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PROPOSED ATTORNEYS FOR DEBTORS

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re:	§	Chapter 11
	§	
Vista Proppants and Logistics, LLC, et al., ¹	§	Case No. 20-42002-ELM-11
	§	
Debtors.	§	Jointly Administered

**DEBTORS' MOTION TO ESTABLISH PROCEDURES
FOR INTERIM COMPENSATION AND REIMBURSEMENT
OF EXPENSES FOR CASE PROFESSIONALS**

A HEARING WILL BE CONDUCTED ON THIS MATTER ON AUGUST 5, 2020, AT 1:30 P.M. IN ROOM 204, U.S. COURTHOUSE, 501 W. TENTH STREET, FORT WORTH, TEXAS 76102.

IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH PARAGRAPH OF THIS PLEADING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY-ONE (21) DAYS FROM THE DATE YOU WERE SERVED WITH THIS PLEADING. YOU MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Vista Proppants and Logistics, LLC (7817) ("Vista HoldCo"); VPROP Operating, LLC (0269) ("VPROP"); Lonestar Prospects Management, L.L.C. (8451) ("Lonestar Management"); MAALT Specialized Bulk, LLC (2001) ("Bulk"); Denetz Logistics, LLC (8177) ("Denetz"); Lonestar Prospects, Ltd. (4483) ("Lonestar Ltd."); and MAALT, LP (5198) ("MAALT"). The location of the Debtors' service address is 4413 Carey Street, Fort Worth, TX 76119-4219.



Vista Proppants and Logistics, LLC and its debtor affiliates, as debtors and debtors-in-possession in the above-referenced chapter 11 cases (collectively, the “Debtors”) hereby file this *Debtors’ Motion to Establish Procedures for Interim Compensation and Reimbursement of Expenses for Case Professionals* (the “Motion”). In support of the Motion, the Debtors respectfully state as follows:

Jurisdiction and Venue

1. The United States District Court for the Northern District of Texas (the “District Court”) has jurisdiction over the subject matter of this Motion pursuant to 28 U.S.C. § 1334. The District Court’s jurisdiction has been referred to this Court pursuant to 28 U.S.C. § 157 and the District Court’s Miscellaneous Order No. 33, *Order of Reference of Bankruptcy Cases and Proceedings Nunc Pro Tunc* dated August 3, 1984. This is a core matter pursuant to 28 U.S.C. § 157(b), which may be heard and finally determined by this Court. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

2. On June 9, 2020 (the “Petition Date”), the Debtors each filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) commencing the above captioned cases (the “Chapter 11 Cases”). The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

3. On June 23, 2020, an official committee of unsecured creditors (the “Committee”) was appointed in these Chapter 11 Cases. No trustee or examiner has been requested or appointed in these Chapter 11 Cases.

4. A detailed description of the Debtors and their businesses, and the facts and

circumstances supporting the Motion and the Debtors' Chapter 11 Cases are set forth in greater detail in the *Declaration of Kristin Whitley in Support of the Debtors' Chapter 11 Petitions and First Day Motions* and the *Declaration of Gary Barton in Support of the Debtors' Chapter 11 Petitions and First Day Motions* (collectively, the "First Day Declarations"), which were filed on June 10, 2020, and are incorporated by reference in this Motion.

Relief Requested

5. By this Motion, the Debtors respectfully request that this Court enter an order establishing certain interim compensation and expense reimbursement procedures for the attorneys and other professionals whose services are authorized by this Court pursuant to Bankruptcy Code §§ 327 or 1103 and who will be required to file applications for allowance of compensation and reimbursement of expenses pursuant to Bankruptcy Code §§ 330 and 331.

6. Concurrently herewith, the Debtors are filing applications to retain (a) Haynes and Boone, LLP as counsel for the Debtors, and (b) James Lanter P.C. and Wickes Law, PLLC as special litigation counsel.² The Debtors may also seek authority to retain other professionals as the need arises during these bankruptcy cases. In addition, the Debtors propose that the procedures also apply to any professionals for and members of the Committee (collectively, the "Professionals").

7. The Debtors request that procedures be established for compensating and reimbursing court-approved Professionals on a monthly basis. Such an order will permit the Court

² Concurrently herewith, the Debtors also filed *Debtors' Application Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to (i) Retain Alvarez & Marsal North America, LLC to Provide the Debtors a Chief Restructuring Officer and Certain Additional Personnel and (ii) Designate Gary Barton as Chief Restructuring Officer for the Debtors Nunc Pro Tunc to the Petition Date* (the "CRO Application"). In the CRO Application, the Debtors seek authorization to compensate Alvarez and Marsal North America, LLC ("A&M") under section 363 of the Bankruptcy Code in the ordinary course of business. As such, provided that the Court approves the proposed order granting the CRO Application, and unless the Court orders otherwise, A&M is not subject to the procedures set forth in this Motion.

and all other parties to more effectively monitor the Professional fees incurred in these Chapter 11 Cases.

8. In summary, the requested procedures would require those Professionals seeking interim compensation to serve a summary consisting of a brief statement as to the fees incurred and the costs incurred by each Professional for the prior month upon: (i) the Debtors through Gary Barton and their counsel, Steve Pezanosky of Haynes and Boone, LLP; (ii) the Office of the United States Trustee for the Northern District of Texas; (iii) counsel for Ares Capital Corporation; and (iv) counsel for the Committee (hereinafter these parties shall be referred to as the “Service Parties”). If there is no timely objection, the Professionals would be permitted to be paid eighty percent (80%) of the amount of fees incurred and one hundred percent (100%) of the disbursements for the month. All of these payments would be subject to the Court’s subsequent approval as part of the normal interim fee application process approximately every 120 days.

9. Specifically, the Debtors propose that the monthly payment of compensation and reimbursement of expenses of the Professionals be structured as follows:

- a. On or before the 20th day of each month following the month for which compensation is sought, the Professionals will submit a summary consisting of a brief statement as to the fees and costs incurred (the “Fee Summary”) to the Service Parties. Each such party receiving a Fee Summary will have ten (10) days after its receipt to review the Fee Summary. At the expiration of the ten (10) day period, if no objection (as described below) is made to the Fee Summary, each Professional who submitted Fee Summaries will notify the Debtors in writing that no objections have been filed with regard to the Fee Summary. Upon receipt of such notice in writing, the Debtors shall pay eighty (80%) of the fees and one hundred (100%) of the disbursements requested in the Professionals’ respective Fee Summaries.
- b. In the event any of the Service Parties has an objection to the compensation or reimbursement of expenses sought in a particular Fee Summary, it shall, within ten (10) days of the receipt of the Fee Summary, serve upon (i) the Professional whose Fee Summary is objected to, and (ii) except to the extent duplicative of the foregoing clause, the other Service Parties, a written “Notice of Objection to Fee Summary” with a statement setting forth the precise nature of the objection and the amount at issue. Thereafter, the objecting Service Party or Service Parties and the Professional whose Fee Summary is objected to shall attempt to reach an agreement

regarding the correct payment to be made. If the parties are unable to reach an agreement on the objection(s) within ten (10) days after receipt of such objection(s), the Professional whose Fee Summary is objected to shall have the option of (i) filing the objection(s) together with a request for payment of the disputed amount with the Court, or (ii) foregoing payment of the disputed amount until the next interim fee application hearing, at which time the Court will consider and dispose of the objection(s) if payment of the disputed amount is requested. The Debtors will be required to pay promptly any portion of the fees and disbursements requested that are not the subject of a Notice of Objection to Fee Summary.

- c. The first Fee Summary shall be submitted to the Service Parties by the 20th day of August, 2020, and shall cover the period from the commencement of these cases through July 30, 2020. Thereafter, each Fee Summary will be due by the 20th of the month following the month in which the services were rendered.
- d. Approximately every four (4) months, each of the Professionals shall file with the Court and serve on the Service Parties on or before the forty-fifth (45th) day following the last day of the compensation period for which compensation is sought, an application for interim court approval and allowance, pursuant to Bankruptcy Code § 331, of the compensation and reimbursement of expenses requested for the prior four (4) months that incorporates the unfiled monthly Fee Summaries. The first such application shall include the partial month in which the case is filed together with the next four (4) months. Each subsequent application will be at four (4) month intervals. Any Professional who fails to file an application when due shall be ineligible to receive further interim payments of fees or expenses as provided herein until such time as the application is submitted. The Professionals will be required to attach detailed time entries and expense itemizations to their application, although such detailed time entries and expense itemizations may be redacted in order to preserve and protect attorney work product and in the interest of not disclosing litigation strategy.

10. The pendency of an application or a Court order that payment of compensation or reimbursement of expenses was improper as to a particular Fee Summary shall not disqualify a Professional from the future payment of compensation or reimbursement of expenses as set forth above.

11. Neither the payment of, nor the failure to pay, in whole or in part, monthly interim compensation and reimbursement of expenses as provided herein shall bind any party in interest or the Court with respect to the allowance of interim or final applications for compensation and reimbursement of expenses of any Professionals.

Basis for Relief Requested

12. Bankruptcy Code § 331 provides, in relevant part, as follows:

A trustee, an examiner, a debtor's attorney, or any professional person employed under section 327 or 1103 of this title may apply to the Court not more than once every 120 days after an order for relief in a case under this title, or more often if the court permits, for such compensation for services rendered before the date of such an application or reimbursement for expenses incurred before such date as is provided under section 330 of this title.

11 U.S.C. § 331.

13. Bankruptcy Code § 105(a) provides, in relevant part, as follows:

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).

14. Such procedures are needed to avoid having professionals fund this reorganization case. *In re Int'l Horizons, Inc.*, 10 B.R. 895, 897 (Bankr. N.D. Ga. 1981) (court established procedures for monthly interim compensation). Appropriate factors to consider include “the size of [the] reorganization cases, the complexity of the issues involved, and the time required on the part of the attorneys for the debtors in providing services necessary to achieve a successful reorganization of the debtors.” *Id.* at 897-98. The Debtors submit that the procedures sought herein are appropriate considering the above factors.

15. The Debtors submit that the efficient administration of these Chapter 11 Cases will be significantly aided by establishing the foregoing interim compensation and expense reimbursement procedures. Accordingly, the relief requested herein is in the best interests of the Debtors, their estates and creditors.

Notice

16. Notice of this Application will be provided to the parties listed on the Debtors' service list in accordance with the *Order Granting Complex Chapter 11 Bankruptcy Case Treatment* (collectively, the "Notice Parties").

WHEREFORE, the Debtors respectfully request that the Court (i) grant the Motion and (ii) grant such other and further relief as is just and proper.

RESPECTFULLY SUBMITTED this 9th day of July, 2020.

HAYNES AND BOONE, LLP

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PROPOSED ATTORNEYS FOR DEBTORS

EXHIBIT A

PROPOSED ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re:	§	Chapter 11
	§	
Vista Proppants and Logistics, LLC, et al., ¹	§	Case No. 20-42002-ELM-11
	§	
Debtors.	§	Jointly Administered

**ORDER GRANTING DEBTORS' MOTION TO ESTABLISH
PROCEDURES FOR INTERIM COMPENSATION AND
REIMBURSEMENT OF EXPENSES FOR CASE PROFESSIONALS**

Upon the *Debtors' Expedited Motion to Establish Procedures for Interim Compensation and Reimbursement for Case Professionals* (the "Motion²"), of Vista Proppants and Logistics,

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Vista Proppants and Logistics, LLC (7817) ("Vista HoldCo"); VPROP Operating, LLC (0269) ("VPROP"); Lonestar Prospects Management, L.L.C. (8451) ("Lonestar Management"); MAALT Specialized Bulk, LLC (2001) ("Bulk"); Denetz Logistics, LLC (8177) ("Denetz"); Lonestar Prospects, Ltd. (4483) ("Lonestar Ltd."); and MAALT, LP (5198) ("MAALT"). The location of the Debtors' service address is 4413 Carey Street, Fort Worth, TX 76119-4219.

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

LLC, *et al.* (collectively, the “Debtors”); and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Order of Reference of Bankruptcy Cases and Proceedings Nunc Pro Tunc*, Miscellaneous Rule No. 33 (N.D. Tex. August 3, 1984); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing on the Motion; and all objections, if any, to the Motion have been withdrawn, resolved, or overruled; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

Therefore,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. Except as may otherwise be provided in Court orders authorizing the retention of specific professionals, all Professionals (as defined in the Motion) may seek interim compensation in accordance with the following procedures:

- a. On or before the 20th day of each month following the month for which compensation is sought, the Professionals will submit a summary consisting of a brief statement as to the fees and costs incurred (the “Fee Summary”) to (i) the Debtors through Gary Barton and their counsel, Steve Pezanosky of Haynes and Boone, LLP; (ii) the Office of the United States Trustee for the Northern District of Texas; (iii) counsel for Ares Capital Corporation; and (iv) counsel for the Committee (hereinafter these parties shall be referred to as the “Service Parties”). Each such party receiving a Fee Summary will have ten (10) days after its receipt to review the Fee Summary. At the expiration of the ten (10) day period, if no objection (as described below) is made to the Fee Summary, each Professional who submitted Fee Summaries will notify the Debtors in writing that no objections have been filed with regard to the Fee Summary. Upon receipt of such notice in writing,

the Debtors shall pay eighty (80%) of the fees and one hundred (100%) of the disbursements requested in the Professionals' respective Fee Summaries.

- b. In the event any of the Service Parties has an objection to the compensation or reimbursement of expenses sought in a particular Fee Summary, it shall, within ten (10) days of the receipt of the Fee Summary, serve upon (i) the Professional whose Fee Summary is objected to, and (ii) except to the extent duplicative of the foregoing clause, the other Service Parties, a written "Notice of Objection to Fee Summary" with a statement setting forth the precise nature of the objection and the amount at issue. Thereafter, the objecting Service Party or Service Parties and the Professional whose Fee Summary is objected to shall attempt to reach an agreement regarding the correct payment to be made. If the parties are unable to reach an agreement on the objection(s) within ten (10) days after receipt of such objection(s), the Professional whose Fee Summary is objected to shall have the option of (i) filing the objection(s) together with a request for payment of the disputed amount with the Court, or (ii) foregoing payment of the disputed amount until the next interim fee application hearing, at which time the Court will consider and dispose of the objection(s) if payment of the disputed amount is requested. The Debtors will be required to pay promptly any portion of the fees and disbursements requested that are not the subject of a Notice of Objection to Fee Summary.
- c. The first Fee Summary shall be submitted to the Service Parties by the 20th day of August, 2020, and shall cover the period from the commencement of these cases through July 30, 2020. Thereafter, each Fee Summary will be due by the 20th of the month following the month in which the services were rendered.
- d. Approximately every four (4) months, each of the Professionals shall file with the Court and serve on the Service Parties on or before the forty-fifth (45th) day following the last day of the compensation period for which compensation is sought, an application for interim court approval and allowance, pursuant to Bankruptcy Code § 331, of the compensation and reimbursement of expenses requested for the prior four (4) months that incorporates the unfiled monthly Fee Summaries. The first such application shall include the partial month in which the case is filed together with the next four (4) months. Each subsequent application will be at four (4) month intervals. Any Professional who fails to file an application when due shall be ineligible to receive further interim payments of fees or expenses as provided herein until such time as the application is submitted. The Professionals will be required to attach detailed time entries and expense itemizations to their application, although such detailed time entries and expense itemizations may be redacted in order to preserve and protect attorney work product and in the interest of not disclosing litigation strategy.
- e. The pendency of an application or a Court order that payment of compensation or reimbursement of expenses was improper as to a particular Fee Summary shall not disqualify a Professional from the future payment of compensation or reimbursement of expenses as set forth above.

- f. Neither the payment of, nor the failure to pay, in whole or in part, monthly interim compensation and reimbursement of expenses as provided herein shall bind any party in interest or the Court with respect to the allowance of interim or final application for compensation and reimbursement of expenses of any Professionals.

3. The submission of the detailed time entries to the Service Parties and the contents thereof shall remain confidential and shall not be disseminated by the Service Parties to any party without further order of this Court and the act of submitting such detail shall not constitute a waiver of the attorney-client privilege or privilege as to the attorney work product. The Service Parties reserve any and all rights to review the fees and expenses of Professionals set forth in interim applications and it is not necessary for the Service Parties to file objections to the monthly Fee Summaries to reserve those rights.

4. Each member of any official committee in this case is permitted to submit statements of expenses and supporting vouchers to counsel for any official committee (if and when appointed) who will collect and submit such requests for reimbursement in accordance with the foregoing procedure for monthly and interim compensation and reimbursement of Professionals.

5. Notwithstanding anything in this Order to the contrary, (a) payments authorized by, and any authorizations contained in, this Order are subject to the terms, conditions, limitations, and requirements of any cash collateral or DIP financing orders entered in these Chapter 11 Cases (together with any approved budgets in connection therewith, the “DIP Financing Orders”) and (b) to the extent there is any inconsistency between the terms of such DIP Financing Orders and any action taken or proposed to be taken hereunder, the terms of such DIP Financing Orders shall control.

END OF ORDER

Submitted by:

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