue to provide COBRA Benefits for COBRA Employees and pay associated costs regardless of whether the COBRA Employee's right to receive COBRA Benefits arose before or after the Petition Date in accordance with the Approved Budget.

C. 401(k) Non-Union Plans

29. The Debtor maintains a retirement savings plan for the benefit of its Employees that satisfies the requirements of section 401(k) of the Internal Revenue Code (the "401(k) Plan"). The 401(k) Plan is administered by Mercer Investments, LLC. Employees are eligible to participate in the 401(k) Plan on the first of the month, after a waiting period of 90 days after date of hire. Employee contributions cannot exceed the lesser of 100% of their annual compensation, or if less, the dollar limit on elective deferrals announced annually by the Internal Revenue Service, subject to cost-of-living adjustments, and are automatically deducted pre-tax from employee paychecks. The Debtor currently contributes an amount equal to 3% of an Employee's salary to their 401(k) Plan.

30. The Dixie Clay CBA provides that, effective December 31, 2006, the Debtor ceased contributions to the defined benefit retirement plan, which did not affect vested benefits. Employees covered by the Dixie Clay CBA participate, on the same terms and conditions as non-union Employees, in any Debtor-sponsored pension or retirement plan offered at the Dixie Clay facility. The Debtor currently provides a safe harbor 401(k) plan, and the Debtor may change plan providers from time to time upon notice to the union.

31. The Gouverneur Mineral CBA provides that the Debtor has consolidated its various 401(k) plans. Effective February 1, 2025 through January 31, 2028, the Debtor may

contribute 3% of the employee's earned income as a non-elective 401(k) contribution, made as part of regular payroll. The Debtor will be responsible for 401(k) administrative fees, with certain program fee responsibility shifting to participants beginning January 1, 2026. Union Employees will continue to participate on the same terms and conditions as non-union Employees.

32. As of the Petition Date, the Debtor estimates that its obligations under the 401(k) Plan total approximately $30,000.

D. Defined Benefit Pension Plans

33. Although the Debtor historically participated defined benefit pension programs sponsored by Holdings for certain U.S.-based non-union Employees (the "Pension Plans"), all pension plans other than the R. T. Vanderbilt Holding Company Pension Plan (the "Active Plan") have been terminated. In 2005, the Debtor's predecessor-in-interest purchased annuities to fund future obligations to affected participants under such plans. The Active Plan had, as of last year, plan assets valued at approximately $40.3 million and benefit obligations totaling approximately $46.6 million. Since 2005, for former and retired employees covered under the Active Plan, the Debtor purchased additional annuities and partially terminated the plan with respect to those individuals. The remaining portion of the Active Plan is frozen. Although the Debtor does not believe that there are any amounts due and owing on account of the Active Plan as of the Petition Date, out of an abundance of caution, the Debtor requests authority to maintain the Active Plan in its current form, pay any accrued and unpaid amounts and continue to provide administrative support for the Active Plan in accordance with the Approved Budget.

E. Workers' Compensation

34. Holdings maintains, on behalf of the Debtor, workers' compensation insurance for the Debtor's Employees at the statutorily-required level for each state in which the Debtor has Employees (collectively, the "Workers' Compensation Program"). Via Holdings, the Debtor maintains coverage for the Workers' Compensation Program through, where required by applicable state law, state-managed workers' compensation funds. Holdings pre-pays this insurance annually and charges the Debtor the annual amount in twelve equal installments. There are currently two open, fully insured claims under the Workers' Compensation Program.

35. The Debtor estimates that, as of the Petition Date, the total amounts owed on account of the Workers' Compensation Program does not exceed approximately $35,000. Because the Debtor is statutorily and/or contractually obligated to maintain the Workers' Compensation Program, their inability to do so may result in adverse legal consequences that may disrupt these bankruptcy proceedings, including the imposition of civil or criminal penalties and an inability to operate in states in which Employees work. By this Motion, the Debtor seeks authority to (i) modify the automatic stay solely to allow the Debtor's Employees to assert claims under the Workers' Compensation Program, (ii) pay, in accordance with the Approved Budget, any prepetition obligations on account of Workers' Compensation Program and (iii) continue the Workers' Compensation Program on a postpetition basis in the ordinary course of business.

F. Paid Time Off

36. All regular, full-time and part-time Employees are eligible to accrue and receive paid vacation days ("Vacation Leave") on a pro-rated calendar year basis and all Employees are eligible to receive paid sick days ("Sick Leave," and together with the Vacation

Leave, "PTO") on a calendar year basis.[11] The established vacation and sick period is from January 1 through December 31 of the same year. Sick Leave is to be used only for the Employee's own bona fide illness or injury; time needed to care for an ill or injured family member must be taken as Vacation Leave or personal holidays, or under applicable leave laws. Vacation Leave is accrued from an Employee's initial date of hire and is determined by competed, continuous service as follows: (i) during the first year of employment, a new Employee accrues one (1) day of Vacation Leave for each full month of completed service, up to a maximum of ten (10) Vacation Leave days; (ii) after completing one (1) full year but less than five (5) full years of continuous service, an Employee is entitled to ten (10) Vacation Leave days; (iii) after completing five (5) full years but less than twenty (20) full years of continuous service, an Employee is entitled to fifteen (15) Vacation Leave days per year; and (iv) after completing twenty (20) or more full years of continuous service, an Employee is entitled to twenty (20) Vacation Leave days per year. Unused Vacation Leave is forfeited at the end of the calendar year and may not be carried over. If a Debtor-observed holiday occurs during a Vacation Leave period, the Employee is entitled to a replacement day of Vacation Leave. Upon termination or resignation, earned Vacation Leave is paid as follows: one-half of the Employee's Vacation Leave for service completed before July 1 of the current year, and full Vacation Leave for service completed after July 1. An Employee with less than one year of continuous service is only eligible for half the Employee's Vacation Leave.

37. Union Employees. The Dixie Clay CBA further provides paid holidays and specifies eligibility and pay rules including ten (10) hours' pay for paid holidays for

[11] In addition, the Debtor provides the Employees with certain leave policies and benefits (including jury duty leave, paid holidays and bereavement leave).

employees regularly scheduled on ten-hour shifts. The Gouverneur Mineral CBA provides paid holidays with eligibility and pay provisions.

38. As of the Petition Date, the Debtor estimates that it owes approximately $200,000 on account of accrued but unpaid PTO, which it expects to be utilized over time as Employees take days off with pay.

G. Early Retirement and Retiree Medical (Union Employees)

39. The Dixie Clay CBA provides that an employee with 20 years of service who takes early retirement between ages 62 and 65 may continue coverage under the Debtor's medical plan by paying the then-current employee contributions (including increases) for up to three years, with coverage ceasing at age 65. Coverage is available to the employee and spouse only and is limited to a total maximum of three years. The Gouverneur Mineral CBA does not provide an early retirement incentive program or retiree medical continuation program.

H. Severance

40. The Debtor maintains a severance program for all full-time salaried non-union Employees (the "Severance Policy"). Employees terminated without cause in connection with a reduction in force, as determined by the Debtor, and subject to the Employee's executing and not revoking (in each case, within the applicable time period provided therein to do so) a release of claims in a form acceptable to the Debtor are eligible to an amount equal to one-half of one week of the Employee's base pay for each full year of continuous service with the Debtor, subject to a maximum of 13 weeks. Employees terminated for cause are not eligible for payments under the Severance Policy.

41. Employees who are terminated by the Debtor for a Disqualifying Termination are not eligible for the Severance Policy. A "Disqualifying Termination" means any

Employee whose employment is terminated as of, or during the thirty 30-day period prior to or following the sale by the Debtor of a material location or portion of one or more of its businesses or assets to a purchaser and who, within the 60-day period following such sale, either: (i) is hired by the purchaser or its affiliate or (ii) is offered Qualifying Alternative Employment by the purchaser or its affiliate (regardless of whether the Employee accepts such offer). "Qualifying Alternative Employment" means an offer of employment that provides for (i) a base pay that is not lower than 10% less than the Employee's base pay as last applicable before the Employee's date of employment termination with the Debtor, and (ii) requires the Employee to report for work at a primary location that is not more than 50 miles from the location of the Employee's existing assignment immediately prior to the Employee's date of employment termination with the Debtor. In the event the Debtor determines that an employee who was originally determined to be eligible to receive a severance payment under the Severance Policy has experienced a Disqualifying Termination, such Employee shall forfeit, and the Debtor shall have no further obligation to provide, any portion of the severance payment not yet paid to such Employee as of the initial date of such Disqualifying Termination event. The Severance Policy shall provide that, to the extent permitted by applicable law, the Debtor shall have the right to reduce or offset any severance payments otherwise payable under the Severance Policy by the amount of any pay in lieu of notice, salary or wage continuation, or other compensation or benefits provided or required to be provided pursuant to the federal Worker Adjustment and Retraining Notification Act or any similar state, local or foreign plant closing or mass layoff law.

42. As of the Petition Date, there are no current recipients of severance payments. To the extent owed, a severance payment shall be paid to a former Employee in substantially equal installment payments on regular payroll dates across the number of weeks

that is equivalent to the number of weeks on which the severance payment calculation is based, with the first installment payment commencing on the Debtor's first regularly scheduled payroll date that occurs at least three (3) business days after the effective date of the release (as set forth in such release), provided that the employee has timely returned the executed release to the Company (and not revoked such executed release, as applicable).

43. By this Motion, the Debtor seeks authority, but not direction, in accordance with the Approved Budget, to (i) continue the severance program in the ordinary course consistent with prepetition practices and (ii) honor severance obligations arising on or after the Petition Date, including the continued payment schedule described above, subject in all respects to sections 503(c) and 507(a)(4) of the Bankruptcy Code and the limitation set forth in the Proposed Orders. The Debtor does not seek authority to pay severance to insiders, nor to pay any prepetition severance amounts other than as permitted under the Bankruptcy Code and the Proposed Orders.

V. Prepetition Business Expenses

44. The Debtor customarily reimburses Employees for a variety of business expenses incurred in the ordinary course of its business.[12] The Debtor's Employees are authorized to pay up front for certain business-related expenses, and periodically submit requests for incurred reimbursements through the Debtor's expenses management system, Concur Expense. Once the Debtor has determined that the charges are for legitimate reimbursable business expenses, they reimburse Employees for such expenses. In addition, the Debtor also

[12] For example, this includes repayment of expenses under the employee travel and expense policy. Certain managers or Employees with critical business functions may also qualify for cell phone service reimbursement.

offers corporate credit cards to certain of its Employees for the purchase of authorized goods and services.[13]

45. It is difficult for the Debtor to determine the exact amount of Prepetition Business Expenses that are outstanding because there may be lag in the submission of the reimbursement forms. Nonetheless, based on historical trends, the Debtor estimates that its obligations for Prepetition Business Expenses as of the Petition Date to Employees will not exceed $50,000. The Debtor seeks authorization to reimburse all Prepetition Business Expenses in accordance with the Approved Budget.

VI. Prepetition Payroll Processing Fees

46. The Debtor relies on the services of the Payroll Processor to efficiently manage the Debtor's payroll-related administrative functions, including the processing and payment of Employee wages and salaries, deductions, and Employer Payroll Taxes (collectively, the "Payroll Services"). The Debtor generally pays the Payroll Processor an average fee of approximately $5,000 per month for the Payroll Services. As of the Petition Date, the Debtor estimates that it owes approximately $10,000 to the Payroll Processor on account of Payroll Services (the "Payroll Processing Fees").

47. With the Payroll Processor's assistance, the Debtor can ensure that (i) Employees are paid on time, (ii) appropriate deductions are made, (iii) payroll reporting is accurate and (iv) appropriate amounts are remitted to the applicable taxing authorities. The Debtor seeks authority to pay the Payroll Processing Fees and continue to pay the Payroll Processor in the ordinary course of business, in its sole discretion and in accordance with the Approved Budget.

[13] The Debtor seeks authority to pay amounts on account of outstanding obligations related to the Debtor's corporate credit cards pursuant to the Cash Management Motion, filed contemporaneously herewith.

VII. Non-Insider Employee Retention Program

48. Prior to the Petition Date, the Debtor approved a retention bonus program (the "Non-Insider Employee Retention Program") to retain two non-insider Employees (as that term is defined in section 101(31) of the Bankruptcy Code) whom the Debtor determined were vital to the restructuring process and preserving critical capabilities. One non-insider Employee is the Debtor's Director of Research and Development and the other is a paralegal. The Debtor designed the Non-Insider Employee Retention Program to retain these key Employees for a smooth transition into chapter 11 and to maintain the Debtor's operations in a manner that will maximize the value received from the sale of its assets. No "insiders" (as defined in section 101(31) of the Bankruptcy Code) will participate in the proposed Non-Insider Retention Bonus Program.

49. Under the Non-Insider Retention Bonus Program, which commenced effective October 1, 2025, bonuses equal 20% of the participating Employee's annual salary, which are payable in quarterly installments within 30 days after the end of each calendar quarter and will partially accrue on a monthly basis at the end of each month. A participating Employee that resigns or is terminated for cause forfeits any unpaid portion of the bonus.

50. As of the Petition Date, approximately six weeks of bonuses have accrued but are unpaid (though not yet due) under the Non-Insider Employee Retention Program. However, because bonuses accrue monthly and are payable quarterly within 30 days after the end of each calendar quarter, no amounts were due and owing as of the Petition Date and none will become payable until after March 31, 2026. Accordingly, the Debtor does not believe that there are any prepetition amounts due and owing on account of the Non-Insider Retention Bonus Program. The Debtor estimates that the total amount that will come due under the Non-Insider

Retention Bonus Program after the Petition Date and during the pendency of this Chapter 11 Case is at least $28,000 and at most $45,000, depending on the duration of the Chapter 11 Case. Out of an abundance of caution, the Debtor seek authority, but not direction, pursuant to the Proposed Final Order only, to continue the Non-Insider Retention Bonus Program on a postpetition basis and pay in the ordinary course of business, and in accordance with the Approved Budget, amounts that may come due under, and in accordance with the terms of, the Non-Insider Retention Bonus Program. For the avoidance of doubt, the relief sought with respect to the Non-Insider Retention Bonus Program does not include payment of any obligations to any insider, and the Debtor will not make any non-ordinary course bonus or incentive payments to any insiders without further order of the Court.

Legal Basis for Relief Requested

I. Payment of the Employee Related Claims is Necessary and Appropriate

A. Section 363 of the Bankruptcy Code and the Doctrine of Necessity Provide the Basis for Granting the Requested Relief

51. Section 363(b)(1) of the Bankruptcy Code provides as follows: "The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate . . . ." 11 U.S.C. § 363(b)(1). A debtor's decisions to use, sell or lease assets outside the ordinary course of business must be based upon a sound business purpose. See In re Lionel Corp., 722 F.2d 1063, 1071 (2d Cir. 1983) ("[A] debtor applying under § 363(b) carries the burden of demonstrating that a use, sale or lease out of the ordinary course of business will aid the debtor's reorganization, . . ."); In re Woldeyohannes, 665 B.R. 543, 566 ("Sale transactions pursuant to Bankruptcy Code § 363 must be based on the sound business judgment of the debtor or trustee."); In re Borders Group, Inc., 453 B.R. 477, 482

(Bankr. S.D.N.Y. 2011) ("In approving a transaction conducted pursuant to section 363(b)(1), courts consider whether the debtor exercised sound business judgment.").

52. Section 105(a) of the Bankruptcy Code provides:

> The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C. § 105(a). Section 105(a) of the Bankruptcy Code grants bankruptcy courts broad authority and discretion to enforce the provisions of the Bankruptcy Code under equitable common law principles. The purpose of section 105 of the Bankruptcy Code is to ensure the bankruptcy court has the power "to take whatever action is appropriate or necessary in aid of the exercise of their jurisdiction." 2 Collier on Bankruptcy ¶ 105.01 (16th ed. 2025).

53. Under the "doctrine of necessity," courts allow the immediate payment of prepetition claims where such payment is essential to the debtor's continued operations. See In re Windstream Holdings Inc., 614 B.R. 441, 456–57 (S.D.N.Y. 2020) ("This is commonly referred to as either the 'doctrine of necessity' or the 'necessity of payment' rule, which recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay pre-petition claims where such payment is essential to the continued operation of the debtor.") (citation modified); In re N.Y., N.H. & H. R. Co., 278 F.Supp. 592, 602 n.15 (D. Conn. 1967) ("The necessity of payment rule was first enunciated in Miltenberger v. Logansport, C. & S.W. Ry. Co., 106 U.S. 286, 1 S.Ct. 140, 27 L.Ed. 117 (1882)"); accord In re Boston & Me. Corp., 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtors' continued operation).

54. In dicta, the Supreme Court of the United States endorsed motions seeking to pay certain prepetition claims early in a chapter 11 case to "enable a successful reorganization and make even the disfavored creditors better off." See Czyzewski v. Jevic Holding Corp., 137 S. Ct. 973, 985 (2017) ("Courts, for example, have approved first-day wage orders that ***allow payment of employees*' *prepetition wages***, critical vendor orders that allow payment of essential suppliers' prepetition invoices, and roll-ups that allow lenders who continue financing the debtor to be paid first on their prepetition claims. In doing so, these courts have usually found that the distributions at issue would enable a successful reorganization and make even the disfavored creditors better off.") (citation modified) (emphasis added).

55. The bankruptcy court's exercise of its authority under the "doctrine of necessity" is appropriate to carry out certain statutory provisions of chapter 11 – specifically sections 1107(a), 1108 and 363(b)(1) of the Bankruptcy Code – which collectively authorize a debtor in possession to maintain and operate the debtor's business and use estate property outside of the ordinary course of business. Indeed, a debtor in possession operating a business under section 1108 of the Bankruptcy Code has a duty to protect and preserve the value of its business, and prepetition claims may be paid if necessary to perform the debtor's duty. See In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) ("There are occasions when this duty can only be fulfilled by the preplan satisfaction of a prepetition claim."); In re Ionosphere Clubs, Inc., 98 B.R. 174, 176, 178 (Bankr. S.D.N.Y. 1989) (denying payment of pre-petition wage claims of striking employees because such payment was neither essential to the continued operation of the debtor, nor beneficial to the value of the estate).

56. This Motion satisfies the foregoing criteria. The immediate impairment of the Debtor's relationships with its Employees and the irreparable harm to workforce morale that

would result from any delay or disruption in the payment of wages and benefits provided to Employees – at the very time when the dedication, confidence and cooperation of those Employees is most critical – would clearly imperil the Debtor's chances of consummating successful going-concern transactions. Thus, maintaining morale and the goodwill of the Debtor's Employees and ensuring the uninterrupted availability of their services is necessary to assist the Debtor in (i) maintaining the "business as usual" atmosphere needed to continue high quality production and (ii) preserving the Debtor's relationships with vendors and, crucially, customers, as the Debtor's Employees act as the Debtor's "face to the world" and (iii) maximizing the value of its assets in connection with the postpetition sale process.

57. Moreover, the Debtor's inability to obtain the relief requested herein would cause harm to the Debtor's Employees themselves. The Debtor's Employees depend upon the receipt of the amounts represented by Prepetition Compensation, Prepetition Business Expenses and Prepetition Benefits to enable the Debtor's Employees to meet their own personal obligations. Absent receipt of such amounts, the Debtor's Employees would suffer undue hardship and, in many instance, serious financial difficulties. Ensuring the Debtor's Employees remain as unaffected by the filing of this Chapter 11 Case is imperative to maintaining the Debtor's operations and satisfying customers' expectations with respect to quality and service.

58. Additionally, continuing union wages and benefits in accordance with the CBAs – including wage increases, overtime and premium pay, health and welfare coverage, and retirement and 401(k) terms – is essential to maintain uninterrupted operations and workforce stability at the Debtor's represented locations and is authorized by sections 105(a) and 363 of the

Bankruptcy Code. The Debtor will continue performance under the CBAs as required by section 1113 of the Bankruptcy Code.[14]

59. Lastly, payment of the Payroll Processor Fees is equally as important to the Debtor's operations in this Chapter 11 Case. The Payroll Processor allows the Debtor to realize substantial cost savings with respect to the administration of its payroll and benefit programs by not having to employ additional human resources professionals. In addition to saving costs, the Payroll Processor assists the Debtor with labor and tax regulatory compliances.

60. Accordingly, the Debtor believes the relief requested herein is essential and should be granted.

B. Employee Wages and Related Costs Have Priority Status Under the Bankruptcy Code

61. In addition to the essential nature of the relief requested herein, payments on account of much of the Prepetition Compensation are entitled to priority under the Bankruptcy Code and would be made, in a liquidation or under a plan, prior to general unsecured creditors receiving distributions from the Debtor's estate. This absence of harm to general unsecured creditors (even in a liquidation) is further support for granting the relief requested herein.

62. Under section 507(a)(4) of the Bankruptcy Code, employees are granted a priority claim for the following:

> [A]llowed unsecured claims, but only to the extent of $17,150 for each individual or corporation, as the case may be, earned within 180 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—
>
> (A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual; or

[14] By this Motion, the Debtor is not seeking to assume or reject any CBAs.

> (B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor in the sale of goods or services for the debtor in the ordinary course of the debtor's business if, and only if, during the 12 months preceding that date, at least 75 percent of the amount that the individual or corporation earned by acting as an independent contractor in the sale of goods or services was earned from the debtor.

11 U.S.C. § 507(a)(4). To the extent severance under the Debtor's severance program is earned within 180 days prepetition, such amounts are entitled to priority under section 507(a)(4)(A) of the Bankruptcy Code up to the statutory cap; postpetition severance incurred in the ordinary course is authorized under sections 105(a) and 363(b) as an exercise of sound business judgment. The Debtor does not seek by this Motion approval of any severance to insiders or relief that would implicate section 503(c).

63. Likewise, under section 507(a)(5) of the Bankruptcy Code, employees are granted a priority claim for the following:

> [A]llowed unsecured claims for contributions to an employee benefit plan —
>
> (A) arising from services rendered within 180 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only
>
> (B) for each such plan, to the extent of —
>
> (i) the number of employees covered by each such plan multiplied by $17,150; less
>
> (ii) the aggregate amount paid to such employees under paragraph (4) of this subsection, plus the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

11 U.S.C. § 507(a)(5).

64. In the instant case, with the exception of certain amounts owing for earned PTO that may be required to be paid by state or other applicable law and under the Sales Incentive Program, the Debtor believes that the amount of Prepetition Compensation and Prepetition Benefits owing to, or on account of, each of its Employees will not exceed the Employee Cap under sections 507(a)(4) and 507(a)(5). Therefore, the payment of these amounts pursuant to this Motion would not deplete assets otherwise available to other unsecured creditors.

C. Funds Held in Trust Are Not Available for General Distribution to Creditors

65. The Debtor maintains the Employer Payroll Taxes in trust for its Employees, and as such, the Employer Payroll Taxes are not property of the Debtor's estate. Section 541(d) of the Bankruptcy Code provides that "[p]roperty in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest" becomes property of a debtor's estate only to the extent of the debtor's legal title therein. 11 U.S.C. § 541(d). It is well established in the Second Circuit that property a debtor holds in trust for another is not property of the estate within the meaning of section 541 of the Bankruptcy Code. See Local Union No. 97, Intern. Broth. Of Elec. Workers v. NRG Energy, Inc., 2009 WL 1310565, at *5 (N.D.N.Y. May 8, 2009) ("In other words, the bankruptcy estate does not include property of others in which the debtor has some minor interest such as a lien or bare legal title.") (quoting In re Howard's Appliance Corp., 874 F.2d 88, 93 (2d Cir. 1989)) (citation modified); see also In re Bernard L. Madoff Inv. Sec. LLC, 458 B.R. 87, 132 (Bankr. S.D.N.Y. 2011). Property which a debtor holds in trust – either express or constructive – of another does not become property of the estate when the debtor files for bankruptcy. See U.S. v. Whiting Pools, Inc., 462 U.S. 198, 206 n.10 (1983) ("Congress plainly excluded property of others held by the debtor in trust at the time of the filing of the petition."); In re Howard's Appliance Corp., 874 F.2d at 93

(holding a constructive trust confers on its beneficiary an equitable interest in the trust res which is superior to that of a bankruptcy trustee); In re Taub, 427 B.R. 208, 220 (Bankr. E.D.N.Y. 2010) ("[U]nder Section 541(d), property held in trust for another is 'not property of the bankruptcy estate because the debtor does not have an equitable interest in it.'").

66. More specifically, taxes collected on behalf of taxing authorities are not property of the estate. See DeChiaro v. N.Y. State Tax Com'n, 760 F.2d 432, 435 (2d Cir. 1985) ("[T]axes that employers . . . have collected . . . from third parties were trust fund taxes for which a bankruptcy discharge was not available.") (citation modified); Sutton v. Comm'r of I.R.S., No. 1:05-CV-669 (GLS/RFT), 2006 WL 1601758, at *1 n.2 (N.D.N.Y. May 8, 2006) ("The employer holds the withheld taxes in trust for the government and must pay them over."); In re Enron Corp., 351 B.R. 305, 311 (Bankr. S.D.N.Y. 2006) (citing the Supreme Court's ruling in Begier v. I.R.S., 496 U.S. 53, 58–60 (1990), "that under 27 U.S.C. § 7501, funds withheld for federal tax purposes are held in trust for the benefit of the federal government, and that those funds therefore did not constitute property of the debtor within the meaning of section 547(b)."); In re Rodriguez, 50 B.R. 576, 580 (Bankr. E.D.N.Y. 1985) ("Moreover, the legislative history accompanying Section 541(a) which delineates property of the bankruptcy estate, supports the IRS' contention that withholding taxes are trust funds and, accordingly, . . . 'such amounts are not property of the estate.'"). Accordingly, such funds are not available for general distribution to a debtor's creditors.

67. The Employer Payroll Taxes are held in trust for the benefit of the appropriate federal, state or local taxing authorities. Likewise, certain of the deductions on account of Prepetition Benefits also are held in trust for, among others, the Employees themselves. Thus, they are not property of the Debtor's estates within the meaning of section

541 of the Bankruptcy Code. As a result, the remittance of the Employer Payroll Taxes and deductions is warranted because it will not adversely affect the Debtor's estate or its creditors.

68. Further, many federal, state and local taxing authorities impose personal liability on the officers and directors of entities responsible for collecting taxes from employees to the extent any such taxes are collected but not remitted. See, e.g., 26 U.S.C. § 6672(a) (establishing, among other things, personal liability for persons required to collect taxes to the extent such taxes are collected but not remitted); 26 U.S.C. § 7202 (same). Accordingly, if these amounts remain unpaid, there is a risk that the Debtor's officers and directors may be subject to lawsuits on account of any such nonpayment during the pendency of this Chapter 11 Case. Such lawsuits obviously would constitute a significant distraction for officers and directors at a time when they should be focused on the Debtor's efforts to (i) stabilize its postpetition business operations and (ii) develop and implement a successful strategy with respect to a going concern sale.

69. To avoid the serious disruption of the Debtors' postpetition sale efforts that could result from the nonpayment of any withholding taxes, the Debtors seek authority to remit all Employer Payroll Taxes collected on behalf of the Employees, including prepetition Employer Payroll Taxes, to the applicable taxing authorities to the extent that that they have not already been remitted.

D. Certain Employee Employer Payroll Taxes and Contributions for ERISA Plans Are Not Property of the Estate

70. In addition to the general exclusion of certain property from a debtor's estate under section 541(d) of the Bankruptcy Code, section 541(b)(7) of the Bankruptcy Code specifically provides that property of the estate does not include amounts withheld by an employer from wages of an employee, or amounts received by an employer from employees, for

payment as contributions to an employee benefit plan that is subject to Title I of the Employee Retirement Income Security Act of 1974 ("ERISA"). Amounts withheld or collected from Employees on account of certain Prepetition Benefits, such as 401(k) accounts, medical, life, disability and other insurance; or other benefits that are subject to Title I of ERISA and thus satisfy the standards of section 541(b)(7) of the Bankruptcy Code are not property of the Debtor's creditors. As such, the remittance of amounts constituting Prepetition Benefits that do not constitute property of the Debtor's estate will not adversely affect the Debtor's estate or its creditors and is therefore warranted.

71. Courts in the this District have routinely approved the payment of prepetition claims of employee wages, salaries, expenses and benefits in various chapter 11 cases. See e.g., In re Crucible Industries LLC, No. 24-31059 (WAK) (Bankr. N.D.N.Y. Jan. 21, 2025) (approving the payment of prepetition employee wages, salaries and benefits); In re The Roman Catholic Diocese of Albany, New York, No. 23-10244 (REL) (Bankr. N.D.N.Y. May 11, 2023) (same); In re Panos Fitness of Onondaga, LLC, No. 23-30184 (WAK) (Bankr. N.D.N.Y. May 3, 2023) (same); In re Garuda Hotels, Inc., No. 22-30296 (WAK) (Bankr. N.D.N.Y. June 9, 2022) (same); In re Herb Philipson's Army and Navy Stores Inc., No. 18-61376 (DD) (Bankr. N.D.N.Y. Nov. 21, 2018) (same).[15]

72. In light of the foregoing, the Debtor respectfully submits that the payment of the Employee-related obligations as requested herein is (i) necessary and essential for the Debtor to achieve its chapter 11 objectives and necessary to prevent immediate and irreparable

[15] These unreported orders are not attached to this Motion. Copies of these orders will be made available to the Court at or prior to the hearing on this Motion and are available to other parties upon request from the Debtors' counsel.

harm to the Debtor, its estates and its Employees, (ii) in the best interests of the Debtor, its estates and its creditors and (iii) a sound business judgment.

II. Approval and Continuation of the Non-Insider Retention Bonus Program and the Sales Incentive Program is Justified by the Facts and Circumstances of This Chapter 11 Case and Should Be Approved

73. The Debtor believes it has authority to continue the Non-Insider Retention Bonus Program and the Sales Incentive Program as they represent the ordinary course continuation of the Debtor's prepetition practices authorized by section 363(c) of the Bankruptcy Code and constitute a sound exercise of the Debtors' business judgment. See, e.g., In re Dana Corp., 358 B.R. 567, 581 (Bankr. S.D.N.Y. 2006); In re Glob. Home Prods., LLC, 369 B.R. 778, 786 (Bankr. D. Del. 2007). However, out of an abundance of caution, the Debtor further submits that the Non-Insider Retention Bonus Program and the Sales Incentive Program comply with the requirements of section 503(c) of the Bankruptcy Code.

74. Neither the Non-Insider Retention Bonus Program nor the Sales Incentive Program run afoul of the limitations of section 503(c)(1) regarding retention bonus payments to insiders. Such provision in inapplicable to the Sales Incentive Program because it is performance-based, rather than retention-based. In addition, the provisions otherwise applicable to retention programs pursuant to section 503(c)(1) of the Bankruptcy Code are inapplicable here because no "insiders" (as defined in section 101(31) of the Bankruptcy Code) will participate in the proposed Non-Insider Retention Bonus Program or the Sales Incentive Program. Instead, to the extent applicable, the Non-Insider Retention Bonus Program and the Sales Incentive Program satisfy the standard set forth in section 503(c)(3) that such contemplated payments be justified by the facts and circumstances of the case. 11 U.S.C. § 503(c)(3). This standard is essentially the same business judgment standard articulated under section 363(b) of the Bankruptcy Code. See In re Velo Holdings, Inc., 472 B.R. 201, 212 (Bankr. S.D.N.Y. 2012) ("Courts have held that

the 'facts and circumstances' language of section 503(c)(3) creates a standard no different than the business judgment standard under section 363(b).").

75. Here, the business justification supporting the Non-Insider Retention Bonus Program is clear – the Debtor requires the key, non-insider Employees' specific knowledge and skill sets to preserve and maximize stakeholder value in connection with the Debtor's sale efforts. The Non-Insider Retention Bonus Program Employees are intimately familiar with the Debtor's operations and have unique skill valuable to the Debtor. Without the Non-Insider Retention Bonus Program, the Debtor risks the departure of some of its most crucial Employees. Such departures would likely jeopardize the Debtor's ability to consummate a successful going concern transaction to the detriment of all parties in interest. Retaining Employees through the Non-Insider Retention Bonus Program will accordingly maintain stability and allow the Debtor to focus on its sale efforts. Overall, the Debtor believes that the Non-Insider Retention Bonus Program is vital to retaining Employees and protecting the enterprise value associated therewith.

76. Meanwhile, the Sales Incentive Program is similarly justifiable from a business perspective. The Debtor's sales staff are critical to the Debtor's future success and play a key role in maintaining and developing new relationships with customers across the world. Although bonuses under the Sales Incentive Program have already been earned, if the Debtor is unable to honor those bonuses, the members of the Debtor's sales team may lose motivation or even depart for other positions – potentially taking key customer relationships with them. Replacing those Employees could well prove challenging. Finding, attracting and training new qualified talent would be extremely difficult and would likely require higher salaries, guaranteed

bonuses and more comprehensive compensation packages than are currently provided to Employees.

77. Because (i) the Non-Insider Retention Bonus Program will motivate the participating Employees to remain in the Debtor's employ during the sale process, inuring to the benefit of all parties in interest and (ii) the Sales Incentive Program incentivizes and motivates the Debtor's sales staff that are key to the Debtor's financial success, the Non-Insider Retention Bonus Program and the Sales Incentive Program reflect the sound exercise of the Debtor's business judgment and are justified by the facts and circumstances of this Chapter 11 Case. See, e.g., In re Glob. Home Prods., LLC, 369 B.R. at 784 ("The reasonable use of incentives and performance bonuses are considered the proper exercise of a debtor's business judgment."); In re Mesa Air Grp., Inc., 2010 WL 3810899, at *4 (Bankr. S.D.N.Y. Sept. 24, 2010) (holding that bonus payments are "justified by the facts and circumstances of the case under section 503(c)(3) [where] they are within the sound business judgment of the Debtors.") (citation and internal quotation marks omitted).

78. Accordingly, to the extent applicable, the Non-Insider Retention Bonus Program and the Sales Incentive Program satisfy section 503(c)(3) of the Bankruptcy Code.

III. Limited Waiver of the Automatic Stay for Workers' Compensation Claims Is Appropriate

79. Section 362(a) of the Bankruptcy Code operates to stay:

> the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title . . . .

11 U.S.C. § 362(a)(1).

80. Section 362 of the Bankruptcy Code, however, permits a debtor or other parties in interest to request a modification or termination of the automatic stay for "cause." Id. at § 362(d)(1). Cause exists here to modify the automatic stay to permit the Employees to proceed with workers' compensation claims in the appropriate judicial or administrative forum. Staying the workers' compensation claims could have a detrimental effect on the financial wellbeing and morale of the Employees. In addition, as noted above, if the Debtor fails to maintain the Workers' Compensation Program, state laws may impose civil or criminal penalties and prohibit the Debtor from operating in states in which Employees work. Accordingly, the Debtor requests a limited waiver of the automatic stay for purposes of allowing the Workers' Compensation Program to proceed.

IV. Request for Authority for Banks to Honor and Pay Checks Issued to Pay Prepetition Compensation, Prepetition Business Expenses, Prepetition Benefits and Payroll Processor Fees.

81. In addition, by this Motion, the Debtor requests that all applicable banks and other financial institutions (collectively, the "Banks") be authorized, when requested by the Debtor, to receive, process, honor and pay any and all checks presented for payment of, and to honor all fund transfer requests made by the Debtor related to Prepetition Compensation, Prepetition Business Expenses, Prepetition Benefits and Payroll Processor Fees regardless of whether such checks were presented or fund transfer requests were submitted prior to or after the Petition Date, provided that sufficient funds are available in the applicable accounts to make the payments. The Debtor represents that these checks are drawn on identifiable payroll and disbursement accounts and can be readily identified as relating directly to the authorized payment of Prepetition Compensation, Prepetition Business Expenses, Prepetition Benefits and/or Payroll Processor Fees. Accordingly, the Debtor believes that checks other than those relating to authorized payments will not be honored inadvertently.

Requests for Immediate Relief & Waiver of Stay

82. Pursuant to Bankruptcy Rules 6003(b) and 6004(h), the Debtor seeks (i) immediate entry of an order granting the relief sought herein and (ii) a waiver of any stay of the effectiveness of the Proposed Orders. Bankruptcy Rule 6003(b) provides, in relevant part, that "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, issue an order granting . . . a motion to pay all or part of a claim that arose before the filing of the petition." Bankruptcy Rule 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Where the failure to grant any such requested relief would result in immediate and irreparable harm to a debtor's estate, a court may allow a debtor to pay immediately all or part of a prepetition claim.

83. As set forth above and in the First Day Declaration, the payment of the Prepetition Compensation, Prepetition Business Expenses, Prepetition Benefits and Payroll Processor Fees is necessary to prevent the immediate and irreparable damage to the Debtor's (a) operations (and customer confidence therein), (b) going-concern value and (c) ability to successfully administer this Chapter 11 Case that would result from a collapse of employee morale. Accordingly, the Debtor submits that ample cause exists to justify (i) the immediate entry of an order granting the relief sought herein and (ii) a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h) and the notice requirements of 6004(a), to the extent that they apply.

Reservation of Rights

84. Nothing contained herein is intended or shall be construed as: (i) an admission as to the validity of any claim against the Debtor; (ii) a waiver of the Debtor's rights to dispute any claim, including the amount or priority thereof, on any grounds;

(iii) a promise to pay any claim; (iv) an implication or admission that any particular claim is of a type specified or defined hereunder; or (v) the assumption of any executory contract or unexpired lease.

Notice

85. Notice of this Motion shall be provided to: (i) the Office of the United States Trustee for the Northern District of New York; (ii) the Top Talc Counsel List; (iii) counsel to the proposed DIP Lenders; and (iv) any other party entitled to notice pursuant to Bankruptcy Rule 2002. The Debtor respectfully submits that no further notice of this Motion is required.

No Prior Request

86. No prior request for the relief sought herein has been made to this Court or any other court in connection with the Chapter 11 Case.

WHEREFORE, the Debtor respectfully requests that the Court: (i) enter the Proposed Interim Order, granting the relief requested herein on an interim basis; (ii) enter the Proposed Final Order, granting the relief requested herein; and (iii) grant such other and further relief as to the Debtor as the Court may deem proper.

[*Remainder of page intentionally left blank.*]

Dated: February 16, 2026
Syracuse, New York

Respectfully submitted,

/s/ Charles J. Sullivan

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Proposed Counsel for the Debtor and Debtor in Possession

Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
Vanderbilt Minerals, LLC,	Case No. 26-60110 (WAK)
Debtor.[1]	

INTERIM ORDER (I) AUTHORIZING THE DEBTOR TO PAY PREPETITION EMPLOYEE WAGES, BENEFITS, AND RELATED ITEMS AND (II) GRANTING CERTAIN RELATED RELIEF

This matter coming before the Court on the *Motion of the Debtor and Debtor in Possession for Interim and Final Orders (I) Authorizing the Debtor to Pay Prepetition Employee Wages, Benefits and Related Items and (II) Granting Certain Related Relief* (the "Motion"),[2] filed by the above-captioned debtor and debtor in possession (collectively, the "Debtor");

[1] The Debtor is Vanderbilt Minerals, LLC (EIN 13-1432885). The Debtor's noticing address in this Chapter 11 case is 33 Winfield Street, Norwalk, CT 06855.

[2] Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

the Court having reviewed the Motion and the First Day Declaration and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"); the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (iii) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409, (iv) notice of the Motion and the Hearing was sufficient under the circumstances, (v) the relief sought in the Motion is in the best interest of the Debtor's estate and creditors and is an exercise of the Debtor's reasonable business judgment, (vi) the payment of prepetition amounts as requested in the Motion is necessary and appropriate to prevent immediate and irreparable harm to the Debtor's business operations and will serve to protect and preserve the Debtor's estate for the benefit of all stakeholders and, thus, cause exists to permit such payments to be made immediately notwithstanding Bankruptcy Rule 6003, and (vii) there is good cause to waive the 14-day stay imposed by Bankruptcy Rule 6004(h) to the extent it is applicable; and the Court having determined that the legal and factual bases set forth in the Motion and the First Day Declaration and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein on an interim basis.

2. The Debtor is authorized, but not directed, in the Debtor's sole discretion, and in accordance with the Approved Budget (as defined in the DIP Financing Motion), to pay the Prepetition Compensation, Prepetition Benefits, Prepetition Business Expenses and Payroll Processing Fees that have accrued, but remained unpaid, as of the Petition Date other than amounts owed under the Sales Incentive Program, provided that such payments shall not exceed

the aggregate amounts set forth in the chart below unless otherwise or further ordered by the Court:

Relief Sought	Amount Requested
Wage Obligations	$212,500
Employer Payroll Taxes	$18,500
Sales Incentive Program[1]	$0
Health and Welfare Benefits	$162,500
COBRA Benefits	$0
401(k) Non-Union Plans	$15,000
Pension Plans	$0
Workers' Compensation Program	$17,500
PTO	$100,000
Severance	$0
Prepetition Business Expenses	$25,000
Payroll Processor Fees	$5,000
Non-Insider Retention Bonus Program[2]	$0

3. Nothing in this Interim Order shall be deemed to authorize the payment of any amounts subject to section 503(c) of the Bankruptcy Code; provided that nothing in this Interim Order shall prejudice the Debtor's ability to seek approval of such relief pursuant to section 503(c) of the Bankruptcy Code.

[1] Relief pursuant to the Proposed Final Order only.

[2] Relief pursuant to the Proposed Final Order only.

4. Notwithstanding any other provision of this Interim Order to the contrary, payments to or on behalf of Employees on account of prepetition obligations in the interim period shall be limited by sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code and capped at the amount afforded priority by those statutory subsections, unless such amounts are above the statutory cap as a result of a cash payment of unpaid PTO; provided that the Debtor is only authorized to make cash payments for unpaid PTO if any state or other applicable law requires the to do so.

5. Pursuant to section 362(d) of the Bankruptcy Code, the automatic stay is modified solely to the extent necessary to allow Employees to proceed with their claims under the Workers' Compensation Program in the appropriate judicial or administrative forum, and Employees are authorized to so proceed. The Debtor is authorized, but not directed, to continue the Workers' Compensation Program and pay, in accordance with the Approved Budget, all prepetition amounts relating thereto in the ordinary course of business, consistent with prepetition practices. The modification of the automatic stay set forth in this paragraph pertains solely to claims under the Workers' Compensation Program.

6. The Banks are authorized, at the Debtor's direction, to receive, process, honor and pay all checks presented for payment of, and to honor all fund transfer requests made by, the Debtor related to relief granted by this Interim Order, whether such checks were presented or fund transfer requests were submitted, prior to, on or after the Petition Date, provided that sufficient funds are available in the Debtor's accounts to cover such checks and fund transfers. The Banks are authorized to rely on the Debtor's designation of any particular check or funds transfer as approved by this Interim Order without any duty of further inquiry and without liability for following the Debtor's instructions.

7. Nothing in the Motion or this Interim Order, nor the Debtor's payment of claims pursuant to this Interim Order, shall be deemed or construed as: (i) an admission as to the validity of any claim against the Debtor; (ii) a waiver of the Debtor's rights to dispute any claim, including the amount or priority thereof, on any grounds; (iii) a promise to pay any claim; (iv) an implication or admission that any particular claim is of a type specified or defined hereunder; or (v) the assumption of any executory contract or unexpired lease.

8. The requirements of Bankruptcy Rule 6003(b) have been satisfied with respect to the payments authorized by this Interim Order.

9. This Interim Order shall be immediately effective and enforceable upon its entry. To the extent that it may be applicable, the 14-day stay imposed by Bankruptcy Rule 6004(h) and any notice requirements of Bankruptcy Rule 6004(a) are hereby waived.

10. The Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order.

11. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Interim Order.

12. A final hearing to consider the relief requested in the Motion shall be held on [•], 2026 at **[•]** (prevailing Eastern Time) and any objections or responses to the Motion shall be filed and served on or prior to **[•]**, 2026 at **[•]** (prevailing Eastern Time).

13. The Debtor may seek further relief related to the obligations discussed in the Motion.

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Exhibit B

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
Vanderbilt Minerals, LLC,	Case No. 26-60110 (WAK)
Debtor.[1]	

FINAL ORDER (I) AUTHORIZING THE DEBTOR TO PAY PREPETITION EMPLOYEE WAGES, BENEFITS, AND RELATED ITEMS AND (II) GRANTING CERTAIN RELATED RELIEF

This matter coming before the Court on the *Motion of the Debtor and Debtor in Possession for Interim and Final Orders (I) Authorizing the Debtor to Pay Prepetition Employee Wages, Benefits and Related Items and (II) Granting Certain Related Relief* (the "Motion"),[2] filed by the above-captioned debtor and debtor in possession (collectively, the "Debtor"); the Court having reviewed the Motion and the First Day Declaration and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before

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[2] Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

the Court (the "Hearing"); the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (iii) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409, (iv) notice of the Motion and the Hearing was sufficient under the circumstances, (v) the relief sought in the Motion is in the best interest of the Debtor's estate and creditors and is an exercise of the Debtor's reasonable business judgment, and (vi) there is good cause to waive the 14-day stay imposed by Bankruptcy Rule 6004(h) to the extent it is applicable; and the Court having determined that the legal and factual bases set forth in the Motion and the First Day Declaration and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein on a final basis.

2. The Debtor is authorized, but not directed, in the Debtor's sole discretion, to pay, in accordance with the Approved Budget (as defined in the DIP Financing Motion), the Prepetition Compensation, Prepetition Benefits, Payroll Processing Fees, Prepetition Business Expenses and amounts owed under the Non-Insider Retention Bonus Program and Sales Incentive Program that have accrued, but remained unpaid, as of the Petition Date, provided that such payments shall not exceed the aggregate amounts set forth in the chart below unless otherwise or further ordered by the Court:

Relief Sought	Amount Requested
Wage Obligations	$425,000
Employer Payroll Taxes	$37,000
Sales Incentive Program	$103,213
Health and Welfare Benefits	$325,000
COBRA Benefits	$0

401(k) Non-Union Plans	$30,000
Pension Plans	$0
Workers' Compensation Program	$35,000
PTO	$200,000
Severance	$0
Prepetition Business Expenses	$50,000
Payroll Processor Fees	$10,000
Non-Insider Retention Bonus Program	$10,000

3. Nothing in this Final Order shall be deemed to authorize the payment of any amounts subject to section 503(c) of the Bankruptcy Code; provided that nothing in this Final Order shall prejudice the Debtor's ability to seek approval of such relief pursuant to section 503(c) of the Bankruptcy Code.

4. Notwithstanding any other provision of this Final Order to the contrary, payments to or on behalf of Employees on account of prepetition obligations shall be limited by sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code and capped at the amount afforded priority by those statutory subsections, unless such amounts are above the statutory cap as a result of a cash payment of unpaid PTO or on account of the Sales Incentive Program; provided that the Debtor is only authorized to make cash payments for unpaid PTO above the statutory priority cap if any state or other applicable law requires the Debtor to do so.

5. Pursuant to section 362(d) of the Bankruptcy Code, the automatic stay is modified solely to the extent necessary to allow Employees to proceed with their claims under the Workers' Compensation Program in the appropriate judicial or administrative forum, and Employees are authorized to so proceed. The Debtor is authorized, but not directed, to continue

the Workers' Compensation Program and pay, in accordance with the Approved Budget, all prepetition amounts relating thereto in the ordinary course of business, consistent with prepetition practices. The modification of the automatic stay set forth in this paragraph pertains solely to claims under the Workers' Compensation Program.

6. The Banks are authorized, at the Debtor's direction, to receive, process, honor and pay all checks presented for payment of, and to honor all fund transfer requests made by, the Debtor related to relief granted by this Final Order, whether such checks were presented or fund transfer requests were submitted, prior to, on or after the Petition Date, provided that sufficient funds are available in the Debtor's accounts to cover such checks and fund transfers. The Banks are authorized to rely on the Debtor's designation of any particular check or funds transfer as approved by this Final Order without any duty of further inquiry and without liability for following the Debtor's instructions.

7. Nothing in the Motion or this Final Order, nor the Debtor's payment of claims pursuant to this Final Order, shall be deemed or construed as: (i) an admission as to the validity of any claim against the Debtor; (ii) a waiver of the Debtor's rights to dispute any claim, including the amount or priority thereof, on any grounds; (iii) a promise to pay any claim; (iv) an implication or admission that any particular claim is of a type specified or defined hereunder; or (v) the assumption of any executory contract or unexpired lease.

8. This Final Order shall be immediately effective and enforceable upon its entry. To the extent that it may be applicable, the 14-day stay imposed by Bankruptcy Rule 6004(h) and any notice requirements of Bankruptcy Rule 6004(a) are hereby waived.

9. The Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Final Order.

10. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Final Order.

11. The Debtor may seek further relief related to the obligations discussed in the Motion.

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