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Proposed Co-Counsel to the Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE EASTERN DISTRICT OF VIRGINIA
 ALEXANDRIA DIVISION**

In re:)	
)	Chapter 11
ENVIVA INC., <i>et al.</i> ,)	Case No. 24-10453 (BFK)
)	
Debtors. ¹)	(Joint Administration Requested)
)	

**MOTION OF DEBTORS
 FOR ENTRY OF AN ORDER (A) RESTATING
 AND ENFORCING THE WORLDWIDE AUTOMATIC
 STAY, ANTI-DISCRIMINATION PROVISIONS, AND *IPSO FACTO*
 PROTECTIONS OF THE BANKRUPTCY CODE; (B) APPROVING THE
 FORM AND MANNER OF NOTICE; AND (C) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “*Debtors*”), file this *Motion of Debtors for Entry of an Order (A) Restating and Enforcing the Worldwide Automatic Stay, Anti-Discrimination Provisions, and Ipso Facto Protections of the Bankruptcy*

¹ Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been requested, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list may be obtained on the website of the Debtors’ proposed claims and noticing agent at www.kccllc.net/enviva. The location of the Debtors’ corporate headquarters is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.



Code; (B) Approving the Form and Manner of Notice; and (C) Granting Related Relief (the “Motion”) and in support respectfully submit the following:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Eastern District of Virginia (the “*Court*”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are sections 105(a), 362, 365, 525, and 541 of title 11 of the United States Code (the “*Bankruptcy Code*”), Bankruptcy Rules 1007 and 2002, and rule 9013-1 of the Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia (the “*Local Rules*”).

BACKGROUND

4. Enviva Inc. and its Debtor and non-Debtor subsidiaries (collectively, the “*Company*”) are the world’s largest producer of industrial wood pellets, a renewable and sustainable energy source produced by aggregating a natural resource—wood fiber—and processing it into a transportable form. The Company owns and operates ten industrial-scale wood pellet production plants located in Virginia, North Carolina, South Carolina, Georgia, Florida, and

Mississippi. The Company exports its wood pellets through owned and leased deep-water marine terminals to customers in the United Kingdom (the “**UK**”), the European Union (the “**EU**”), and Japan who purchase the wood pellets through long-term, take-or-pay offtake contracts with the Company.

5. On the date hereof (the “**Petition Date**”), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this Motion, the Debtors filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). As of the Petition Date, no request for the appointment of a trustee or examiner has been made and no official committee of unsecured creditors has been appointed in these chapter 11 cases.

6. Additional information regarding the Debtors and these chapter 11 cases, including the Debtors’ business operations, capital structure, financial condition, and the reasons for and objectives of these chapter 11 cases, is set forth in the *Declaration of Glenn Nunziata in Support of Chapter 11 Petitions* (the “**Nunziata Declaration**”) and the *Declaration of Mark Rajceвич in Support of Chapter 11 Petitions and First-Day Motions* (the “**Rajceвич Declaration**,” and together with the Nunziata Declaration, the “**First Day Declarations**”), filed contemporaneously herewith and incorporated herein by reference.²

7. As set forth in the Nunziata Declaration, on March 12, 2024, the Debtors entered into that certain *Restructuring Support Agreement* with the ad hoc group of

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

creditors (the “*Ad Hoc Group*”) party thereto, which represent approximately (a) 72% of the aggregate outstanding principal amount of loans arising under the Senior Secured Credit Facility (including both term loans and revolving credit loans), (b) 95% of the aggregate outstanding principal amount of the 2026 Notes, (c) 78% of the aggregate outstanding principal amount of the Epes Green Bonds, and (d) 45% of the aggregate outstanding principal amount of Bond Green Bonds. As further set forth in the Nunziata Declaration, on March 12, 2024, the Debtors entered into that certain *Restructuring Support Agreement* with creditors holding approximately 92% of the aggregate outstanding principal amount of the Bond Green Bonds.

RELIEF REQUESTED

8. By this Motion, the Debtors seek entry of an order (the “*Order*”), substantially in the form attached hereto as **Exhibit A**, (a) restating and enforcing the worldwide automatic stay, anti-discrimination provisions, and *ipso facto* protections of the Bankruptcy Code; (b) approving the form and manner of notice related thereto (the “*Notice*”), substantially in the form attached as **Exhibit 1** to the Order; and (c) granting related relief.

9. Further, the Debtors seek the authority, but not the direction, to translate this Motion, the Order, and the Notice in order to better inform non-U.S. creditors, governmental units, and interested parties of the relief requested herein to help ensure that the Debtors’ global business operations are not disrupted and to deter adverse action.

10. The Debtors seek the relief requested herein out of an abundance of caution and to assist them in most effectively informing non-U.S. creditors of the broad protections offered by the Bankruptcy Code. For the avoidance of doubt, the Debtors do not seek to expand or enlarge the rights afforded to them under the Bankruptcy Code through this Motion. Instead, the Debtors

seek to affirm those rights and submit that the Order will protect the Debtors against improper actions taken by, and provide clarity for, non-U.S. parties in interest.

THE DEBTORS' NON-U.S. BUSINESS RELATIONS

11. As mentioned above, the Debtors sell most of their wood-pellet volumes through long-term, take-or-pay offtake contracts with non-U.S. customers. As of the Petition Date, the Debtors have dozens of offtake contracts serving customers, including major utility providers and operators of some of the highest capacity biomass power plants in the world, across a variety of jurisdictions, such as the UK, the EU, and Japan. The non-U.S. counterparties to the Debtors' offtake contracts—who may lack meaningful, if any, relationships with the United States and may be unfamiliar with the chapter 11 process, the scope of a debtor-in-possession's authority to operate its business, and/or the importance and implications of the automatic stay—may attempt to terminate or refuse to perform under such contracts upon the commencement of these chapter 11 cases pursuant to *ipso facto* provisions in violation of sections 362, 365, and 525 of the Bankruptcy Code.

12. The Debtors also contract or otherwise do business with a number of non-U.S. vendors, including dry bulk oceangoing cargo vessel chartering services, to facilitate the shipment of wood pellets manufactured in the United States to overseas ports for delivery to its non-U.S. customers. The Debtors therefore rely on certain non-U.S. vendors to continue the uninterrupted flow of merchandise through their supply and distribution network. Without continued support from their non-U.S. vendors, the Debtors would face severe interruptions to their supply chain. Importantly, any disruption to the Debtors' supply chain could result in a significant loss of operational efficiency, decreasing the value of the Debtors' businesses and impairing stakeholder value at the outset of these chapter 11 cases.

13. Moreover, the Debtors' wood pellets enable major power, heat, or combined heat-and-power generators to profitably generate electricity and heat in a manner that reduces the overall cost of compliance with certain mandatory greenhouse gas emissions limits and renewable energy targets. Many of the Debtors' customers, particularly their non-U.S. customers, use the Debtors' wood pellets in an increasing variety of applications around the world, including as a substitute for coal, to help reduce the life-cycle greenhouse gas emissions generated by customers in energy generation and industrial processes and other sectors where reducing carbon emissions has historically been either cost prohibitive or technologically impossible to reduce with the currently available abatement technology—colloquially known as “hard-to-abate sectors.” To that end, many of the Debtors' shipments must adhere to strict sustainability requirements established by organizations or government bodies in the home countries of the Debtors' customers. Governmental units outside the United States may attempt to deny, suspend, terminate, or otherwise place conditions upon certain licenses, permits, charters, or other similar grants required for the Debtors' ongoing business operations, violating section 525 of the Bankruptcy Code.

14. Finally, certain of the Debtors' non-U.S. creditors and others may attempt to seize assets located outside of the United States or take other actions violating the automatic stay to the detriment of the Debtors, their estates, and their creditors.

BASIS FOR RELIEF REQUESTED

A. Confirming the Protections of the Automatic Stay in Section 362 of the Bankruptcy Code.

15. As a result of the commencement of these chapter 11 cases, the automatic stay imposed pursuant to section 362 of the Bankruptcy Code generally enjoins all persons and governmental units from, among other things: (a) commencing or continuing any judicial, administrative, or other proceeding against any of the Debtors that was or could have been

commenced prior to the Petition Date; (b) taking any action to collect, assess, recover, or otherwise enforce a claim against any of the Debtors that arose prepetition; and (c) acting to obtain possession of, or exercise control over, property of the Debtors' estates. *See* 11 U.S.C. §§ 362(a)(1), (3), (6).

16. The injunction contained in section 362 of the Bankruptcy Code is a core protection for the Debtors, providing them with a breathing spell from their creditors, which, in combination with other provisions of the Bankruptcy Code, is essential to the Debtors' ability to reorganize successfully. *See, e.g., In re Addison*, 533 B.R. 520, 524 (Bankr. W.D. Va. 2015) ("Once a debtor files a bankruptcy petition, the automatic stay of 11 U.S.C. § 362(a) arises to protect debtors by providing them with 'a breathing spell' and also to protect creditors by 'promoting "orderly and fair" distribution among creditors.') (quoting *Shaw v. Ehrlich*, 294 B.R. 260, 267 (W.D. Va. 2003)); *Borman v. Raymark Indus., Inc.*, 946 F.2d 1031, 1033 (3d Cir. 1991) ("The automatic stay was intended to give the debtor 'a breathing spell from his creditors.'") (internal citations omitted); *Mar. Elec. Co., Inc. v. United Jersey Bank*, 959 F.2d 1194, 1204 (3d Cir. 1991) (finding that the automatic stay gives debtors a breathing spell from creditors); *Assoc. of St. Croix Condominium Owners v. St. Croix Hotel Corp.*, 682 F.2d 446, 448 (3d Cir. 1982) (same).

17. The protections of the automatic stay apply to the property of a debtor's "estate," which consists of all of the debtor's property "wherever located and by whomever held." *See* 11 U.S.C. § 541(a); *Sec. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC (In re Bernard L. Madoff Inv. Sec. LLC)*, 474 B.R. 76, 81–82 (S.D.N.Y. 2012) (citing *Nakash v. Zur (In re Nakash)*, 190 B.R. 763, 768 (Bankr. S.D.N.Y. 1996)).

18. The automatic stay becomes effective immediately upon the filing of a bankruptcy petition, and applies both in the United States and extraterritorially. *See In re Soundview Elite, Ltd.*, 503 B.R. 571, 584 (Bankr. S.D.N.Y. 2014) ("U.S. law is clear that immediately upon the

filing of the Debtors' chapter 11 petition, the U.S. automatic stay became effective, both in the U.S. and extraterritorially.") (internal citations omitted)). Given its fundamental importance to a debtor's reorganization, courts broadly construe the Bankruptcy Code's automatic stay provisions, which apply worldwide. *See, e.g., Hong Kong & Shanghai Banking Corp. v. Simon (In re Simon)*, 153 F.3d 991, 996 (9th Cir. 1998) (noting that Congress intended extraterritorial application of the Bankruptcy Code); *In re Trump Ent. Resorts, Inc.*, 534 B.R. 93, 99 (Bankr. D. Del. 2015) ("The scope of the automatic stay is undeniably broad.") (citing *Cuffee v. Atlantic Bus. & Cmty. Dev. Corp. (In re Atlantic Bus. & Cmty. Dev. Corp.)*, 901 F.2d 325, 327 (3d Cir.1990)); *In re Nortel Networks Corp.*, 426 B.R. 84, 90 (Bankr. D. Del. 2010) (finding foreign pension fund protection proceedings subject to the automatic stay); *In re Peregrine Sys., Inc.*, 314 B.R. 31, 45, 52 (Bankr. D. Del. 2004) (upholding extraterritorial enforcement of the automatic stay to bar foreign declaratory judgment complaint against debtors and ordering complainant to pay debtors' attorneys' fees and costs incurred defending against the complaint).

19. Thus, the automatic stay established by section 362 of the Bankruptcy Code applies to both the Debtors' foreign and domestic creditors, regardless of location, and creditors that violate the automatic stay may face sanctions by the Court. Notwithstanding the self-executing and global nature of section 362 of the Bankruptcy Code, not all parties affected, or potentially affected, by the commencement of these chapter 11 cases are aware of the fact that the Debtors are now protected by the automatic stay, or of the significance and impact of this fact. Therefore, some of the Debtors' foreign creditors, vendors and/or contract counterparties may, absent an unambiguous order of the Court, take precipitous action against the Debtors or their property. Any such unilateral self-help action would adversely affect the Debtors' operations and potentially

jeopardize the Debtors' reorganization efforts, resulting in irreparable harm to the Debtors' estates and parties in interest.

20. Accordingly, the Debtors believe the Order is necessary and appropriate to ensure creditor compliance with the automatic stay.

B. Confirming the Injunction of Governmental Action Under Section 525 of the Bankruptcy Code.

21. Section 525 of the Bankruptcy Code prohibits governmental units from, among other things: (a) denying, revoking, suspending, or refusing to "renew a[ny] license, permit, charter, franchise, or other similar grant" to the Debtors; (b) placing conditions upon such a grant to the Debtors; or (c) discriminating against the Debtors with respect to such a grant, solely because the Debtors are debtors under the Bankruptcy Code, may have "been insolvent before the commencement" of these chapter 11 cases, or are insolvent during the pendency of these chapter 11 cases. *See* 11 U.S.C. § 525(a); *see also FCC v. NextWave Pers. Commc'ns Inc.*, 537 U.S. 293, 307 (2003) ("The government is not to revoke a bankruptcy debtor's license [under section 525(a) of the Bankruptcy Code] solely because of a failure to pay his debts."); *In re Univ. Med. Center*, 973 F.2d 1065, 1074 (3d Cir. 1992) (noting that Congress intended governmental units acting as creditors to be subject to the limitations of the automatic stay). The Bankruptcy Code includes in the definition of "governmental unit" a foreign state, a department, agency, or instrumentality of a foreign state, and other foreign governments. *See* 11 U.S.C. § 101(27).

22. For example, the Debtors do business in the UK, the EU, and Japan and are dependent on their respective government agencies for licenses and permits that allow the Debtors to operate therein. Any actions by such governments in violation of section 525 of the Bankruptcy Code would adversely affect the Debtors' operations and efforts to maximize value through these chapter 11 cases.

23. Accordingly, the Debtors believe the Order is necessary and appropriate to ensure that foreign governmental units unfamiliar with the Bankruptcy Code do not discriminate against the Debtors.

C. Confirming the Invalidation of *Ipsa Facto* Provisions Under Section 365 of the Bankruptcy Code and Other Contractual Rights.

24. Courts have held that the automatic stay under section 362 of the Bankruptcy Code precludes unilateral actions by non-debtor parties to terminate contracts without a court order. *See, e.g., In re Univ. Med. Ctr.*, 973 F.2d 1065, 1075 (3d Cir. 1992) (holding a nondebtor party to an executory contract cannot enforce contractual rights against a debtor without seeking relief from the automatic stay); *Bonneville Power Admin. v. Mirant Corp. (In re Mirant Corp.)*, 440 F.3d 238 (5th Cir. 2006) (noting that non-debtor termination of agreement was prohibited by the automatic stay and required court approval under section 362(d)). Moreover, “[c]ourts have held, specifically, that property of the estate includes contract rights.” *In re EBC I, Inc.*, 356 B.R. 631, 639 (Bankr. D. Del. 2006). As noted above, section 362 of the Bankruptcy Code prohibits third parties from exercising control over property of the estate. *See* 11 U.S.C. § 362(a). Accordingly, the Bankruptcy Code prohibits third parties from modifying or terminating contracts absent court approval, subject to certain express statutory exceptions. *See NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 531 (1984) (holding that while the debtor may enforce the terms of the contract against the creditor, the creditor is “precluded from . . . enforcing the contract terms” of an executory contract prior to assumption by the debtor).

25. Specifically, section 365(e)(1)(B) of the Bankruptcy Code prohibits counterparties to debtor contracts from terminating or modifying such contracts, including any right or obligation thereunder, solely because of a provision in such contract or lease that is conditioned on, among other things: (a) the insolvency or financial condition of a debtor at any time before the closing of

the debtor's chapter 11 case; or (b) the commencement of the debtor's chapter 11 case. *See* 11 U.S.C. § 365(e)(1)(B). Third parties must, therefore, continue to perform under executory contracts until they are assumed or rejected. *See In re Burlington Motor Carriers Inc.*, No. 99-157 MMS, 1999 U.S. Dist. LEXIS 20819, *41 (D. Del. Dec. 30, 1999) (“[D]uring the time between filing the petition and the rejection, a contract remains in effect and the creditors are bound to it.”); *In re El Paso Refinery, L.P.*, 196 B.R. 58, 72 (Bankr. W.D. Tex. 1996) (“[T]he [Bankruptcy] Code places an independent duty on the non-debtor to continue the performance of an executory contract until it is assumed or rejected.”).

26. Thus, section 365(e) of the Bankruptcy Code invalidates so-called contractual *ipso facto* provisions that provide for the termination of a contract based solely upon a party's financial condition. *See EBC I*, 356 B.R. at 640 (noting that *ipso facto* clauses are generally disfavored under the Bankruptcy Code). Nevertheless, the Debtors believe that, upon learning of the commencement of these chapter 11 cases, executory contract counterparties outside of the United States that are unfamiliar with the Bankruptcy Code may try to terminate such executory contracts or unexpired leases pursuant to bankruptcy termination provisions contained therein that, if enforced, are in direct violation of sections 362(a) and 365 of the Bankruptcy Code. Any such action would harm the Debtors' operations and potentially jeopardize the Debtors' reorganization efforts.

27. Accordingly, the Debtors believe the Order is necessary and appropriate to ensure the continuation of the Debtors' contracts.

D. Each of the Bankruptcy Code's Protections Enumerated Herein Is Essential to Orderly Administration of the Debtors' Estates.

28. Each of the Bankruptcy Code's protections described herein is self-executing and constitutes a fundamental debtor protection that, in combination with other provisions of the

Bankruptcy Code, provides the Debtors with the “breathing spell” that is essential to the Debtors’ ability to position themselves to maximize and preserve enterprise value for the benefit of stakeholders. As discussed above, the protections in these provisions extend to a debtor’s property, contracts, and regulatory rights and privileges wherever they are located and by whomever they are held. 11 U.S.C. § 541(a) (“The commencement of a case under section 301 . . . of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held[.]”); *see also EBC I*, 356 B.R. at 639.

29. Notwithstanding the self-executing and global nature of these protections, experience has shown that it is often necessary to advise third parties of the existence, scope, and effect of sections 362, 365, and 525 of the Bankruptcy Code through a separate court order. Such an order is appropriate in these chapter 11 cases because the Debtors’ operations are dependent upon, among other things, uninterrupted performance by non-U.S. contract counterparties (including contractual relationships with foreign entities operating in foreign jurisdictions). The Debtors believe that many of these third parties may be unaware of or misapprehend the scope of the Bankruptcy Code’s protections.

30. Accordingly, the Debtors respectfully request that the Court issue the Order confirming the applicability of these provisions of the Bankruptcy Code. The Debtors believe that the existence of the Order, which the Debtors will be able to translate and transmit to affected parties, will help ensure that the Debtors receive the protections afforded by sections 362, 365, and 525 of the Bankruptcy Code.

E. The Relief Requested Should Be Granted Under Section 105(a) of the Bankruptcy Code.

31. Pursuant to section 105(a) of the Bankruptcy Code, the Court may issue “any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”

11 U.S.C. § 105(a). Section 105(a) of the Bankruptcy Code, therefore, authorizes a bankruptcy court to issue injunctions or take other necessary steps in aid of its jurisdiction. *See, e.g., In re Combustion Engineering, Inc.*, 391 F.3d 190, 236 (3d Cir. 2004) (“[Section 105(a)] has been construed to give a bankruptcy court ‘broad authority’ to provide equitable relief appropriate to assure the orderly conduct of reorganization proceedings.”); *In re Joyce*, 399 B.R. 382, 386 n.2 (Bankr. D. Del. 2009) (“Section 105 [of the Bankruptcy Code] grants bankruptcy judges broad equitable powers that are to be used to further fundamental bankruptcy principles.”). Such orders are appropriate where, as here, they are essential to a debtor’s reorganization efforts and do not burden creditors. *See In re Momentum Mfg. Corp.*, 25 F.3d 1132, 1136 (2d Cir. 1994) (holding that, as courts of equity, bankruptcy courts are empowered to invoke equitable principles to achieve fairness and justice in the reorganization process). Thus, the Court has the power to enter the Order, and granting such relief is fully consistent with the Bankruptcy Code and will facilitate the Debtors’ smooth and orderly transition into chapter 11.

32. Granting the relief requested herein will better enable the Debtors to inform non-U.S. creditors, including foreign vendors and interested parties, of debtor protections that may be unfamiliar to them and will help ensure that: (a) parties to unexpired leases and executory contracts with the Debtors continue to perform their duties and obligations thereunder; (b) creditors are less likely to seize the Debtors’ assets or take other actions violating the automatic stay; and (c) governmental units do not unfairly discriminate or take action against the Debtors, thereby violating the Bankruptcy Code. The relief requested herein will facilitate the Debtors’ orderly transition into the chapter 11 process and minimize the disruption of their businesses.

33. Given the vulnerability of the Debtors’ operations to immediate disruption if any party violates the Bankruptcy Code protections enumerated herein, the Debtors seek authority to

immediately serve or file the Notice upon creditors, governmental units, or other regulatory authorities and/or interested parties, wherever located, substantially in the form attached hereto as **Exhibit 1** to the Order.

34. Bankruptcy courts have entered similar orders restating and enforcing the protections set forth in sections 362, 365, and 525 of the Bankruptcy Code under comparable circumstances. *See, e.g., In re Intelsat S.A.*, No. 20-32299 (KLP) (Bankr. E.D. Va. June 9, 2020) (restating and enforcing the worldwide automatic stay, anti-discrimination provisions, and ipso facto provisions of the Bankruptcy Code); *In re AN Global LLC*, No. 23-11294 (JKS) (Bankr. D. Del. Oct. 3, 2023) (same); *In re Mallinckrodt PLC*, No. 23-11258 (JTD) (Bankr. D. Del. Aug. 30, 2023) (same); *In re Amyris Inc.*, No. 23-11131 (THM) (Bankr. D. Del. Aug. 11, 2023) (same); *In re Lordstown Motors Corp.*, No. 23-10831 (MFW) (Bankr. D. Del. Jun. 29, 2023) (same); *In re The Rockport Co., LLC*, No. 23-10774 (BLS) (Bankr. D. Del. Jun. 16, 2023) (same); *In re Desolation Holdings LLC*, Case No. 23-10597 (BLS) (Bankr. D. Del. May 10, 2023) (same). Given the critical importance of ensuring the Debtors' operations are not undermined by noncompliance with U.S. bankruptcy law, similar relief is appropriate here.

RESERVATION OF RIGHTS

35. Unless specifically provided herein, and notwithstanding any actions taken hereunder, nothing in this Motion is intended to be, nor should it be construed as (a) an implication or admission as to the validity or priority of any claim or lien against the Debtors, (b) an impairment or waiver of the Debtors' or any other party in interest's rights to contest or dispute any such claim or lien, (c) a promise or requirement to pay any prepetition claim, (d) an implication or admission that any particular claim is of a type specified or defined in this Motion or any proposed order, or (e) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law.

NOTICE

36. Notice of this Motion has been provided by delivery to the following parties or their counsel, as applicable: (a) the Assistant United States Trustee for the Eastern District of Virginia; (b) the Debtors' 30 largest unsecured creditors (on a consolidated basis); (c) Davis Polk & Wardwell LLP as co-counsel to the Ad Hoc Group; (d) McGuireWoods LLP as co-counsel to the Ad Hoc Group; (e) McDermott Will & Emery LLP as counsel to the agent under the DIP Facility; (f) Cahill Gordon & Reindel LLP as counsel to the agent under the Senior Secured Credit Facility; (g) Kilpatrick Townsend & Stockton LLP as counsel to the indenture trustee under the 2026 Notes; (h) Kramer Levin Naftalis & Frankel LLP as counsel to the indenture trustees under the Bond Green Bonds and the Epes Green Bonds; (i) those persons who have formally appeared in these chapter 11 cases and requested service pursuant to Bankruptcy Rule 2002; (j) the United States Attorney's Office for the Eastern District of Virginia; (k) the Securities and Exchange Commission; (l) the Internal Revenue Service; and (m) all applicable government agencies or other parties to the extent required by the Bankruptcy Rules or the Local Rules (collectively, the "*Notice Parties*"). In light of the nature of the relief requested in this Motion, the Debtors submit that no further notice is necessary.

NO PRIOR REQUEST

37. No prior motion for the relief requested herein has been made to this Court or any other court.

The Debtors respectfully request that the Court enter the Order, substantially in the form attached hereto as **Exhibit A**, respectively, and grant them such other and further relief to which the Debtors may be justly entitled.

Richmond, Virginia
Dated: March 12, 2024

/s/ Jeremy S. Williams

KUTAK ROCK LLP

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Proposed Co-Counsel for the Debtors and Debtors in Possession

EXHIBIT A

Proposed Order

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

In re:)	Chapter 11
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**ORDER (A) RESTATING AND ENFORCING THE WORLDWIDE
AUTOMATIC STAY, ANTI-DISCRIMINATION PROVISIONS, AND
IPSO FACTO PROTECTIONS OF THE BANKRUPTCY CODE; (B) APPROVING
THE FORM AND MANNER OF NOTICE; AND (C) GRANTING RELATED RELIEF**

Upon the Motion² filed by the above-referenced debtors and debtors in possession (collectively, the “*Debtors*”), for entry of an order (the “*Order*”), pursuant to sections 105(a), 362, 365, and 525 of the Bankruptcy Code, (a) restating and enforcing the worldwide automatic stay,

¹ Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been requested, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list may be obtained on the website of the Debtors’ proposed claims and noticing agent at www.kccllc.net/enviva. The location of the Debtors’ corporate headquarters is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.

² Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Motion.

anti-discrimination provisions, and *ipso facto* protections of the Bankruptcy Code; (b) approving the form and manner of the Notice, substantially in the form attached as **Exhibit 1** to this Order; and (c) granting related relief, all as more fully set forth in the Motion and in the First Day Declarations; and the Court having jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having reviewed the Motion and the First Day Declarations; and the Court having found that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, as contemplated by Bankruptcy Rule 6003; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors and their respective estates, creditors, and other parties in interest; and the Court having found that proper and adequate notice of the Motion and hearing thereon has been given and that no other or further notice is necessary; and the Court having found that good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion, it is HEREBY ORDERED THAT:

1. Unless otherwise allowed pursuant to a separate order of the Court, subject to section 362 of the Bankruptcy Code, all persons (including individuals, partnerships, corporations, and other entities and all those acting on their behalf) and governmental units, whether of the United States, any state or locality therein or any territory or possession thereof, or any non-U.S.

jurisdiction (including any division, department, agency, instrumentality or service thereof, and all those acting on their behalf), are hereby stayed, restrained, and enjoined from:

- (a) commencing or continuing (including the issuance or employment of process) any judicial, administrative, or other action or proceeding against the Debtors that was or could have been commenced before the commencement of the Debtors' chapter 11 cases or recovering a claim against the Debtors that arose before the commencement of the Debtors' chapter 11 cases;
- (b) enforcing, against the Debtors or against property of their estates, a judgment or order obtained before the commencement of the Debtors' chapter 11 cases;
- (c) taking any action, whether inside or outside of the United States, to obtain possession of property of the Debtors' estates, wherever located, or to exercise control over property of the estates or interfere in any way with the conduct by the Debtors of their businesses, including, without limitation, attempts to interfere with deliveries or events or attempts to arrest, seize, or reclaim any equipment, supplies, or all other assets in which the Debtors have legal or equitable interests;
- (d) taking any action to create, perfect, or enforce any lien against the property of the Debtors' estates;
- (e) taking any action to create, perfect, or enforce against property of the Debtors any lien to the extent that such lien secures a claim that arose prior to the commencement of the Debtors' chapter 11 cases;
- (f) taking any action to collect, assess, or recover a claim against the Debtors that arose prior to the commencement of the Debtors' chapter 11 cases;
- (g) offsetting any debt owing to the Debtors that arose before the commencement of the Debtors' chapter 11 cases against any claim against the Debtors; and
- (h) commencing or continuing any proceeding before the United States Tax Court concerning the Debtors, subject to the provisions of 11 U.S.C. § 362(b).

2. Pursuant to sections 362 and 365 of the Bankruptcy Code, notwithstanding a provision in a contract or lease or any applicable law, all persons are hereby stayed, restrained, and enjoined from terminating or modifying any and all contracts and leases to which the Debtors are party or signatory, at any time after the commencement of these chapter 11 cases, because of a

provision in such contract or lease that is conditioned on the (a) insolvency or financial condition of the Debtors at any time before the closing of these chapter 11 cases or (b) commencement of these chapter 11 cases under the Bankruptcy Code. Accordingly, all such persons are required to continue to perform their obligations under such leases and contracts during the postpetition period.

3. Pursuant to section 525 of the Bankruptcy Code, all governmental units and other regulatory authorities are prohibited and enjoined from: (a) denying, revoking, suspending, or refusing to renew any license, permit, charter, franchise, or other similar grant to the Debtors; (b) placing conditions upon such a grant to the Debtors; or (c) discriminating against the Debtors with respect to such a grant, solely because the Debtors are debtors under the Bankruptcy Code, may have been insolvent before the commencement of these chapter 11 cases, or are insolvent during the pendency of these chapter 11 cases.

4. The Notice attached hereto as **Exhibit 1** is approved. The Debtors are authorized to serve the Notice (including as the Debtors deem necessary, translation thereof) upon creditors, governmental units, or other regulatory authorities and/or interested parties wherever located.

5. The Debtors are authorized to procure and provide true and correct foreign-language translations of the Motion, this Order, the Notice, or any other materials filed in these chapter 11 cases to any foreign party in interest at the Debtors' discretion.

6. This Order is declarative and is intended to be coterminous with sections 362, 365, and 525 of the Bankruptcy Code. Nothing herein shall abridge, enlarge, or modify the rights or obligations of any party.

7. Unless otherwise specified herein or allowed pursuant to a separate order of the Court, any party that desires to modify the automatic stay must file a motion with the United States Bankruptcy Court for the Eastern District of Virginia.

8. Nothing in this Order or the Motion shall constitute a rejection or assumption by the Debtors, as debtors in possession, of any executory contract or unexpired lease.

9. This Order remains subject to section 362 of the Bankruptcy Code, including its exceptions.

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

11. Unless specifically provided herein, and notwithstanding any actions taken hereunder, nothing contained in the Motion or this Order or any payment made pursuant to this Order shall constitute, nor is it intended to constitute, an implication or admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors', or any party in interest's, rights to subsequently dispute such claim or lien, a promise or requirement to pay any prepetition claim, an implication or admission that any particular claim is of a type specified or defined in the Motion or any proposed order, a waiver of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

12. The requirement under Local Rule 9013-1(F) to file a memorandum of law in connection with the Motion is waived.

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

Dated: _____
Alexandria, Virginia

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

/s/
Michael A. Condyles (VA 27807)
Peter J. Barrett (VA 46179)
Jeremy S. Williams (VA 77469)

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901 East Byrd Street, Suite 1000
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- and -

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Proposed Co-Counsel to the Debtors and Debtors in Possession

CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)

Pursuant to Local Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ _____

EXHIBIT 1

Notice

David S. Meyer (*pro hac vice* pending)
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Proposed Co-Counsel to the Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

In re:)	Chapter 11
ENVIVA INC., <i>et al.</i> ,)	Case No. 24-10453 (BFK)
Debtors. ¹)	(Joint Administration Requested)

**NOTICE OF ENTRY OF AN ORDER (A) RESTATING
AND ENFORCING THE WORLDWIDE AUTOMATIC
STAY, ANTI-DISCRIMINATION PROVISIONS, AND *IPSO FACTO*
PROTECTIONS OF THE BANKRUPTCY CODE; (B) APPROVING THE
FORM AND MANNER OF NOTICE; AND (C) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on March 12, 2024 (the “*Petition Date*”), the above-captioned debtors and debtors in possession (collectively, the “*Debtors*”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”) in the United States Bankruptcy Court for the Eastern District of Virginia (the “*Court*”). The Debtors’ chapter 11 cases are pending before the Honorable Judge Brian F. Kenney, United States

¹ Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been requested, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list may be obtained on the website of the Debtors’ proposed claims and noticing agent at www.kccllc.net/enviva. The location of the Debtors’ corporate headquarters is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.

Bankruptcy Judge, and are being jointly administered under the lead case *In re Enviva Inc.*, Case No. 24-10453 (BFK).

PLEASE TAKE FURTHER NOTICE that pursuant to section 362(a) of the Bankruptcy Code, the Debtors' filing of their respective voluntary petitions operates as a self-executing, worldwide, statutory stay or injunction, applicable to all entities, and protects the Debtors from, among other things: (a) the commencement or continuation of a judicial, administrative, or other action or proceeding against the Debtors (1) that was or could have been commenced before the commencement of the Debtors' cases or (2) to recover a claim against the Debtors that arose before the commencement of the Debtors' cases; (b) the enforcement, against the Debtors or against any property of the Debtors' bankruptcy estates, of a judgment obtained before the commencement of the Debtors' cases; or (c) any act to obtain possession of property of or from the Debtors' bankruptcy estates, or to exercise control over property of the Debtors' bankruptcy estates.²

PLEASE TAKE FURTHER NOTICE that pursuant to *the Order (A) Restating and Enforcing the Worldwide Automatic Stay, Anti-Discrimination Provisions, and Ipso Facto Protections of the Bankruptcy Code; (B) Approving the Form and Manner of Notice; and (C) Granting Related Relief* (the "**Order**") [Docket No. [●]], entered on [____], 2024, and attached hereto as Exhibit A, the filing of these chapter 11 cases imposed a worldwide automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the Debtors or the Debtors' property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the Debtors. Creditors cannot demand repayment from the Debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

PLEASE TAKE FURTHER NOTICE that any entity that seeks to assert claims, interests, causes of action, or other legal or equitable remedies against, or otherwise exercise any rights in law or equity against the Debtors or their estates, must do so in front of the Court pursuant to the Order, the Bankruptcy Code, and applicable law.

PLEASE TAKE FURTHER NOTICE that pursuant to the Order and to the extent set forth in the Bankruptcy Code, any foreign and domestic governmental agency, department, division or subdivision, or any similar governing authority is prohibited from, among other things: (a) denying, revoking, suspending, or refusing to renew any license, permit, charter, franchise, or other similar grant to the Debtors; (b) placing conditions upon such a grant to the Debtors; or (c) discriminating against the Debtors with respect to such a grant, solely because the Debtors are debtors under the Bankruptcy Code, may have been insolvent before the commencement of these chapter 11 cases, or are insolvent during the pendency of these chapter 11 cases as set forth more particularly in the Order, except as permitted by the Court under applicable law.

PLEASE TAKE FURTHER NOTICE that pursuant to the Order and to the extent set forth in the Bankruptcy Code, parties to contracts or agreements with the Debtors are prohibited

² Nothing herein shall constitute a waiver of the right to assert any claims, counterclaims, defenses, rights of setoff, or recoupment or any other claims of the Debtors against any party to the chapter 11 cases. The Debtors expressly reserve the right to contest any claims which may be asserted against the Debtors.

from terminating such contracts or agreements because of a Debtor's bankruptcy filing, except as permitted by the Court under applicable law.

PLEASE TAKE FURTHER NOTICE that pursuant to sections 105(a) and 362(k) of the Bankruptcy Code and Rule 9020 of the Federal Rules of Bankruptcy Procedure, among other applicable substantive law and rules of procedure, any person or governmental unit seeking to assert its rights or obtain relief outside of the processes set forth in the Order, the Bankruptcy Code, and applicable law may be subject to proceedings in front of the Court for failure to comply with the Order and applicable law, including contempt proceedings resulting in fines, sanctions, and punitive damages against the entity and its assets inside the United States.

PLEASE TAKE FURTHER NOTICE that additional information regarding the Debtors' chapter 11 cases, including copies of pleadings filed therein, may be obtained by: (a) reviewing the publicly available docket of the Debtors' chapter 11 cases at <https://www.vaeb.uscourts.gov/> (PACER login and password required); (b) accessing the Debtors' publicly available website providing information regarding these chapter 11 cases, located online at www.kccllc.net/enviva; or (iii) contacting the following proposed counsel for the Debtors.

Dated: [____], 2024
Richmond, Virginia

/s/ DRAFT

KUTAK ROCK LLP

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Peter J. Barrett (VA 46179)
Jeremy S. Williams (VA 77469)
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