IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
KNOTEL, INC., *et al.*,	Case No. 21-_____ (___)
Debtors.[1]	Joint Administration Requested

DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO PAY CERTAIN PREPETITION WAGES, BENEFITS, AND OTHER COMPENSATION OBLIGATIONS, (II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR ALL OBLIGATIONS RELATED THERETO, AND (III) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (the "Debtors") hereby move (the "Motion"), pursuant to sections 105(a), 363, 507 and 541 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code"), Rules 6003 and 6004(h) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 9013-1(m) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware ("Local Rules"), for entry of interim and final orders, substantially in the forms attached as **Exhibit A** and **Exhibit B**: (i) authorizing the Debtors to pay and honor certain prepetition wages, benefits and other compensation obligations; (ii) authorizing and directing banks and financial institutions to receive, process, honor and pay checks presented for payment and electronic payment requests relating to prepetition wages and benefits; and (iii) granting related relief. In addition, the Debtors are seeking to schedule a final hearing (the "Final Hearing")

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[1] A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at https://www.omniagentsolutions.com/knotel or, alternatively, via the Bankruptcy Court at https://ecf.deb.uscourts.gov/cgi-bin/login.pl with a Public Access to Court Electronic Records ("PACER") account, which may be obtained at https://pacer.uscourts.gov. The location of Debtor Knotel, Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 5-9 Union Square West, New York, NY 10003.

on the Motion. In support of the Motion, the Debtors rely upon and incorporate by reference the *Declaration of John M. Jureller in Support of First Day Relief* (the "First Day Declaration")[2] filed concurrently herewith. In further support of the Motion, the Debtors respectfully state as follows:

JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The Debtors consent pursuant to Local Rule 9013-1(f) 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.

3. The statutory bases for the relief requested herein are sections 105(a), 363, 507 and 541 of the Bankruptcy Code, as supplemented by Bankruptcy Rules 6003 and 6004(h) and Local Rule 9013-1(m).

GENERAL BACKGROUND

4. On January 31, 2021 (the "Petition Date"), the Debtors each commenced a voluntary case under chapter 11 of the Bankruptcy Code in this Court. The Debtors have requested joint administration of their chapter 11 cases for procedural purposes. No trustee, examiner, or official committee has been appointed in these cases. The Debtors are operating their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

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[2] Capitalized terms not defined herein are defined in the First Day Declaration.

5. Additional detail regarding the Debtors, their business, the events leading to commencement of these cases and the facts and circumstances supporting the relief requested herein is set forth in the First Day Declaration and is incorporated herein by reference.

EMPLOYEE COMPENSATION AND OBLIGATIONS[3]

I. The Employees

6. As of the Petition Date, the Debtors employ approximately 110 people, all of whom are U.S. employees employed on a full-time basis and paid a salary (collectively, the "Employees").[4] None of the Employees are unionized or party to collective bargaining agreements or similar labor arrangements. Due to the COVID-19 pandemic, all or nearly all of the Debtors' employees have been working remotely.

7. The Employees possess the institutional knowledge, experience and skills necessary to support the Debtors' business operations during these chapter 11 cases.

8. In addition to the Employees' compensation, the Debtors also incur other obligations for employee programs, such as bonuses, expense reimbursements, federal and state withholding taxes and other withheld amounts, health and welfare benefits, severance, 401(k)

[3] The description of employee compensation, obligations, benefits and programs described herein are for summary purposes only and are qualified in their entirety by the applicable documents and/or agreements governing such compensation, obligations, benefits and programs. In the event of any inconsistency, the applicable documents and/or agreements governing such compensation, obligations, benefits and programs control.

[4] Debtor Knotel, Inc. currently has two employees who are on secondment to Space Management ("Deskeo"), a nondebtor foreign joint venture that is majority-owned by Debtor Knotel, Inc. These two employees are paid by Debtor Knotel, Inc., and their work benefits Debtor Knotel, Inc.

In addition to the Employees, the Debtors have an intern who works on a part-time basis and is paid hourly.

From time to time, the Debtors may, in the ordinary course, use staffing agencies to fill short term staffing needs and professional employer organizations ("PEOs") to meet staffing requirements in certain foreign jurisdictions. As of the Petition Date, Debtor Knotel, Inc. pays staffing agency Accountemps approximately $16,000-$20,000 per month to supply two independent contractors. In addition, Debtor Knotel, Inc. pays approximately $20,000 per month to PEOs to supply one person in Canada and one in Brazil.

contributions, and access to purchasing cards and programs that the Debtors historically have provided in the ordinary course of business.[5] The programs provided by the Debtors to their Employees, as more fully described below, are referred to herein as the "Employee Programs," and the obligations to the Employees thereunder, as well as compensation owed to Employees and Independent Contractors (defined below), are referred to herein as the "Employee Obligations."

II. Employee Programs and Employee Obligations

A. Employee Wages

9. In the ordinary course of business, the Debtors pay most Employees twice per month, on the fifteenth day and the last day of each month. On average each month, the Debtors will pay approximately $2 million in base wages and salary plus an average of approximately $13,652 in commissions.

10. The Debtors' payroll is distributed by direct deposit into the Employees' personal bank accounts. Employees do not receive payroll distributions via check.

11. The Debtors last processed and paid payroll on Friday, January 29, 2021 for the period covering the second half of January. Therefore, the Debtors estimate that approximately $0 in gross prepetition wages and salaries are owed to Employees (collectively, the "Unpaid Employee Wages"). Though the Debtors estimate that there are no prepetition Unpaid Employee Wages, out of an abundance of caution, the Debtors seek authorization, but not direction, to pay and honor or reissue in the ordinary course of business any Unpaid Employee Wages and to continue to honor Employee wages after the Petition Date in the ordinary course.

[5] The Debtors also maintain workers' compensation insurance, which is addressed in the *Debtors' Motion Pursuant to Sections 105(a), 363(b), 363(c), and 1107(a) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004(h) for Interim and Final Orders Authorizing Debtors to (A) Continue Insurance Policies and Agreements Relating Thereto, 9b) Honor Certain Prepetition Obligations in Respect Thereof, and (C) Renew, Revise, Extend, Supplement, Change or Enter into New Insurance Coverage as Needed in their Business Judgment*.

12. In light of the recent payroll, the Debtors also estimate that approximately $0 in total prepetition commissions are owed to a group of seven Employees (collectively, the "Unpaid Sales Commissions"). Again, out of an abundance of caution, the Debtors seek authorization, but not direction, to pay in the ordinary course of business the Unpaid Sales Commissions, including prepetition Unpaid Sales Commissions.

13. The Debtors do not believe that any Employee is owed more than $13,650 in Unpaid Employee Wages and Unpaid Sales Commissions.

B. Bonus Programs

14. The Debtors historically have maintained various bonus programs (the "Bonus Programs") for their non-insider employees, each as described in more detail below. The following description of the Bonus Programs is for disclosure purposes only. The Debtors are not seeking authority at this time to make any payments to non-insiders under the Bonus Programs, nor are the Debtors seeking authority at this time to pay any bonuses to insiders.

15. Company Performance Bonus. All full-time Employees may be eligible for a bonus of 10-25% of base salary, with the percentage dependent upon the Employee's title, if Debtor Knotel, Inc., hits certain performance metrics in the following categories in a given year—GAAP revenue, adjusted contribution margin, adjusted EBITDA, and cash use—and if the Board of Directors of Debtor Knotel, Inc., in its discretion, approves the payment of such bonuses (the "Company Performance Bonuses"). Company Performance Bonuses would be paid out in the first quarter of the calendar year, based upon the previous year's performance. The maximum possible payout for 2020 under this program, for all eligible Employees combined, would total $5.15 million. However, Debtor Knotel, Inc.'s Board of Directors has not yet made any determination regarding Company Performance Bonuses.

16. Discretionary Spot Bonus. The Debtors have historically awarded one-off spot bonuses ("Discretionary Spot Bonuses") for "above and beyond" performance of up to $7,500 to an Employee or team that has made a contribution with a significant impact on Knotel's business. Individuals cannot receive more than $7,500 per calendar year unless otherwise approved by Knotel, Inc.'s CEO, CFO, or VP of People. Discretionary Spot Bonuses typically total approximately $210,000 in aggregate per year.

17. Sign-on Bonus. Hiring managers may give sign-on bonuses ("Sign-On Bonuses") to external candidates who join Debtor Knotel, Inc. in order to offset a loss of bonus that the candidate would have otherwise achieved.

18. Recognition Awards. Managers may give on-the-spot awards ("Recognition Awards"), such as gift cards or dinners, to subordinates or peers in real time to reward exceptional performance and/or Knotel values embodiment. Each manager is allowed to spend up to $500 on Recognition Awards per year, and such awards must be approved by the next level manager. The estimated budget for such awards in 2020 was $100,000.

19. Service Awards. Employees are eligible to receive service awards ("Service Awards") of $20-$80, based on their seniority level, on the anniversary of their employment. The estimated budget for such awards in 2020 was $40,000.

20. Citrus Performance Awards. Seven employees on Debtor Knotel, Inc.'s investment team can earn up to 10% of their annual salary (the "Citrus Performance Awards") by working to give back a target number of square feet of space that has been leased by the Debtors but is no longer needed. Such bonuses are paid out twice per year. Awards for first through third quarter of 2020 of $54,100 in aggregate across the seven Employees were given in October 2020.

Approximately $43,001 was awarded in January 2021 for these Employees' performance in the fourth quarter of 2020.

21. As noted above, the Debtors are not seeking authority to make any bonus payments, under the Bonus Programs described above or otherwise, at this time.

C. Accrued Vacation

22. The Debtors have an unlimited vacation policy, which neither accrues nor pays out unused vacation time. Accordingly, the Debtors do not owe any amounts on account of vacation time, and no relief is requested with respect to vacation time.

D. 401(k) Plan

23. The Debtors sponsor a savings and retirement plan (the "401(k) Plan") available to all full-time Employees, which is administered by ADP, LLP ("ADP"). Each participant may contribute up to $19,500 per year (plus an additional $6,500 catch-up contribution for Employees aged 50 and over). The Debtors do not offer an employee match; therefore any amounts due and owing to the 401(k) Plan for contributions are property of the Employee plan participants and are not property of the estate. The Debtors seek authority, but not direction, to continue the 401(k) Plan in the ordinary course of business postpetition.

24. Each pay period, the Debtors deduct the Employees' 401(k) contributions from their paychecks (the "401(k) Deductions") and hold such amounts in trust until they are remitted to ADP. The Debtors historically deducted approximately $107,000 in the aggregate each month from Employees' paychecks on account of the 401(k) Deductions. As of the Petition Date, the Debtors have no unremitted 401(k) Deductions. The Debtors seek authority to remit any 401(k) Deductions unremitted prepetition. As noted above, the Debtors believe that the 401(k) Deductions are not property of their estates.

25. The Debtors use ADP Retirement Services to administer the 401(k) plan, which charges a fee of $8.33 per 401(k) Plan participant per month. These fees totaled approximately $34,000 in 2020. ADP Strategic Plan Services, LLC, the 401(k) Plan's investment manager, receives an annual fee of 0.001% of overall plan assets, which are currently approximately $5.3 million, to provide independent advice on investment options, plan design, and fiduciary oversight (together with 401(k)-related fees charged by ADP Retirement Services, the "401(k) Fees"). The 401(k) Fees are paid on a monthly basis. The Debtors believe that on the Petition Date, they will owe approximately $24,992 in 401(k) Fees. Although the Debtors do not believe that the assets of the 401(k) Plan are assets of their estates, out of an abundance of caution, the Debtors seek authority to honor prepetition 401(k) Fee obligations and to continue paying the 401(k) Fees in the ordinary course of business.

E. Expense Reimbursement

26. The Debtors' Employees are entitled to the reimbursement of certain reasonable and necessary expenses incurred and paid directly by an Employee while performing employment duties, including, among others, job-related travel and meal expenses (the "Expenses"). The majority of Expenses incurred are travel expenses, including air travel, hotels, meals, cab fare, train and subway fare, rental vehicles, gas and car mileage for personal vehicles and WiFi while traveling. The Debtors estimate that Employee Obligations for Expense reimbursements total approximately $5,000 per month. The Debtors seek authority to reimburse all outstanding Expenses pursuant to this Motion, on seven (7) days' notice of such Expenses to (i) counsel to the United States Trustee for Region 3, and (ii) counsel to any official committee appointed in the chapter 11 cases (collectively, the "Notice Parties"), including the name and job title of each Employee to be reimbursed and a description of each Expense. The Debtors will not

reimburse any such Expense pending the resolution of a timely filed objection from any Notice Party.

F. Severance

27. The Debtors seek authorization, but not direction, to pay severance (the "Severance Benefits"), as an administrative expense of their estates, and as part of a program generally applicable to all full-time Employees, in accordance with the table below (the "Severance Table"), to any current Employees who are not insiders (as such term is defined in section 101(31) of the Bankruptcy Code), and to Employees who are insiders—to the extent permitted by section 503(c)(2) of the Bankruptcy Code—in the event that such non-insider or insider Employees are not offered employment by a purchaser of the Debtors' assets.

28. Severance Benefits are critical to maintaining the morale of the Debtors' Employees, especially given that the Debtors do not intend to seek authority to pay retention bonuses to any Employee.

29. The Debtors estimate Severance Benefits to be approximately $365,000 in aggregate, and there are sufficient funds in the DIP budget for the Debtors to pay such Severance Benefits. Below is a table summarizing Severance Benefits.

Severance Table

	Baseline (0-1 Year)	**Each Additional Year of Service**	**Benefits**
Associate	3 weeks	2 weeks	+ 1 month COBRA
Manager	3 weeks	2 weeks	+ 1 month COBRA
Director (AD - Sr. Dir.)	4 weeks	2 weeks	+ 1 month COBRA
VP+ (non-CEO directs)	10 weeks	2 weeks	+ 1 month COBRA
Executive (CEO directs)	18 weeks	2 weeks	+ 1 month COBRA

G. Payroll Taxes and Withholding Obligations

30. Each pay period, the Debtors deduct certain amounts directly from Employees' pay, including, but not limited to: (i) garnishments, child support, service charges and other similar deductions as applicable; and (ii) other pre- and after-tax deductions payable pursuant to certain of the Employees Obligations, legally-ordered deductions and other miscellaneous deductions (collectively, the "Deductions").

31. Based upon the Employees' salaries and wages, the Debtors also are required by law to withhold amounts related to federal, state and local income taxes, as well as Social Security and Medicare, and to remit such withholdings to the applicable authorities. The Debtors additionally are required to make matching payments from their own funds for Social Security and Medicare and to pay, based on a percentage of gross payroll, state and federal unemployment insurance, employment training taxes and state disability insurance contributions (all of the foregoing, collectively, the "Payroll Tax Obligations"). Each pay cycle, the Debtors withhold applicable Payroll Tax Obligations from Employees' wages and remit such amounts to the applicable authorities.

32. On average each month, the Debtors withhold approximately $600,000 in Payroll Tax Obligations and approximately $120,000 in Deductions. Due to the recent payroll, the Debtors estimate that, as of the Petition Date, they have withheld approximately $0 in unremitted prepetition Deductions and Payroll Tax Obligations (collectively, the "Withholding Obligations"). Out of an abundance of caution, the Debtors seek authorization, but not direction, to pay and remit the Withholding Obligations to the appropriate authorities consistent with the Debtors' prepetition practices, regardless of when such Withholding Obligation arose.

H. Health and Wellness Benefits

33. The Debtors provide eligible Employees with access to medical insurance through Cigna. The Debtors pay eligible Employees who waive medical coverage an extra stipend of $100 per month. Additionally, the Debtors provide eligible Employees with access to dental coverage through Lincoln Financial and vision coverage through Cigna (collectively with medical insurance, the "Benefit Plans"). The monthly premiums that the Debtors pay for the Benefit Plans are $73,009 for medical, $2,851 for dental and $727 for vision. Due to the recent payroll, as of the Petition Date, the Debtors believe they owe approximately $0 for pre-petition medical plan fees, approximately $0 for pre-petition dental plan fees, and approximately $696 for pre-petition vision plan fees. The Debtors seek authority, but not direction, to honor all Benefit Plan contributions that arose prepetition, as well as to honor any amounts that become due in the ordinary course.

I. Life Insurance

34. The Debtors also provide basic life insurance ("Life Insurance") for eligible Employees. Life Insurance is administered by Sun Life. The Debtors' total monthly cost in connection with Life Insurance is approximately $550. Due to the recent payroll, as of the Petition Date, the Debtors believe that no amounts are outstanding for Life Insurance premiums attributable to the prepetition period. Nonetheless, out of an abundance of caution, and given the relatively de minimis amounts potentially at issue, the Debtors seek authority, but not direction, to honor any prepetition obligations due on account of the Life Insurance program so as to maintain coverage for their Employees.

J. Purchasing Cards

35. The Debtors currently have approximately five purchasing cards issued by Brex ("Purchasing Cards"). Purchasing Cards are used to pay vendors and are restricted by vendor type or category by the card issuer. Purchasing Cards are not used for other business expenses such as travel, hotels and meals. In the ordinary course, obligations arising from the use of the Purchasing Cards are paid directly by the Debtors. On average, the Debtors accrue approximately $50,000 of Purchasing Card charges each month. Continued use of purchasing Cards by the Debtors' employees is vital to the continued operation of the Debtors' business operations. The Debtors must be permitted to continue reimbursing, or making direct payments on behalf of, employees for such expenses in order to avoid any disruption to their business or negative impact on Employee morale. As of the Petition Date, the Debtors estimate that approximately $50,547 is due and owing under the Purchasing Cards.

K. Miscellaneous Benefits

36. The Debtors also offer several other miscellaneous benefits to certain eligible Employees. These miscellaneous benefits include, but are not limited to (a) a basic short-term disability program, (b) a basic long-term disability program, (c) a basic accidental death and dismemberment program, (d) employee-paid dependent life insurance provided by Cigna, (e) flexible spending accounts, (f) commuter benefit accounts, membership in a primary care and insurance navigation company (EdenHealth), (g) free bike share (Citibike in New York and Bay Wheels in San Francisco), (h) paid parental leave (16 weeks), and (g) a mobile phone stipend of $50 per month. The Debtors believe that honoring these miscellaneous benefits will help boost Employee morale and confidence in the Debtors. As of the Petition Date, the Debtors estimate that they will owe approximately $4,000 to insurers and other providers of miscellaneous benefits

to Employees. The Debtors seek authority to pay all such obligations, including any prepetition amounts, and the Debtors request authority to continue to honor these miscellaneous benefits in the ordinary course.

L. Payroll Services

37. To efficiently manage the processing and payment of the various Employee Obligations, including administration of the 401(k) Plan, the Debtors rely on services provided by ADP to facilitate the Debtors' payroll processing and payroll transfer administration (the "Payroll Services"). Each payroll period, the Debtors calculate that period's payroll and any appropriate payroll taxes or withholding requirements related to the Employee Obligations, and then remit that information to ADP, which then processes a direct deposit transfer to each Employee.

38. The services that ADP provides are crucial to the smooth functioning of the Debtors' payroll system. With ADP's assistance, the Debtors can ensure that (i) Employees are paid on time, (ii) appropriate deductions are made, (iii) payroll reporting is accurate, and (iv) appropriate amounts are timely remitted to the applicable taxing authorities and other payees. The Debtors pay approximately $95,000 annually in fees to ADP for these services. As of the Petition Date, the Debtors estimate they will owe approximately $20,300 to ADP on account of prepetition fees relating to Payroll Services. The Debtors seek authority to pay all such fees, including any prepetition amounts, as Employee Obligations come due in the ordinary course of business.

III. Independent Contractors

39. In addition to the Employees, the Debtors also rely on the services of two contractors provided by staffing agency Accountemps and two contractors provided by PEOs. On average, the Debtors pay the Independent Contractors approximately $36,000-40,000 in the

aggregate per month. As of the Petition Date, approximately $7,200 in prepetition amounts are owed to the Independent Contractors remain outstanding (the "Unpaid Independent Contractor Wages" and, together with the Unpaid Employee Wages, the "Unpaid Wages"). The Debtors believe that the amount of uncashed checks issued to Independent Contractors (the "Uncashed Independent Contractor Paychecks") that may be outstanding as of the Petition Date is approximately $0 for amounts earned within 180 days of the Petition Date. Though the Debtors believe that no amounts are owed on account of Uncashed Independent Contractor Paychecks, out of an abundance of caution, they request authority, but not direction, to honor any prepetition amounts owed to Independent Contractors up to the statutory cap of $13,650.

RELIEF REQUESTED

40. By this Motion, the Debtors request entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**: (i) authorizing the Debtors to pay and honor Employee Obligations; (ii) authorizing and directing banks and financial institutions to receive, process, honor and pay checks presented for payment and electronic payment requests relating to prepetition Employee Obligations; and (iii) granting related relief.

BASIS FOR RELIEF

I. Authority to honor the Employee Obligations is essential and warranted.

41. The Debtors' business depends on the services and dedication of reliable and loyal Employees and Independent Contractors. Honoring Employee Obligations and Employee Programs is essential to ensure such continued dedication, reliability and loyalty. Failing to promptly honor these obligations will create doubt and concern among the Employees and could lead to a significant attrition among Employees or Independent Contractors. Significant loss of the Debtors' workforce at this critical time would immediately and irreparably harm the Debtors' ability to maintain operations to the detriment of all parties.

42. Therefore, the Debtors seek the relief in this Motion on several bases under the Bankruptcy Code. First, certain of the prepetition obligations are entitled to priority under section 507 of the Bankruptcy Code. Second, the Debtors are required to pay and remit certain Withholding Obligations under section 541 of the Bankruptcy Code as these amounts are not property of the estate. Third, the Debtors may honor and pay Employee Obligations in the ordinary course of business pursuant to section 363 of the Bankruptcy Code. And fourth, honoring the Employee Obligations is a sound exercise of the Debtors' business judgment, and permissible under the "doctrine of necessity."

A. Certain of the Employee Obligations are entitled to priority treatment under section 507 of the Bankruptcy Code.

43. Pursuant to Bankruptcy Code sections 507(a)(4) and (5), certain of the unpaid prepetition Employee Obligations—including Uncashed Independent Contractor Paychecks and Unpaid Wages—are entitled to priority treatment in an amount up to $13,650 for each individual. To the extent that such claims are afforded priority status, the Debtors must pay these claims in full prior to payment of general unsecured creditors under a plan. *See* 11 U.S.C. § 1129(a)(9)(b) (requiring payment of certain allowed unsecured claims for (a) wages, salaries, or commissions, including vacation, and sick leave pay earned by an individual, and (b) contributions to an employee benefit plan); 11 U.S.C. § 507(a)(4) (providing that allowed unsecured claims for "(A) wages, salaries, or commissions, including vacation, and sick leave pay earned by an individual; or (B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor . . ." up to $13,650 per individual are entitled to a fourth priority ahead of general unsecured claims); 11 U.S.C. § 507(a)(5) (providing that "allowed unsecured claims for contributions to an employee benefit plan . . . ," with offsets for payments made under section 507(a)(4), are entitled to a fifth priority).

44. Accordingly, granting the relief sought with respect to compensation will affect only the timing of payments to Employees and Independent Contractors, and will not have any material negative impact on recoveries for general unsecured creditors. Indeed, the Debtors submit that payment of unpaid Employee Obligations will enhance value for the benefit of all stakeholders because it will help ensure that the Employees and Independent Contractors—the lifeblood of the Debtors' business operations—will continue to provide vital services to the Debtors at this critical juncture. In addition, to the extent that the Debtors are authorized, in a reasonable exercise of their business judgment, to pay prepetition Employee Obligations on a postpetition basis in the ordinary course of business, such payments will enhance the value of the Debtors' estates by preserving the value of the Debtors' business for all stakeholders.

B. Payment of certain Employee Obligations is required by law under section 541 of the Bankruptcy Code.

45. The Debtors also seek authority to pay Withholding Obligations to the appropriate entities. These amounts principally represent amounts that Employees, governments and judicial authorities have designated for withholding from Employees' paychecks. These withholdings include child support and alimony payments, which are not considered property of the Debtors' estates because the Debtors have withheld such amounts from Employees' paychecks on another party's behalf. *See* 11 U.S.C. §§ 541(b)(7) and (d).

46. Similarly, applicable U.S. federal and state laws require the Debtors to withhold federal, state and local income taxes from Employees' paychecks and to pay such amounts to the appropriate taxing authority. *See* 26 U.S.C. §§ 6672 and 7501(a); *City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95–96 (3d Cir. 1994) (finding that state law requiring a corporate debtor to withhold city income tax from its employees' wages created a trust relationship between debtor and the city for payment of withheld income taxes). These unremitted Withholding

Obligations are also not property of the Debtors' estates and, accordingly, the Debtors request that the Court authorize them to transmit the unremitted Withholding Obligations to the proper parties in the ordinary course of business.

C. The Debtors may honor and pay Employee Obligations in the ordinary course of business pursuant to section 363 of the Bankruptcy Code.

47. The Debtors' ability to compensate current Employees in the ordinary course of business is necessary to the Debtors' success in their reorganization, and is consistent with section 363(c) of the Bankruptcy Code. *See* 11 U.S.C. § 363(c)(1) (providing that, so long as "the business of the debtor is authorized to be operated under [section 1108 of the Bankruptcy Code] and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business, without notice or a hearing"); 11 U.S.C. § 1108 (providing that a debtor in possession, as trustee, may operate the debtor's business unless a court orders otherwise). As such, the Debtors believe sufficient cause exists to pay Employee Obligations in the ordinary course on a postpetition basis.

D. Payment of the Employee Obligations is a sound exercise of the Debtors' business judgment.

48. Courts in this jurisdiction and others generally acknowledge that, under appropriate circumstances, they may authorize a debtor to pay (or provide special treatment for) certain prepetition obligations. *See, e.g., In re Quiksilver, Inc.*, No. 15-11880 (BLS) (Bankr. D. Del. Sept. 9, 2015) (authorizing Debtors to pay prepetition employee wages, benefits, and granting related relief.); *In re Samson Resources Corporation, et al.*, No. 15-11934 (CSS) (Bankr. D. Del. Sept. 16, 2015) (same); *see also In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D. Del. 1999) ("The Supreme Court, the Third Circuit and the District of Delaware all recognize the court's power to authorize payment of prepetition claims when such payment is necessary for the debtor's survival

during chapter 11."); *In re Columbia Gas Sys., Inc.*, 136 B.R. 930, 939 (Bankr. D. Del. 1992) (citing *In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (recognizing that "[i]f payment of a prepetition claim 'is essential to the continued operation of [the debtor], payment may be authorized'")); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (finding sound business justification for payment of certain prepetition claims). When authorizing such payments, courts have relied upon several legal theories rooted in Bankruptcy Code sections 1107(a), 1108, 363(b) and 105(a).

49. Pursuant to Bankruptcy Code sections 1107(a) and 1108, a debtor in possession is a fiduciary charged with "holding the bankruptcy estate and operating the business for the benefit of its creditors and (if the value justifies) equity owners." *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Inherent in a debtor-in-possession's fiduciary duties is the obligation to "protect and preserve the estate, including an operating business's going-concern value," which, in certain instances, can be fulfilled "only . . . by the preplan satisfaction of a prepetition claim." *Id*. Indeed, the *CoServ* court specifically noted that the pre-plan satisfaction of prepetition claims would be a valid exercise of the debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate . . . ." *Id*. Consistent with a debtor's fiduciary duties, where there is a sound business purpose for the payment of prepetition obligations, and where the debtor is able to "articulate some business justification, other than the mere appeasement of major creditors," courts have authorized debtors to make such payments under Bankruptcy Code section 363(b). *Ionosphere Clubs*, 98 B.R. at 175 (finding that a sound business justification existed to pay prepetition wages).

50. Courts have also authorized payment of prepetition claims in appropriate circumstances pursuant to Bankruptcy Code section 105(a). Bankruptcy Code section 105(a),

which codifies the inherent equitable powers of the bankruptcy court, empowers the bankruptcy court to "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). Under section 105(a), courts may permit pre-plan payments of prepetition obligations when such payments are essential to the continued operation of the debtor's business and, in particular, where nonpayment of a prepetition obligation would trigger a withholding of services essential to the debtors' business reorganization plan. *See Ionosphere Clubs*, 98 B.R. at 177 (finding that section 105 empowers bankruptcy courts to authorize payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor).

51. In addition to the authority granted a debtor-in-possession under Bankruptcy Code sections 1107(a), 1108, 363(b) and 105(a), courts have developed the "doctrine of necessity" or the "necessity of payment" rule, which originated in the landmark case of *Miltenberger v. Logansport, C. & S.W.R. Co.*, 106 U.S. 286, 310 (1882). Since *Miltenberger*, courts have expanded their application of the doctrine of necessity to cover instances of a debtor's reorganization. *See, e.g., Lehigh & New England Ry. Co.*, 657 F.2d at 581–82.

52. Today, the rationale for the necessity of payment rule—the preservation of a business in chapter 11 cases—is "the paramount policy and goal of Chapter 11." *Ionosphere Clubs*, 98 B.R. at 176; *see also In re Just for Feet, Inc.*, 242 B.R. at 826 (finding that payment of prepetition claims to certain trade vendors was "essential to the survival of the debtor during the chapter 11 reorganization"); 2 Collier on Bankruptcy ¶ 105.02[4][a] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (discussing cases in which courts have relied upon the doctrine of necessity or the necessity of payment rule to pay prepetition claims immediately).

53. The relief requested herein will benefit the Debtors' estates and creditors by allowing the Debtors' business operations to continue without interruption while the Debtors seek to transition operations and, if possible, sell their business. In the absence of such payments, the Debtors believe that their Employees may immediately seek alternative employment opportunities and the Independent Contractors will cease providing services to the Debtors. This would have a devastating impact on the Debtors' business, impair their ability to provide uninterrupted services to their customers, deplete the Debtors' workforce and diminish confidence in the Debtors. Moreover, the loss of valuable individuals and the recruiting efforts that would be required to replace essential employees would be a massive and costly distraction at a time when the Debtors should be focusing on these chapter 11 cases.

II. Cause exists to authorize the Debtors' financial institutions to honor checks and electronic fund transfers.

54. The Debtors represent that they have sufficient availability of funds to pay the amounts described herein in the ordinary course of business by virtue of cash reserves, expected cash flows from ongoing business operations and their postpetition financing. Also, under the Debtors' existing cash management system, the Debtors represent that checks or wire transfer requests can be readily identified as relating to an authorized payment made with respect to the Employee Obligations. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that all applicable banks[6] should be authorized and directed, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests with respect to the Employee Obligations.

[6] The Debtors' banks are Bridge Bank, a division of Western Alliance Bank; JPMorgan Chase; HSBC; and Wells Fargo (collectively, the "Banks").

THE REQUIREMENTS OF BANKRUPTCY RULE 6003 ARE SATISFIED

55. As described above, the Debtors are seeking authority pursuant to an interim order to pay prepetition wages and expenses and to continue Employee benefits. Under Bankruptcy Rule 6003, this Court may authorize the relief requested herein within the 21-day period after the Petition Date because such relief is necessary to avoid immediate and irreparable harm to the Debtors' estates. *See* Fed. R. Bankr. Proc. 6003(b) and (c). Immediate and irreparable harm exists where the absence of relief would impair a debtor's ability to reorganize or threaten the debtor's future as a going concern. *See In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 36 n.2 (Bankr. S.D.N.Y. 1990) (discussing the elements of "immediate and irreparable harm" in relation to Bankruptcy Rule 4001).

56. Immediate and irreparable harm would result if the relief requested herein were not granted. As described above, the Debtors' Employees and Independent Contractors are integral to the Debtors' operations. Failing to satisfy obligations to them in the ordinary course of business will jeopardize loyalty and trust, possibly diminishing the Debtors' workforce and thereby disrupting the Debtors' operations. Moreover, the Debtors' Employees rely on the Debtors' timely payment of their compensation and provision of benefits for their livelihood. Accordingly, the Debtors submit that they have satisfied the requirements of Bankruptcy Rule 6003 to support immediate payment of their Employee Obligations.

WAIVER OF BANKRUPTCY RULE 6004(h)

57. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and any stay of an order granting the relief requested herein pursuant to Bankruptcy Rule 6004(h), 7062, 9014 or otherwise for all of the reasons described above.

RESERVATION OF RIGHTS

58. Nothing contained herein is intended or shall be construed as: (i) an admission as to the validity, amount or priority of any claim against the Debtors; (ii) a waiver of the Debtors' rights to dispute any claim; (iii) a promise or requirement to pay any claim; (iv) a waiver of any claim or cause of action of the Debtors that exist against any entity; (v) a ratification or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code; (vi) a waiver of limitation of the Debtors' rights under the Bankruptcy Code, any other applicable law or any agreement; or (vii) an admission or concession by the Debtors that any lien acknowledged or satisfied under this Motion is valid, and the Debtors expressly reserve and preserve their rights to contest the extent, validity, or perfection, or seek avoidance of, any such lien.

NOTICE

59. Notice of this Motion will be provided to: (i) the Office of the United States Trustee; (ii) the Internal Revenue Service; (iii) the Securities and Exchange Commission; (iv) the Delaware Secretary of State; (v) the Delaware Secretary of the Treasury; (vi) the Debtors' thirty (30) largest unsecured creditors; (vii) counsel to the DIP Lender and Prepetition Lender; (viii) ADP; (ix) the Banks; (x) Lincoln Financial; (xi) Cigna; (xii) Sun Life; and (xiii) all parties requesting notice pursuant to Bankruptcy Rule 2002. Notice of this Motion and any order entered hereon will be served in accordance with Rule 9013-1(m) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

[*Remainder of page intentionally left blank*]

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter interim and final orders, substantially in the forms attached as **Exhibit A** and **Exhibit B,** granting the relief requested in this Motion, and grant such other relief as is just and proper under the circumstances.

Dated: January 31, 2021
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Robert J. Dehney

Robert J. Dehney (No. 3578)
Matthew B. Harvey (No. 5186)
Matthew O. Talmo (No. 6333)
Andrew R. Workman (No. 6710)
1201 N. Market Street, 16th Floor
P.O. Box 1347
Wilmington, Delaware 19899-1347
Telephone: (302) 658-9200
Facsimile: (302) 658-3989
Email: rdehney@mnat.com
mharvey@mnat.com
mtalmo@mnat.com
aworkman@mnat.com

-and-

Mark Shinderman (*pro hac vice* pending)
Daniel B. Denny (*pro hac vice* pending)
MILBANK LLP
2029 Century Park East
33rd Floor
Los Angeles, CA 90067
Telephone: (424) 386-4000
Facsimile: (213) 629-5063
Email: mshinderman@milbank.com
ddenny@milbank.com

Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
KNOTEL, INC., *et al.*,	Case No. 21-_____ (___)
Debtors.[1]	Joint Administration Requested
	Re: D.I. ___

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO PAY CERTAIN PREPETITION WAGES, BENEFITS AND OTHER COMPENSATION OBLIGATIONS, (II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR ALL OBLIGATIONS RELATED THERETO, AND (III) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an interim order (this "Interim Order") and final order pursuant to sections 105(a), 363, 507 and 541 of the Bankruptcy Code, Bankruptcy Rules 6003(b) and 6004 and Local Rule 9013-1(m): (i) authorizing the Debtors to pay and honor certain prepetition wages, benefits and other compensation obligations; (ii) authorizing and directing banks and financial institutions to receive, process, honor and pay checks presented for payment and electronic payment requests relating to prepetition employee wages and benefits; and (iii) granting related relief, including scheduling a final hearing, all as more fully described in the Motion; and upon consideration of the First Day Declaration; and due and sufficient notice of the Motion having been given under the circumstances; and it appearing that no other or further notice need be provided under the circumstances; and it appearing that the relief requested by the Motion

[1] A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at https://www.omniagentsolutions.com/knotel or, alternatively, via the Bankruptcy Court at https://ecf.deb.uscourts.gov/cgi-bin/login.pl with a Public Access to Court Electronic Records ("PACER") account, which may be obtained at https://pacer.uscourts.gov. The location of Debtor Knotel, Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 5-9 Union Square West, New York, NY 10003.

[2] Capitalized terms not defined herein are used as defined in the Motion.

is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

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

2. Subject to the provisions of this Order, the Debtors are authorized, but not directed, in a reasonable exercise of their business judgment, to: (i) pay or otherwise honor the Employee Obligations authorized to be paid hereunder, including Unpaid Wages, Unpaid Independent Contractor Wages, Expense reimbursements, and Severance Benefits; (ii) honor and continue the Employee Programs that were in effect as of the Petition Date in the ordinary course of business; and (iii) make all Withholding Obligation payments relating to the Employee Obligations as required by law; provided, however, that the aggregate of cash payments of prepetition Employee Obligations made to, or on behalf of, and individual Employee shall not exceed $13,650 per Employee as provided in section 507(a)(4) - (5) of the Bankruptcy Code; provided, further, that aggregate payments on account of prepetition Employee Obligations will not exceed $150,000 pursuant to this Interim Order, allocated among the categories listed in the following table:

Category	Pre-Petition Amount Authorized to Be Paid
Unpaid Employee Wages	$0
Unpaid Commissions	$0
Bonuses	$0
Accrued Vacation	$0
401(k) Deductions	$0

401(k) Fees	$24,992
Expense Reimbursements (subject to notice requirement)	$10,000
Severance	$0
Deductions and Payroll Tax Obligations	$0
Medical/Dental/Vision	$696
Life Insurance	$0
Purchasing Cards	$50,547
Miscellaneous Benefits	$4,000
Payroll Services/ADP	$20,300
Unpaid Independent Contractor Wages	$7,200
Additional funds to cover overages in the above categories	$32,265
Total:	**$150,000**

For the avoidance of doubt, this authority is inclusive of any prepetition amounts that may become payable under this Interim Order to third-party service providers that administer, insure or otherwise facilitate the Employee Obligations.

3. Pending entry of a final order on this Motion, the Debtors shall not: (i) authorize awards under the Bonus Programs or (ii) make any payments previously authorized under the Bonus Programs.

4. Subject to a cap of $10,000, the Debtors are authorized to reimburse outstanding pre-petition Expenses pursuant to this Motion, on seven (7) days' notice of such Expenses to (i) counsel to the United States Trustee for Region 3, and (ii) counsel to any official committee appointed in the chapter 11 cases (collectively, the "Notice Parties"), including the

name and job title of each Employee to be reimbursed and a description of each Expense. The Debtors shall not reimburse any such Expense pending the resolution of a timely-filed objection from any Notice Party.

5. The Debtors are authorized, but not directed, to pay Severance Benefits to non-insiders in accordance with the Debtors' severance program laid out in the Severance Table in the Motion. For the avoidance of doubt, the Debtors shall not pay Severance Benefits to insiders (as such term is defined in section 101(31) of the Bankruptcy Code) prior to an entry of a final order on the Motion.

6. The Debtors are authorized, but not directed, to issue postpetition checks or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed to their Employees.

7. All banks and other financial institutions are hereby directed to receive, process, honor, and pay any and all checks presented for payment and electronic transfer requests made by the Debtors related to the payment of the obligations described in the Motion and approved herein, whether such checks were presented or such electronic transfer requests were submitted before, or are presented or submitted after, the Petition Date. All such banks and financial institutions are further directed to rely on the Debtors' designation of any particular check or electronic payment request as approved pursuant to this Interim Order.

8. Nothing in the Motion or in this Interim Order is intended or should be construed as (a) an admission as to the validity or priority of any claim against the Debtors, (b) a waiver of the Debtors' rights to dispute any claim, including the validity or priority thereof or (c) an approval or assumption of any agreement, contract or lease whether under section 365(a) of the

Bankruptcy Code or otherwise. Likewise, any payment made pursuant to this Interim Order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

9. Responses or objections to the Motion and entry of a final order with respect to the Motion must: (i) be made in writing; (ii) state with particularity the grounds therefor; (iii) conform to the Bankruptcy Rules and the Local Rules; and (iv) be served upon proposed counsel to the Debtors, Milbank LLP, 2029 Century Park East, 33rd Floor, Los Angeles, California 90067, Attn: Mark Shinderman (email mshinderman@milbank.com) and Daniel B. Denny (email ddenny@milbank.com) and Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, 16th Floor, P.O. Box 1347, Wilmington, Delaware, 19899-1347, Attn: Robert J. Dehney (email rdehney@mnat.com), Matthew B. Harvey (email mharvey@mnat.com), Matthew O. Talmo (email mtalmo@mnat.com) and Andrew R. Workman (email aworkman@mnat.com).

10. The deadline by which objections to the Motion and the final order must be filed and received by proposed counsel to the Debtors is ____________________________, 2021 at 4:00 p.m. (prevailing Eastern Time). A final hearing, if required, on the Motion will be held on ____, 2021 at ___________ (prevailing Eastern Time). If no objections are filed to the Motion and entry of this Interim Order on a final basis, the Court may enter a final order without further notice or a hearing.

11. The Debtors are authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Interim Order.

12. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and the relief requested herein is necessary to avoid immediate and irreparable harm.

13. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be effective and enforceable immediately upon entry hereof.

14. This Court shall retain jurisdiction with respect to all matters related to the interpretation or implementation of this Interim Order.

Date: _______________, 2021
Wilmington, Delaware

____
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
KNOTEL, INC., *et al.*,	Case No. 21-_____ (___)
Debtors.[1]	Joint Administration Requested
	Re: D.I. ___

FINAL ORDER (I) AUTHORIZING THE DEBTORS TO PAY CERTAIN PREPETITION WAGES, BENEFITS AND OTHER COMPENSATION OBLIGATIONS, (II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR ALL OBLIGATIONS RELATED THERETO, AND (III) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an interim order (the "Interim Order") and a final order (this "Final Order") pursuant to sections 105(a), 363, 507 and 541 of the Bankruptcy Code, Bankruptcy Rules 6003(b) and 6004 and Local Rule 9013-1(m): (i) authorizing the Debtors to pay and honor certain prepetition wages, benefits and other compensation obligations; (ii) authorizing and directing banks and financial institutions to receive, process, honor and pay checks presented for payment and electronic payment requests relating to prepetition employee wages and benefits; and (iii) granting related relief, all as more fully described in the Motion; and the Court having previously entered the Interim Order; and upon consideration of the First Day Declaration; and due and sufficient notice of the Motion having been given; and it appearing that

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[1] A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at https://www.omniagentsolutions.com/knotel or, alternatively, via the Bankruptcy Court at https://ecf.deb.uscourts.gov/cgi-bin/login.pl with a Public Access to Court Electronic Records ("PACER") account, which may be obtained at https://pacer.uscourts.gov. The location of Debtor Knotel, Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 5-9 Union Square West, New York, NY 10003.

[2] Capitalized terms not defined herein are used as defined in the Motion.

no other or further notice need be provided; and it appearing that the relief requested by this Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

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

2. The Debtors are authorized, but not directed, in a reasonable exercise of their business judgment, to: (i) pay or otherwise honor the Employee Obligations, including the Uncashed Independent Contractor Paychecks, Expense reimbursements, Severance Benefits, and Unpaid Wages; (ii) honor and continue the Employee Programs that were in effect as of the Petition Date in the ordinary course of business; and (iii) make all Withholding Obligation payments relating to the Employee Obligations as required by law; provided, however, that the aggregate of cash payments of prepetition Employee Obligations made to, or on behalf of, an individual Employee shall not exceed $13,650 per Employee as provided in section 507(a)(4) - (5) of the Bankruptcy Code; and provided, further, that payments on account of Severance Benefits to any insider (as such term is defined in section 101(31) of the Bankruptcy Code) shall not exceed the maximum provided by section 503(c)(2) of the Bankruptcy Code. For the avoidance of doubt, this authority is inclusive of any prepetition amounts that may become payable under this Final Order to third-party service providers that administer, insure or otherwise facilitate the Employee Obligations.

3. The Debtors are authorized, but not directed, to pay Severance Benefits to non-insiders and insiders (as such term is defined in section 101(31) of the Bankruptcy Code) in accordance with the Debtors' severance program laid out in the Severance Table in the Motion, and subject to the restrictions set forth in 11 U.S.C. § 503(c).

4. The Debtors are authorized, but not directed, to issue postpetition checks or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed to their Employees.

5. All banks and other financial institutions are hereby directed to receive, process, honor, and pay any and all checks presented for payment and electronic transfer requests made by the Debtors related to the payment of the obligations described in the Motion and approved herein, whether such checks were presented or such electronic transfer requests were submitted before, or are presented or submitted after, the Petition Date. All such banks and financial institutions are further directed to rely on the Debtors' designation of any particular check or electronic payment request as approved pursuant to this Final Order.

6. Subject to the requirements of this Final Order, the Debtors are authorized, but not directed, to modify, change and/or discontinue any of the Employee Obligations to implement new Employee Obligations in the ordinary course of business during the pendency of these chapter 11 cases in their discretion without the need for further Court approval. Subject to Paragraph 2 of this Order, nothing in this Final Order authorizes or approves any payments or transfers subject to section 503(c) of the Bankruptcy Code. Further, nothing in this Final Order shall be deemed to violate or permit a violation of section 503(c) of the Bankruptcy Code.

7. Nothing in the Motion or in this Final Order is intended or should be construed as (a) an admission as to the validity or priority of any claim against the Debtors, (b) a waiver of the Debtors' rights to dispute any claim, including the validity or priority thereof or (c) an approval or assumption of any agreement, contract or lease whether under section 365(a) of the Bankruptcy Code or otherwise. Likewise, any payment made pursuant to this Final Order is not

intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

8. The Debtors are authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Final Order.

9. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and the relief requested herein is necessary to avoid immediate and irreparable harm.

10. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be effective and enforceable immediately upon entry hereof.

11. This Court shall retain jurisdiction to hear and determine all matters related to the interpretation or implementation of this Final Order.

Date: ________________, 2021
Wilmington Delaware

____
UNITED STATES BANKRUPTCY JUDGE