**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In Re:	**Case No.: 25-70001-JAD**
WILSON CREEK ENERGY, LLC, *et al.*,[1]	**Chapter 11**
Debtors.	***Joint Administration Requested***
	Doc. No.:
WILSON CREEK ENERGY, LLC, *et al.*,	**Related to Document No.**
Movant,	**Hearing Date:**
v.	**Hearing Time:**
NO RESPONDENT.	**Response Deadline:**

**DECLARATION OF KEVIN HARRIGAN, PRESIDENT AND
CHIEF EXECUTIVE OFFICER OF WILSON CREEK ENERGY, LLC
AND ITS AFFILIATED DEBTORS IN SUPPORT OF THE CHAPTER 11
PETITIONS AND FIRST DAY MOTIONS**

I, Kevin Harrigan, hereby declare as follows:

1. I am the President and Chief Executive Officer of Wilson Creek Energy, LLC and its affiliated debtors and debtors in possession, including its ultimate parent company, Corsa Coal Corp. (collectively "Debtors"). A chart detailing the Debtors' corporate structure is attached hereto as **Exhibit A**.

2. I have served in this position since May 4, 2023, after having previously served as the Interim President and Chief Executive Officer since February 21, 2022. Before that, I served

[1] The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number are: Wilson Creek Energy, LLC (6202); Wilson Creek Holding, Inc. (7733); Maryland Energy Resource, LLC (5299); Mincorp Acquisition Corp. (4858); Mincorp Inc. (5688); PBS Coals, Inc. (2413); Roxcoal, Inc. (3768); Quecreek Mining, Inc. (1745), Croner, Inc. (0529); Elk Lick Energy, Inc. (8551); and Corsa Coal Corp. (0027). The Debtors' address is 1576 Stoystown Road, Friedens, Pennsylvania 15541.

as Chief Financial Officer and Corporate Secretary since June of 2015. I have more than 20 years of experience in management, operations, finance, accounting, and acquisitions in the United States coal industry. I received my Bachelor of Science degree and a Master of Science in Accountancy from Duquesne University and Certified Public Accountant certification from the Pennsylvania State Board of Accountancy.

3. On the date hereof (the "Petition Date"), the Debtors commenced the above-captioned cases (the "Chapter 11 Cases") by each filing a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101–1532 (as amended, the "Bankruptcy Code"), in the United States Bankruptcy Court for the Western District of Pennsylvania (this "Court"). I submit this declaration to assist the Court and parties in interest in understanding the circumstances compelling the commencement of these Chapter 11 Cases and in support of the Debtors' chapter 11 petitions and First Day Motions filed contemporaneously herewith.

4. Also on the date hereof, but subsequent to the filing of these Chapter 11 Cases, the Debtors have filed or will file a recognition of the Chapter 11 Case (or similar proceeding) under the Companies' Creditors Arrangement Act (Canada) in the Ontario Superior Court (the "CCAA Proceeding") in order to protect the Debtors' interests in that foreign jurisdiction related to these Chapter 11 Cases.

5. As required in the CCAA Proceeding, the Debtors have been authorized to and will appoint a foreign representative to represent the Debtors (the "Foreign Representative") and take such actions authorized under the CCAA on behalf of the Debtors in the CCAA Proceeding, consistent with and subject to these Chapter 11 Cases and any and all orders entered herein.

6. The Debtors have engaged Stikeman Elliot LLP as its Canadian insolvency and restructuring counsel in the CCAA Proceeding and the Debtors anticipate that the Foreign Representative will similarly seek to engage counsel to represent him/her in the CCAA Proceeding. As set forth more fully in the DIP Motion and accompanying DIP Budget, the Debtors propose to compensate their Canadian counsel, the Foreign Representative and his/her counsel through the DIP Financing being proposed in these Chapter 11 Cases.

7. Except as otherwise noted, I have personal knowledge of the matters set forth herein or have gained knowledge of such matters from the Debtors' employees in the ordinary course of my responsibilities. I am over the age of 18 and authorized to submit this declaration on behalf of the Debtors. References to the Bankruptcy Code, the chapter 11 process, and related legal matters are based on my understanding of such in reliance on the explanations provided by, and the advice of, the proposed professionals for the Debtors. If called upon to testify, I could and would testify competently as to the facts set forth herein.

I. THE DEBTORS' BUSINESS

A. Coal Operations

8. The Debtors' headquarters is located in Friedens, Somerset County, Pennsylvania and they have approximately 365 employees. All of the Debtors' physical assets, mining operations and employees are located in Somerset County, Pennsylvania, and Garret County, Maryland. The common shares of the Debtors' ultimate parent, Corsa Coal Corp., are listed on the TSX Venture Exchange under the symbol "CSO" and also trade on the OTCQX Best Market under the symbol "CRSXF".[2]

[2] Corsa Coal Corp. is domiciled in Canada and has a registered office at 199 Bay St., Suite 5300, Commerce Court West, Toronto, Ontario M5L 1B9.

9. Through its US-based operating subsidiaries, the Debtors are suppliers of premium quality metallurgical coal, an essential ingredient in the production of steel. The Debtors' core business is the mining/production and supply of premium quality metallurgical coal that is sold to domestic and international steel and coke producers. The sources of the Debtors' metallurgical coal is either: (i) coal that the Debtors produce; or (ii) coal that the Debtors purchase from third parties and subsequently provide value-added services (storing, washing, blending, and loading) to make the coal saleable. Collectively, the Debtors produce and sell approximately one million tons of coal each year.

10. The Debtors own, lease and/or operate the following six underground and surface mines, all of which are located in Somerset County, Pennsylvania, except the Casselman mine which is located in Garrett County, Maryland:

Operating Debtor(s)	Mine	Type of Mine	Status
Wilson Creek Energy, LLC	Acosta	Underground	Active
Maryland Energy Resources, LLC	Casselman	Underground	Active
RoxCoal, Inc.	Horning	Underground	Active
Wilson Creek Energy, LLC	Schrock Run Extension	Surface	Active
PBS Coals, Inc.	Rhoads	Surface	Idle
Wilson Creek Energy, LLC	Byers	Surface	Idle

11. The Debtors' total coal reserves for their active mines are approximately 23 million clean and recoverable tons. For all of their properties, the Debtors' coal reserves include approximately 38 million clean and recoverable tons.[3]

[3] The source of the information provided in this paragraph is the Technical Report on the Coal Resource and Coal Reserve Controlled by Corsa Coal Corp., Pennsylvania and Maryland, USA - Prepared in Accordance with National Instrument 43-101 Standards for Disclosure for Mineral Projects Effective December 31, 2023.

12. The Debtors likewise have an extensive portfolio of machinery and equipment that they use in connection with their mining operations. The Debtors estimate that the combined value of the Debtor's personal property assets and real property and mineral rights holdings materially exceeds the amount of the pre-petition secured debt.

13. The Debtors utilize the room and pillar method to mine coal from their three underground mines and utilize either contour and auger mining or contour and highwall mining to mine coal from their three surface mines.

14. In addition to their surface and underground mines, the Debtors also own two coal preparation plants: the Shade Creek Preparation Plant and the Cambria Preparation Plant, both of which are located in Somerset County, Pennsylvania. The Cambria Plant is currently idle.

15. The raw metallurgical coal produced from the mines is trucked to the preparation plants where it is processed or "washed" using conventional coal processing techniques and stored for shipping. All of the preparation plants have load out facilities adjacent to various rail lines. Coal is usually shipped by rail, however, it can also be shipped by truck.

16. With loadout facilities adjacent to a Norfolk Southern rail line, the Shade Creek Preparation Plant has an operating capacity of 450 tons of raw coal per hour, storage capacity of 75,000 tons of clean coal, and 170,000 tons of raw coal. With loadout facilities adjacent to a CSX rail line, the Cambria Plant has an operating capacity of 325 tons of raw coal per hour, storage capacity of 130,000 tons of clean coal and 55,000 tons of raw coal.

17. A graphic depicting the locations of the Debtors' coal facilities is attached hereto as **Exhibit B**.

B. The Debtors' Prepetition Debt

i. The Main Street Facility

18. On December 14, 2020, the Debtors (except for Debtor Corsa Coal Corp.) entered into a five-year secured term loan with KeyBank National Association ("KeyBank" or "Lender") for $25 million (as amended from time to time, the "Main Street Facility") through the Main Street Lending Program ("MSLP") established in connection with the Coronavirus Aid, Relief, and Economic Secured Act (the "CARES Act") by the board of governors of the U.S. Federal Reserve System. As it was my understanding that the MSLP program was established to reduce disruptions to economic activity by providing financing to small and medium-sized businesses that create and preserve jobs, the Debtors sought funding under the MSLP to aid the Debtors in continuing to operate and preserve the jobs of our employees.

19. The Main Street Facility was amended from time to time. As per the most recent Amendment dated December 31, 2024 (the "7th Amendment") to the Main Street Facility, the Debtors are obligated to make the following mandatory prepayments: One Million Five Hundred Thousand Dollars ($1,500,000) on January 31, 2025, (iii) Five Hundred Thousand Dollars ($500,000) on February 28, 2025, and (iv) Five Hundred Thousand Dollars ($500,000) on March 31, 2025 (unless paid in full prior to such date).

20. Additionally, the 7th Amendment requires that, "on or before January 31, 2024 (*sic*), Borrowers shall have received and countersigned and delivered a binding agreement or agreements for a Refinancing Transaction subject to limited conditions reasonably acceptable to Lender." *See* 7th Amendment, ¶3(d) (revising §5.36(d) of original agreement).

21. As described further below, prior to the Petition Date, the Debtors had been working with advisors to secure refinancing of the Main Street Facility through a USDA-backed

debt facility (the "Refinancing Transaction" referenced in the 7th Amendment). However, due to delays in processing, the Debtors were unable to secure such financing before reaching a liquidity crisis that led to the filing of these Chapter 11 Cases.

22. The obligations arising under the Main Street Facility are secured by senior, first priority security interests in, and liens upon, substantially all of the Debtors' non-real property assets, including, without limitation, accounts (other than those subject to the LSQ Account Sale Agreement or otherwise released pursuant to the Additional Account Sale Program with LSQ) and the Customer Account Sale Programs described below and certain Permitted Encumbrances described therein), inventory, equipment and fixtures, general intangibles, payment intangibles, intellectual property, deposit accounts, chattel paper, instruments, as-extracted collateral, securities, and commodities accounts, and the proceeds thereof. As of the Petition Date, there is approximately $16.3 million in aggregate principal amount outstanding under the Main Street Facility.

ii. The LSQ Facility

23. On July 28, 2022, Debtor Wilson Creek Energy, LLC ("WCE") and Debtor Wilson Creek Holdings, Inc. ("WCH") as Guarantor, entered into a 24-month Invoice Purchase Agreement (the "LSQ Account Sale Agreement") with LSQ Funding Group, L.C. ("LSQ"), pursuant to which LSQ may elect to purchase eligible customer invoices from WCE. After its initial 24-month term, the LSQ Account Sale Agreement automatically renewed for another one-year term and it will continue to renew for subsequent annual terms unless otherwise terminated. To secure WCE's and WCH's obligations under the LSQ Account Sale Agreement, WCE and WCH granted LSQ a lien on all accounts receivable and rights to payment arising from the invoices purchased by LSQ. As a requirement of the LSQ Account Sale Agreement, KeyBank agreed to subordinate the Main

Street Facility to the LSQ Account Sale Agreement, such that LSQ has a first lien on the receivables of WCE and WCH that it purchases. Advances by LSQ may be made at an advance rate of up to 85% of the face value of the eligible receivables being sold. LSQ may require WCE to repurchase accounts receivable if LSQ determines, in its sole discretion, that the accounts are uncollectible for any reason. LSQ receives fees equal to 0.0750% of the receivables purchased in addition to a funds usage daily fee of 0.0292% of the outstanding balance purchased. Like programs used by other coal operators in the industry, the LSQ program, is utilized in the ordinary course of the Debtor's business and is important to the Debtors' operations as it enables the Debtors to more quickly monetize accounts receivable and provides a level of consistency that minimizes disruption in cash flow and by extension the ability to purchase critical supplies needed for operations and pay other operational expenses, such as payroll.

iii. Equipment Leases and Other Secured Debt

24. The Debtors are parties to various equipment leases, capital leases and equipment financing arrangements that may be subject to purchase money security interests. The creditors holding such claims that may be secured include: R&D Svonavec Ventures, LLC, which holds a claim in the amount of $206,475 and is potentially collateralized by four trailers, Bill Miller Equipment Sales, which holds three claims in the aggregate amount of $2,267,500 and is potentially collateralized by a CAT 785C Haul Truck, a Terex O&K Excavator, and three CAT 777F Haul Trucks, Cleveland Brothers Equipment, which holds a claim in the amount of $151,077 and is potentially collateralized by a CAT 980M wheel loader, and Wingspire Equipment Finance, which holds a claim in the amount of $2,143,741 and is potentially collateralized by a Sub Fine 325 Sludge Separation Unit.

iv. Unsecured Trade Debt

25. In the ordinary course of its business, the Debtors purchase or lease mining equipment and processing supplies on an unsecured basis and use other services and goods from numerous vendors. The Debtors also purchase materials to keep the mining and processing machinery running, such as oils, hydraulic fluid, industrial lubricants, and other equipment parts for the maintenance of the equipment. The Debtors have substantial costs associated with its mining operations. As of January 6 , 2025, the Debtors estimate that they owe approximately $21.3 million in unsecured trade debt.

C. The Debtors' Reclamation and Water Treatment Obligations

26. Like other operators in the mining space, the Debtors operations are regulated by State and Federal regulatory agencies. The Debtors' operations require permitting and corresponding bonding for performance, reclamation, water treatment, etc. The Debtors hold hundreds of permits that are bonded. The Debtors have environmental claims and obligations, including, but not limited to those relating to reclamation, water treatment and possibly mine closure. In addition to the bonds issued in connection with these liabilities, the Debtors have entered into three separate Consent Order & Agreements (each, a "COA" and collectively "COAs") with the Pennsylvania Department of Environmental Protection (the "PA DEP") relating to long-term water treatment liabilities. The COAs established three trust funds (the "COA Trusts") designed to cover operating and capital expenses associated with the treatment of 18 perpetual water treatment sites. As of the Petition Date, the COA Trusts are funded with approximately $34 million.

II. CIRCUMSTANCES GIVING RISE TO THIS CHAPTER 11 CASE

27. Starting in the fourth quarter of 2023, the Debtors were developing new mining areas in each of their underground mines and encountered challenging geological issues that reduced output and led to increased mining costs. The geological challenges continued throughout 2024, further impairing profitability and liquidity.

28. Due to inadequate access to capital, the Debtors were unable to repair and rebuild mining equipment, let alone purchase new equipment or other infrastructure necessary to operate their mines, thereby significantly impairing their ability to reduce their mining costs and maximize profitability.

29. During the period of higher operational costs and lower productivity, the Debtors attempted to negotiate financial covenant relief with KeyBank. While KeyBank provided some covenant relief under the Main Street Facility, KeyBank instituted a mandatory prepayment schedule, which further impacted available liquidity. Further, KeyBank imposed certain milestone requirements, which essentially compelled the Debtors to (a) seek to refinance the Main Street Facility or (b) sell the company by a date certain if they could not successfully refinance the Main Street Facility.

30. In response to the newly-imposed milestones, in March of 2024 the Debtors engaged a debt refinancing consultant, and on June 6, 2024, the Debtors executed a term sheet with Madison One CUSO, LLC ("M1") to refinance the Main Street Facility with a $25 million loan backed by the United States Department of Agriculture (the "USDA"). On June 11, 2024, just after the term sheet was executed, M1 was acquired by Ready Capital Corporation. The change in ownership of M1 delayed submission of the USDA guarantee application. The Debtors initially understood that they would receive the USDA guarantee approval in early November; however,

M1 did not submit the application to the USDA until November 8, 2024. To date, the loan guarantee remains under review by the USDA.

31. The Debtors also retained an investment banker in mid-2024 to explore potential merger and sale options. The Debtors' investment banker contacted numerous parties about potential transactions, including, U.S. and international investors and operators in the mining space. Unfortunately, no material traction resulted from this process.

32. Exacerbating the issues the Debtors then faced, the metallurgical coal markets deteriorated due to a variety of macro factors. Economic uncertainty, inflationary pressures and corresponding monetary policy controls impacted the economic activity tied to the demand for metallurgical coal.

33. Ultimately, these industry headwinds resulted in coal pricing for 2024 falling below mining costs, further straining the Debtors' financial condition. Notably, the Debtors executed sales contracts for 2025 at materially higher price levels, but the Debtors are presently unable to reap the benefit from those contracts due to their present liquidity crisis and mounting debt.

34. The confluence of these factors has made the Debtors' financial position untenable. After an extensive and deliberate process, the Debtors have determined in their reasoned business judgment that the commencement of these Chapter 11 Cases is the best course to preserve and maximize value for their stakeholders and preserve the jobs of the Debtors' employees.

35. The Debtors believe that the relief provided by chapter 11 will enable them to, among other things, advance a sale and marketing process for the Debtors' assets that would be more fruitful than the pre-petition efforts. To that end, the Debtors anticipate filing a motion to establish bidding and sale procedures for substantially all of the Debtors' assets shortly after the

Petition Date to not only maximize the value of their operations for the benefit of their estates, creditors and other stakeholders, but also preserve the employment of their 365 employees.

III. FIRST DAY MOTIONS

36. Concurrently with the filing of these Chapter 11 Case, the Debtors have filed several motions (collectively, the "First Day Motions") requesting various forms of relief to allow the Debtors to seamlessly transition into these Chapter 11 Cases. Generally, the First Day Motions have been designated to meet the goals of: (a) preserving and protecting the Debtors' chapter 11 estates, including by paying certain claims of employees, lienholders, and taxing authorities; (b) obtaining necessary debtor in possession financing to provide the Debtors' estates with sufficient liquidity to operate for the duration of these Chapter 11 Cases and minimize the risk of administrative insolvency; and (c) establishing procedures for the smooth and efficient functioning of the Debtors' operations while pursuing one or more strategic transactions. I believe that the relief sought in each of the First Day Motions is tailored to meet the goals described above and, ultimately, will be critical to the Debtors' ability to successfully achieve the objectives of these Chapter 11 Cases. I have read the contents of the First Day Motions, and to best of my knowledge, all the representations made therein are true and correct. The First Day Motions[4] consist of the pleadings described below.

A. Use of Cash Collateral and DIP Financing

37. Concurrently herewith, the Debtors are filing an *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Post-Petition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority*

[4] Capitalized terms that are not defined in this Declaration shall have the meaning ascribed to them in the respective First Day Motions.

Administrative Expense Status, (IV) Approving Adequate Protection, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief (the "DIP Motion").

38. The Debtors have an immediate need to use cash collateral to pay actual, necessary, ordinary course operating expenses, as set forth in the DIP Budget, which includes the costs and expenses associated with the continuation of the Debtors' business and advancing these Chapter 11 Cases to a value maximizing resolution.

39. Absent the use of cash collateral, the Debtors will be unable to operate their business as contemplated after the Petition Date and meet their ongoing obligations. Interim approval of use of the cash collateral is crucial, and without such use, the Debtors' operations will cease. If the Debtors are forced to shut down, all parties in interest, including, without limitation, employees, creditors, regulatory agencies, and other parties in interest will suffer immediate and irreparable harm as the efforts to preserve enterprise value and maximize recoveries for parties in interest will be lost.

40. Additionally, I, together with other members of the Debtors' management and their advisors, have analyzed the Debtors' cash flow and determined that the Debtors cannot operate their business on a post-petition basis without the DIP Facility. The DIP Facility is particularly crucial for the continued operations of the Debtors. The proposed DIP Facility in the amount of $10.5 million on an interim basis and $4.5 million on a final basis is necessary to provide sufficient liquidity to fund operations, payroll, and other administrative costs of these Chapter 11 Cases. This analysis also included, among other things, assessing the potential acceleration of demands on available liquidity following the commencement of these Chapter 11 Cases. The Debtors recently have had $1 million to $4 million of cash on hand at any one time and, as of the Petition Date, have a cash balance of approximately $1.2 million. Notably, the Debtors have a payroll expense

amounting to approximately $1.4 million coming due in days of the Petition Date in addition to the need for operating capital to fund vendors whose obligations are critical to continued operations. Absent approval of the DIP Motion and immediate access to the DIP Facility, the Debtors will be forced to cease operating.

41. Prior to the Petition Date, the Debtors and their professionals engaged in a process to solicit proposals for DIP financing (including, among others, KeyBank who declined). Due to the facts and circumstances surrounding the Debtors, including, without limitation, their efforts to secure replacement financing throughout 2024, their capital structure, and the nature of their business, only a limited number of parties expressed an interest in serving as a DIP lender. Ultimately, KIA II, LLC expressed a willingness to serve as a DIP Lender subject to entry of orders by the Bankruptcy Court that provide the DIP Lender with the protections it mandates in connection with the DIP Facility, as set forth in greater detail in the DIP Motion and proposed Interim DIP Order. The terms of the DIP Facility were negotiated at arms-length and in good faith. I, together with other members of the Debtors' management and their advisors, have concluded in our business judgment that requesting approval of the DIP Facility being offered by KIA II, LLC is both reasonable and in the best interests of all parties in interest in these Chapter 11 Cases under the circumstances. The terms and conditions of the DIP Facility are set forth solely in the proposed Interim DIP Order attached to the DIP Motion.

42. Based on my direct involvement in the process of attempting to obtain postpetition financing from various parties on the best possible terms, it is my belief that postpetition financing was not available on an unsecured basis, or under better terms, following the Debtors' good faith efforts to obtain alternate funding prior to the Petition Date. The operational difficulties facing the Debtors severely limit any lender's willingness to provide postpetition financing to the Debtors.

43. The terms of the DIP Facility were negotiated by the Debtors, in good faith and at arms'-length, to ensure that the terms were as favorable to the Debtors as possible under the circumstances, and I believe that such terms represent fair consideration for the critical financing proposed to be provided by the DIP Lender.

44. In an exercise of my business judgment, I believe that the use of cash collateral and the DIP Facility provides access to liquidity, as needed, with minimal disruption, and allows for the continued operation of the Debtors' business enterprise. Among other things, the use of cash collateral and the funding from the DIP Facility will avert a cessation of the Debtors' operations and enable the Debtors to advance a sale process that will maximize recoveries for KeyBank (and those who have direct and indirect interests in that debt facility), other secured and unsecured creditors, and other parties in interest as well as avoid potential environmental issues that would arise from an abrupt closure of the Debtors' operations. Approval of the DIP Motion will likewise preserve the jobs of the Debtors' employees and likely yield opportunities for continued employment with a buyer(s) of the Debtors' facilities. The DIP Facility is likewise necessary to pay for certain operational needs and the administrative costs of these Chapter 11 Cases. Furthermore, the relief sought in the DIP Motion and the protections afforded preexisting secured creditors adequately protect their respective interests via replacement liens.

45. Without approval of the DIP Facility, I believe that substantial value degradation would occur. Closing a mining operation can have a broad and material negative impact on the stakeholders in this Chapter 11 Case. As an initial matter, the going concern of the Debtors' operations would be lost, which will impair recoveries to all creditors. Abrupt mine closure would likely result in material loss of value with respect to mining equipment that is underground, most if not all of which is the collateral of the pre-petition secured creditors. The loss of employment

for the Debtors' employees would likely create significant hardship for those people and their families. In addition, it should not be overlooked that the mining industry is highly regulated and abrupt mine closure are not in the best interests of those regulatory agencies, the sureties who have posted bonds in connection with the Debtors' permits and operations, and the communities in which the Debtors operate.

46. Accordingly, the Debtors have determined, in the exercise of their reasonable business judgment, that the financing to be provided by the DIP Lender as set forth in the proposed Interim DIP Order is the most favorable funding available under the circumstances and addresses the Debtors' immediate necessary financing needs during these Chapter 11 Cases. The Debtors submit that the DIP Motion should be approved.

B. Employee Wages and Benefits

47. Concurrently herewith the Debtors are filing the *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 "Wage Motion").

48. In the ordinary course of their business, the Debtors incur payroll obligations to their employees for the performance of services. As of the Petition Date, the Debtors employed approximately 365 employees (the "Employees" and each an "Employee"), 42 of which held positions as managers, administrators or executives and earn salaries commensurate with their role, expertise and experience. The managers, administrators and executives are highly competent and deeply knowledgeable of the Debtors' operations. The remaining Employees receive wages or salaries commensurate with their role, expertise and experience. The compensation of Debtors'

employees is reasonable, made according to ordinary business terms, and commensurate with the value received in exchange for such compensation.

49. Wages. The Debtors pay the Employees through a regularly conducted payroll process that makes direct deposits into each Employee's personal account on a bi-weekly basis, with the most recent payroll date having occurred on December 27, 2024, and the next payroll date scheduled to occur on January 10, 2025. On average, the Debtors pay approximately $1.4 million in gross wages and salary every two weeks for their current Employee base (the "Employee Wages"). As of the Petition Date, the Debtors owe $1,394,831.53 for accrued but unpaid Employee Wages. The Debtors seek authority, but not direction, to satisfy the prepetition Employee Wages in the ordinary course of business, including reissuing any unreceived pay or uncashed checks as necessary, subject to the Priority Cap,[5] and to honor Employee Wages accrued on or after the Petition Date in the ordinary course.

50. Reimbursable Expenses. In the ordinary course of business, the Debtors reimburse certain Employees for reasonable and customary expenses incurred in the scope of their services to the Debtors, including those expenses related to, among other things, business travel, communications, and office supplies (the "Reimbursable Expenses"). Employees must submit all expenditures in accordance with the Debtors' travel and expense policy in order to qualify for reimbursement, and each request for reimbursement is reviewed to ensure compliance. The Debtors are currently aware of approximately $497.00 in outstanding pre-petition Reimbursable Expenses. The Debtors seek authorization to satisfy all unpaid pre-petition Reimbursable Expenses and to pay any requests as and when they arise.

[5] The current Priority Cap is $15,150 per employee. See 11 U.S.C. § 507(a)(4).

51. Bonuses. The Debtors seek authority to continue their hourly employee bonus programs, at their discretion and in a manner consistent with prepetition practice, to preserve Employee morale that is critical to maintaining a motivated workforce during these Chapter 11 Cases. In the ordinary course of business, the Debtors provide various incentive awards to eligible Employees including annual performance, retention and loyalty bonuses. The Debtors bonus program is crucial to helping the Debtors retain an experienced workforce in a competitive field. The annual bonuses are typically paid out during the first quarter of each calendar year. Based on historical averages, the Debtors anticipate there will be accrued but unpaid obligations in the approximate amount of $1 million owed to 336 hourly Employees for annual bonuses earned by Employees in 2024, which the Debtors request authority to pay in the ordinary course of business.

52. The Debtors also seek authority to continue, at their discretion and in a manner consistent with prepetition practices, their holiday bonus program for hourly Employees whereunder Employees who opt to work over a holiday period, resulting in lost PTO, are paid a bonus to minimize company overtime. As of the Petition Date, the Debtors estimate they will owe approximately $165,480.25 to approximately 129 Employees under the holiday bonus program, all of which will become due and payable within the Interim Period.

53. Withholding Obligations. As required by law, the Debtors and/or their payroll service routinely withhold from Employee paychecks amounts that the Debtors are required to transmit to third parties. Examples of such withholdings include Social Security, FICA, federal, state, and local income taxes, garnishments, healthcare payments, and similar items (collectively, the "Withholding Obligations"). The Debtors believe that such withheld funds, to the extent that they remain in the Debtors' possession, constitute monies held in trust and therefore are not property of the Debtors' bankruptcy estate. Thus, the Debtors believe that its practice of directing

such funds to the appropriate parties is in the ordinary course of business and is appropriate and seeks authority to continue such practice.

54. Health and Wellness Benefits. Certain of the Debtors' Employees and their dependents are able to participate in the Debtors' medical insurance program, which is self-insured by the Debtors, and the Debtors' dental, and vision insurance programs, short-term disability, long-term disability, basic life and accidental death and dismemberment coverage, telemedicine, and HSA (collectively, the "Benefit Plans"). The Debtors pay a portion of the premiums owed for Benefit Plans and on average the Debtors incur approximately $230,756.36 in costs to maintain the Benefit Plans each month. The Debtors request the Court's authorization to continue the Benefit Plans in the ordinary course of business as set forth in the Wages Motion. As of the Petition Date, the Debtors estimate there is also at least $432,711.15 in unpaid claims under the self-insured health insurance plan. The Debtors seek authority, but not direction, to satisfy those claims in the ordinary course of business subject to the Priority Cap.

55. Retirement Plan. Prior to the Petition Date, certain of the Debtors' Employees were eligible to participate in the 401(k) retirement plan maintained by the Debtors (the "Retirement Plan"), which includes a safe harbor contribution of three percent (3%) and an employer match of up to three percent (3%). The average bi-weekly cost to the Debtors to maintain the Retirement Benefits Plans is approximately $158,918.00. The Debtors estimate that approximately $158,918.00 is owed to Employee Retirement Benefit Plans for contribution matching in connection with the current pay period. The Debtors seek authorization to continue to maintain and contribute to the Retirement Plan.

56. Paid Time Off. Certain hourly Employees are eligible to accrue paid time off ("PTO"). The Debtors seeks authority to honor in the ordinary course of business operations, the

liabilities to the Employees that arose under Debtors' PTO policies or practices prior to the Petition Date. The Debtors anticipate that the Employees will either: (i) utilize any accrued PTO in the ordinary course during the remainder of the year, (ii) be paid the unused PTO accrued as of the end of the year as is customary in the Debtors' ordinary course of business, or (iii) be paid any unused amount upon termination of their employment. The Debtors seek authority to continue the Debtors' PTO policy in the ordinary course of business on a post-petition basis.

57. None of the Debtors' Employees to be paid pursuant to the relief requested in the Wages Motion are owed prepetition wages, salaries, vacation, PTO or similar claims in excess of the $15,150. Additionally, none of the Debtors' Employees to be paid on account of employee benefit plans are owed prepetition benefits in excess of $15,150.

58. It is imperative to the success of these Chapter 11 cases that the Debtors be authorized to honor the wages and benefits described in the Wages Motion and owed to their Employees and Executives for services provided prior to the Petition Date in an amount not to exceed the Priority Cap. The authorization is necessary in order to avoid the serious risks of resignations and discontent or loss of morale among essential employees. The inability to satisfy these obligations will jeopardize the Debtors' operations and their ability to continue operating while they seek to conduct a sale process, which could, by extension, impair the value to be obtained therefrom. In the exercise of the Debtors' business judgment, the relief sought in the Wages Motion should be granted.

59. The continued employment of the Debtors' personnel upon the terms and conditions described in Wages Motion and the proposed orders attached thereto, is in the best interests of the Debtors, their estate, and all creditors.

60. To the best of my knowledge, all of the Employee-related claims and obligations constitute priority claims, as such term is used in the context of proceedings under the Bankruptcy Code. To the extent that the amount owed to a given Employee exceeds the Priority Cap, the Debtors only seeks authorization to pay such Employee up to the Priority Cap.

C. Insurance

61. Concurrently herewith the Debtors are filing the *Debtors' Motion for Entry of Interim and Final Orders Authorizing the Debtors to (I) Continue Their Insurance and Surety Bond Programs, (II) Continue to Finance Insurance Agreements, (III) Pay All Prepetition and Post-Petition Obligations With Respect to Thereto, and (IV) Authorizing Banks to Honor and Process Checks and Transfers Related to Such Insurance Obligations* (the "Insurance Motion").

62. In the ordinary course of its business, the Debtors maintain various insurance coverages and policies (collectively, the "Insurance Program") through several different insurance carriers (collectively, the "Insurers"). Additionally, in the ordinary course of business, the Debtors are required to maintain surety bonds (the "Surety Bonds") to secure the Debtors' payment or performance of certain obligations, including but not limited to reclamation, road, water/subsidence, and other mining related obligations (the "Surety Bond Program").

63. By the Insurance Motion, the Debtors seek relief from the Bankruptcy Court (a) authorizing, but not directing, the Debtors, in their sole discretion, to (i) continue their Insurance Program and Surety Bond Program, including their ability to honor insurance premium finance agreements, and honor prepetition and post-petition obligations with respect thereto; and (ii) renew, supplement, modify, extend, terminate, or purchase insurance coverage or bond coverage and finance insurance premiums in the ordinary course of business.

64. The Debtors pay approximately $206,301.92 per month for their insurance obligations described above under a financing agreement with IPFS. In addition, anticipate that their next workers' compensation payment will be $263,788.00. The Debtors also maintain a crime policy which is paid in nine equal installments of $386.42 over the course of the calendar year. By this Motion, the Debtors request the Court authorize, but not direct them, to pay those insurance obligations including the monthly payments under the financing agreement, workers' compensation policy and crime policy as they become due in the ordinary course. The Debtors also seek authority, but not direction, to pay prepetition amounts due and owing under the workers' compensation policy in the amount of $346,582.00.

65. The Insurance Program and the Surety Bond Program provide coverage for liabilities relating to, among other things, commercial general liability, property and casualty liability, directors' and officers' liability, employment practices liability, business automobile liability, flood liability, and environmental liabilities. Continuation of these programs is essential to not only satisfy various legal requirements but preserve value for the benefit of the Debtors and their creditor body. Securing replacement coverage could prove difficult (if not impossible in some situations) and would likely be more costly than maintaining preexisting programs.

66. In an exercise of the Debtors' business judgment, I submit that the Debtors' ability to maintain its Insurance Program and Surety Bond Program is critical to the continued operations of the Debtors in these Chapter 11 Cases and receiving the authority to pay the Insurance and Surety Obligations is necessary to maintain such programs. The maintenance of such programs not only reduces the likelihood of springing, uninsured claims on a post-petition basis but it likewise provides prospective buyers some assurance that permit obligations are in compliance.

67. As set forth in detail in the Insurance Motion, maintaining the Insurance Program and Surety Bond Program in the ordinary course of the Debtors' business is an actual and necessary cost to the continuation of the Debtors' business during these Chapter 11 Cases. Furthermore, continuation of these programs is essential to continuing uninterrupted operations and preserving the value of the Debtors' business, properties, and assets of the estates.

D. Utilities

68. Concurrently herewith the Debtors are filing the *Debtors' Motion Pursuant to Section 366 of the Bankruptcy Code For Entry of Interim and Final Orders: (A) Prohibiting Utilities from Altering, Refusing or Discontinuing Services to or Discriminating Against, the Debtors on Account of Prepetition Invoices; (B) Determining that the Utilities are Adequately Assured for Future Payment; and (C) Establishing Procedures for Determining Requests for Additional Assurance* (the "Utilities Motion").

69. In connection with the operation of their business and management of their properties, the Debtors obtain gas, water, waste, recycling, electric, telecommunications, or other utility services (the "Utility Services") from approximately 14 utilities (collectively, the "Utility Providers").

70. The services provided by the Utility Providers are critical to the Debtors' business operations and the success of their sale process, making it essential that Utility Services continue uninterrupted during these Chapter 11 Cases. Even a slight disruption to the provision of the Utility Services could seriously jeopardize Debtors' value and lead to significant losses for the bankruptcy estates.

71. In the previous 12-month period, the Debtors paid an average of $369,450.66 each month to their Utility Providers (the "Utility Costs"). Given the size of the Utility Costs relative

to the Debtors' overall enterprise, the Debtors propose to pay post-petition obligations owed to the Utility Providers in the ordinary course of business. Additionally, the Debtors propose to provide a deposit for each Utility Provider in an amount equal to the cost of two weeks' average service from that Utility Provider less deposits held by each Utility Provider, totaling $98,220.83 (the "Adequate Assurance Deposit").

72. The Adequate Assurance Deposit will be held in the segregated account for the benefit of the Utility Providers (the "Adequate Assurance Account") for the duration of these Chapter 11 Cases and may be applied to any postpetition defaults in payment to the Utility Providers. The Debtors will hold the Adequate Assurance Deposit. The Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within 30 days of the Petition Date and after entry of the Interim Order granting this Motion.

73. I believe that the Proposed Adequate Assurance in the Utilities Motion provides more than adequate assurance of payment to the Utility Providers for the brief interim period during which the Debtors will market their assets for a potential sale. As noted above, the Debtors are contemporaneously seeking approval of post-petition financing that will enable the Debtors to pay their operating costs, including utility costs, as they come due. The Debtors anticipate having sufficient resources to pay, and intend to pay, all post-petition obligations for Utility Services in a timely manner until their Chapter 11 Cases are complete. In addition, the Debtors' reliance on the Utility Services for the continued operation of their business provides the Debtors with a powerful incentive to stay current with its Utility Providers.

E. Prepetition Taxes

74. Concurrently herewith the Debtors are filing the *Debtors' Motion for Interim and Final Orders: (I) Authorizing Payment of Prepetition Sales, Use and Other Taxes and Fee; and*

(II) Authorizing Banks and Other Financial Institutions to Receive, Process, Honor and Pay Checks Issued and Electronic Payment Requests Made Related to Such Taxes and Fee (the "Taxes Motion").

75. In the ordinary course of the Debtors' business, the Debtors collect, withhold, and incur and pay sales and use taxes, income taxes, excise taxes, payroll/withholding taxes, property taxes and reclamation taxes (collectively, the "Taxes and Fees"), each as more fully set forth in the Taxes Motion. The Debtors remit the Taxes to various federal, state and local governments, including taxing and licensing authorities (collectively, the "Governmental Authorities").

76. The Debtors seek entry of an interim order (i) authorizing, but not requiring, the Debtors, in their sole discretion, to pay outstanding Taxes and Fees, and Taxes and Fees as they accrue in the ordinary course, and (ii) authorizing the banks to receive, process, honor and pay checks or wire transfers used by the Debtors to pay such Taxes and Fees. The Debtors estimate that the total amount of such prepetition Taxes and Fees will not exceed approximately $103,467.59 in the aggregate and includes approximately $6,702.49 of Sales and Use Taxes, approximately $64,506.33 in Excises Taxes, and approximately $32,258.77 in Reclamation Taxes all of which have accrued and will become due and payable in the first 30 days after the Petition Date.

77. Any regulatory dispute or delinquency that impacts the Debtors' ability to conduct business in a particular jurisdiction could have a wide-ranging and adverse effect on the Debtors' mining operations and ability to maximize the value of the Debtors' estates. Specifically, the Debtors' failure to remit the Taxes and Fees could adversely affect the Debtors' business operations because, among other things, the Taxing Authorities could (i) initiate audits of the Debtors or take other legal measures which, even if unsuccessful, would unnecessarily divert the

Debtors' attention and limited resources from the process of maximizing the value of the estates, (ii) seek to collect penalties, cancel licenses or permits, or undertake other unfavorable enforcement actions; and (iii) subject certain directors, officers and employees to potential personal liability -- even if such a failure to remit such Taxes and Fees was not a result of malfeasance on their part - which would undoubtedly distract these key personnel from their duties related to operating the Debtors' businesses.

78. The Debtors believe that portions of the Taxes collected prepetition are not property of the Debtors' estate and must, for that reason, be turned over to the Governmental Authorities. To the extent that they are not actually the property of the Governmental Authorities, I understand they may well give rise to priority and/or secured claims.

79. Accordingly, the Debtors submit that the proposed relief in the Taxes Motion is in the best interest of the Debtors' estate.

F. Claims and Noticing and Administrative Agent

80. Concurrently herewith the Debtors are filing the *Debtors' Application for an Order Appointing Omni Agent Solutions, Inc. as Claims and Noticing Agent Pursuant to 28 U.S.C. § 156(c), 11 U.S.C. § 105(a), and W. PA. LBR 1002-8* (the "Section 156(c) Application") and the *Debtors' Application Pursuant to 11 U.S.C. § 327(a) and Fed. R. Bankr. P. 2014 for Entry of an Order Authorizing the Employment and Retention of Omni Agent Solutions, Inc. as Administrative Agent, Nunc Pro Tunc to the Petition Date* (the "Section 327(a) Application").

81. The Debtors propose to engage Omni Agent Solutions, Inc. ("Omni") to act as the Debtors' claims and noticing agent ("Claims and Noticing Agent") and administrative agent ("Administrative Agent"). This retention is the most effective and efficient manner of noticing the creditors and parties in interest of the filing of these Chapter 11 Cases, processing claims, and

other solicitation and administrative services as set forth more fully in the Section 156(c) Application and Section 327(a) Application.

82. By appointing Omni as the Claims and Noticing Agent in these Chapter 11 Cases, the distribution of notices, the processing of claims, and the solicitation of votes (if applicable) will be expedited, and the Clerk of the United States Bankruptcy Court for the Western District of Pennsylvania (the "Clerk") will be relieved of the administrative burden of processing what may be an overwhelming number of claims and other documents filed in these Chapter 11 Cases. Moreover, by appointing Omni as the Administrative Agent, the administration of these cases will be expedited, so the Debtors and the Debtors' professionals will be relieved of handling certain administrative burdens necessary for the successful prosecution of the cases. The Debtors submit, and I believe, based on the three (3) engagement proposals obtained and reviewed by the Debtors, that Omni's engagement is in the best interests of the estates given Omni's quality of services and expertise.

83. The fees to be charged by Omni in connection with these cases are set forth in Omni's engagement agreement. The Debtors respectfully submit, and I believe, that Omni's rates for its services in connection with the notice, claims processing, and solicitation services are competitive and comparable to the rates charged by their competitors for similar services. Indeed, the Debtors conducted a review and competitive comparison of other firms prior to selecting Omni as notice, claims, and solicitation agent and, following arm's-length negotiations, determined Omni's proposal to be superior given the quality of Omni's services and Omni's prior bankruptcy expertise.

H. Cash Management

84. Concurrently herewith the Debtors are filing the *Debtors' Motion for Interim and Final Orders (A) Authorizing the Debtors to (I) Maintain Their Cash Management Systems and Pay Bank Fees, (II) Waive Certain U.S. Trustee Requirements, (III) Continue Using existing Checks and Business Forms, (IV) Perform Intercompany Transactions, and (B) Granting Related Relief* (the "Cash Management Motion").

85. It is my understanding that the U.S. Trustee Guidelines require chapter 11 debtors to, among other things, (a) close all existing bank accounts and open new debtor-in-possession bank accounts for which the signature cards shall indicate that the debtor is a "Chapter 11 Debtor-in-Possession"; (b) establish a new payroll account; and (c) maintain any funds over the amount required for current operations in an interest-bearing account. The Debtors seek a waiver of these requirements and the authority to continue using their existing bank accounts.

86. In the ordinary course of business, the Debtors manage their cash, receivables, and payables through a cash management system (the "Cash Management System"). The Debtors use the Cash Management System to efficiently collect, transfer, concentrate, and disburse funds generated from its operations. The Cash Management System also enables the Debtors to monitor the collection and disbursement of funds, and the administration of their bank accounts. The Debtors maintain accounting controls with respect to each of their bank accounts and can accurately trace the funds through the Cash Management System to ensure that all transactions are adequately documented and readily ascertainable.

87. The Debtors request that the Court authorize it to maintain their current Cash Management System to the same extent the Debtors maintained it prior to the Petition Date. This will allow the Debtor to accurately document, record, and track the transactions occurring within the Cash Management System for the benefit of its bankruptcy estate and for all parties in interest.

88. Additionally, I believe maintaining all Bank Accounts with the Cash Management Banks best serves the Debtors and their estates. I likewise believe preserving the current Business Forms used by the Debtors in the ordinary course of their business will reduce expenses to the Debtors' estate and avoid confusion on the part of employees, vendors, customers, and suppliers.

89. At any given time, as a result of the Intercompany Transactions, there may be claims owing by one or more Debtors to another, or claims owing from one or more Debtors to another (collectively, the "Intercompany Claims"). These Intercompany Transactions occur as part of the ordinary course of operation of the Cash Management System in connection with the receipt and disbursement of funds. The continuation of these transactions is critical to operating in the Debtors' ordinary course of business.

90. The Debtors' integrated Cash Management System allows efficient utilization of cash resources and I believe modification would be internally disruptive and create both administrative inefficiency, delays, and unnecessary cost to the Debtors' estates. Additionally, with the assistance of the Debtors' financial advisor I am confident that the Debtors will be able to establish internal control procedures that will prohibit payments that are not otherwise authorized by the Court or as a matter of law.

91. For these reasons and those set forth in the Cash Management Motion, I believe the relief sought therein is in the best interest of the Debtors' estates.

H. Consolidated Creditors and Case Management

92. Concurrently herewith the Debtors are filing the *Debtors' Motion for Entry of an Order (I) Authorizing the Debtors to File Consolidated Creditor List and Matrix; (II) Approving the Form and Manner of Notifying Creditors of Commencement of these Chapter 11 Cases, and (III) Granting Related Relief* (the "Consolidated Creditors Motion") and *Debtors' Emergency*

Motion for Entry of an Order Establishing Certain Notice, Case Management, and Administrative Procedures as well as Granting Related Relief (the "Case Management Motion").

93. The Debtors through their Consolidated Creditors Motion seek, among other things, an order authorizing (i) the Debtors to file a matrix of the Debtors' 30 largest unsecured creditors on a consolidated basis, and (ii) the Debtors to use Omni Agent Solutions, Inc. to serve the notice of commencement of the Chapter 11 Cases.

94. The Debtors through their Case Management Motion seek to establish Case Management Procedures that establish, among other things, (i) omnibus hearing dates and times for considering all motions and other matters in the Chapter 11 Cases; (ii) an official service list; and (iii) other administrative procedures to facilitate the efficient handling of the Chapter 11 Cases and any adversary proceedings filed in connection with the Chapter 11 Cases.

95. I believe that the relief sought in the Consolidated Creditors Motion and the Case Management Motion, if approved, will minimize costs to the Debtors' estates, yield greater efficiency, and reduce the burden on the Court's docket and likely the creditors following these Chapter 11 Cases, and to that end, are an appropriate means to protect and maximize the value of the Debtors' estates.

I. Critical Vendors.

96. Concurrently herewith the Debtors are filing the *Motion of Debtors for Entry of Interim and Final Order (I) Authorizing the Debtors to Pay Certain Prepetition Claims of (A) Critical Vendors, and (B) Lien Claimants and (II) Granting Related Relief* (the "Critical Vendors Motion").

97. In the ordinary course of their business, the Debtors rely on, among others, suppliers of goods and services that are critical to the operation, maintenance, safety, and sale of coal to their customers and to the markets generally.

98. These Key Trade Vendors provide their services on favorable trade terms, and maintaining these trade terms is critical to the Debtors' ability to continue operations and ensure production and delivery of coal in sufficient quantities to meet customer demand and by extension maintain a stable inflow of cash.

99. The Key Trade Vendors cannot be easily replaced or substituted by alternative vendors on similar terms. Any interruption in the supply of such goods and services, however brief, would materially disrupt the Debtors' operations and could potentially cause irreparable harm to their business and, in turn, their estates.

100. After a thorough analysis of their operations, supply chain, existing agreements with Key Trade Vendors, business relationships, and potential replacement options (if any) for the Key Trade Vendors, the Debtors believe that the harm to their estates from certain Key Trade Vendors declining to continue doing business with the Debtors would substantially outweigh the cost of payment (on negotiated terms) of certain Key Trade Claims.

101. The Debtors seek authority to pay Key Trade Claims, in an exercise of their business judgment, subject to certain conditions set forth in the Critical Vendors Motion. In seeking the relief sought by the Debtors, the Debtors balanced preserving relationships with the vendors most important to maintaining the ordinary course of business operations with limiting the expenditure of estate resources. If the Critical Vendors Motion is approved, the Debtors will only make payments that the Debtors determine, in an exercise of their sound business judgment, are necessary to maintaining and maximizing the value of their estates.

102. The Debtors estimate the aggregate amount of Key Trade Claims do not exceed $6 million and if the Critical Vendors Motion is approved, the Debtors intend to require Customary Trade Terms as a condition to any payment.

103. In an exercise of the Debtors business judgment, the Debtors submit that the Critical Vendors Motion should be approved.

J. Securities Procedures

104. Concurrently herewith the Debtors are filing a *Motion of the Debtors and Debtors in Possession for Interim and Final Orders (I) Establishing Notice and Objection Procedures for Transfers of Equity Securities and (II) Establishing a Record Date for Notice and Sell Down Procedures for Trading in Claims Against the Debtors' Estates* (the "Securities Procedures Motion").

105. By the Securities Procedures Motion, the Debtors seek, among other things, to (i) establish notice and objection procedures necessary for transfers of beneficial interests in, or declarations of worthlessness in equity securities ("Equity Securities") and (ii) establishing a record date (the "Record Date") for notice and sell-down procedure for trading in claims against the Debtors' estates.

106. Corsa Coal Corp.'s common stock is publicly traded on the TSX Venture Exchange (Canada) and OTCQX Best Market (United States - Over the Counter) (ticker symbol: CRSXF). As of January 3, 2024, there were approximately 103,811,512 shares of Corsa common stock outstanding.

107. At the end of the Debtors' 2023 fiscal year, the Debtors had accumulated approximately $397,655,934.00 worth of federal net operating losses ("NOLs") with respect to their U.S. operations. The Debtors' fiscal year closed December 31, 2024 and the Debtors estimate

that they incurred substantial additional NOLs in 2024 and may generate additional NOLs during the course of these Chapter 11 Cases.

108. The Debtors' NOLs have substantial value and could materially reduce the Debtors' future tax liabilities, including those that may arise in connection with the Debtors' potential sale of substantially all of their assets or any subsequent winding down of the Debtors (or any tax liabilities arising in connection with the future operations of any reorganized company).

109. The Debtors' NOLs may be carried forward in certain instances subject to restrictions relating to a change of ownership. As the Debtors' NOLs have significant potential value, efforts to preserve them could result in benefits to all stakeholders.

110. The Equity Transfer Procedures are designed to protect the Debtors from losing the benefit of their NOLs and provide a mechanism to monitor and possibly object to ownership changes resulting from Transfers.

111. It is in the best interests of the Debtors, their estates and their stakeholders to restrict Transfers that could result in an ownership change and to establish the Record Date referenced in the Securities Procedures Motion with respect to trading in Claims.

112. The Debtors submit that, absent the relief granted in the Proposed Interim Order, the Debtors and their estates could suffer immediate and irreparable harm. Approval of the Securities Procedures Motion serves the interests of all parties in interest.

K. <u>Customer Programs Motion</u>

113. Concurrently herewith the Debtors are filing a *Motion for Entry of Interim and Final Orders Authorizing the Debtors to (I) Perform Under Existing Coal Sale Contracts and Customer Account Sale Programs in the Ordinary Course of Business, (II) Enter Into and Perform Under New Coal Sale Contracts and Customer Account Sale Program Transactions in the*

Ordinary Course of Business, and (III) Granting Related Relief (the "Customer Programs Motion").

114. By the Customer Programs Motion, the Debtors seek authority to (a) perform under and/or amend existing Coal Sale Contracts and Customer Account Sale Programs in the ordinary course of business, and (b) enter into, perform under, and/or amend Coal Sale Contracts and Customer Account Sale Program transactions in the ordinary course of business.

115. Prior to the Petition Date, the Debtors routinely and in the ordinary course of their business entered into contracts with customers to sell coal from the Debtors' mining operations or acquired from other sources ("Coal Sale Contracts").

116. Entering into, performing under, and amending Coal Sale Contracts represents a core and absolutely critical part of the Debtors' operations. Coal sales generate virtually all of the Debtors' revenues. The Debtors submit that entering into, performing under, and amending new postpetition Coal Sale Contracts and performing under and amending existing Coal Sale Contracts is within the ordinary course of their business.

117. Because Coal Sale Contracts are often longer-term agreements involving very large quantities of coal and millions of dollars in aggregate purchase price, counterparties may be unwilling to transact with the Debtors without specific authorization from this Court. If the Debtors had to seek Court approval every time they wished to enter into a new Coal Sale Contract, perform under, or amend an existing Coal Sale Contract, the Debtors believe that they would be at a competitive disadvantage, resulting in a loss of customers and revenues. Such an impediment endangers their chances of successfully operating during these Chapter 11 Cases. In the highly competitive coal market, the Debtors must be able to enter into, perform under, and/or amend Coal Sale Contracts quickly and efficiently. Otherwise, the Debtors risk losing revenue if certain

counterparties are unwilling to transact due to some perceived risk associated with a Debtors' authority in chapter 11.

118. Pursuant to historical practice and in the ordinary course of business, the Debtors consider a number of factors before entering into or amending Coal Sale Contracts, including, but not limited to: (a) general analyses related to cost and revenue concerning the coal to be sold; (b) production and sales balances to determine availability of coal over the proposed delivery term for the transaction; (c) the Debtors' view on the market, including consideration of market prices from relevant indices, pricing reported to the public, and recent transactions; (d) financial ability of a customer to pay for the coal purchased; (e) transportation availability, if applicable; and (f) contractual terms. Such considerations help the Debtors ensure that their execution of a Coal Sale Contract makes good business sense and is in their best interests. The Debtors will, of course, continue to review the advisability and feasibility of entering into new Coal Sale Contracts to ensure that any and all of the Coal Sale Contracts are advantageous to the Debtors and promote the interests of all stakeholders.

119. Separately, consistent with common industry practice, the Debtors have historically and in the ordinary course of business maintained and operated in accordance with certain invoice sale and payment arrangements with certain vital customers and third parties (the "Account Sale Agreements").

120. Certain of the Debtors' larger customers have extended payment terms, and the Debtors have historically managed their liquidity needs by selling accounts/invoices prior to their maturity to certain account purchasers (the "Account Purchasers") pursuant to such Account Sale Agreements. Such agreements are vital to managing the Debtors' ongoing coal sales and corresponding cash flow without unnecessary interruption or delay. While the parties to such

agreements intend, and the documents explicitly provide, that the transfer of purchased accounts is intended to be as a "true sale," the agreements do provide customary protections to certain of the Account Purchasers in the form of the grant of a security interest in the purchased accounts (should the transfer later be recharacterized). However, the Debtors do not intend for the transactions executed pursuant to such agreements to be or characterized as loans from the account purchasers to the Debtors.

121. Prior to the Petition Date, KeyBank either subordinated or agreed to release its security interest in any accounts purchased by LSQ.

122. Account Sale Agreements are customary in the Debtors' industry and have long been used by the Debtors in the ordinary course of operations. Such arrangements work in concert with the Debtors' performance under the above-described Coal Sales Contracts in ensuring the Debtors' efficient operations and ability to meet its ongoing obligations on a daily basis.

123. The Debtors have a long-standing relationship with LSQ under the LSQ Account Sale Agreement, pursuant to which LSQ provides prompt and necessary liquidity by purchasing certain of the Debtors current coal sales invoices in the ordinary course of business. The Debtors are also party to specific stand-alone Account Sale Agreements with two (2) critical customers, whereby invoices evidencing sales to said customers are sold to and processed for immediate payment by and through LSQ, with respect to one customer program, and Bank of America, with respect to the other customer program ("Additional Account Sale Agreements," together with the LSQ Account Sale Agreement are referred to as the "Customer Account Sale Programs").

124. The Debtors' performance under and continuation of the Customer Account Sale Programs is an integral part of the Debtors' operations and provides predictability and consistency of cash flow to the Debtors' operations. The Debtors' daily operations, revenue streams and ability

to service their customers is contingent upon the uninterrupted continuation of the Customer Account Sale Programs.

125. In light of the critical importance of the Customer Account Sale Programs to the Debtors' businesses, the Debtors request authority to continue to maintain and honor obligations related to these programs in the ordinary course of business.

126. The Debtors, in an exercise of their business judgment, submit that the relief sought in the Customer Programs Motion is both necessary and critical to the success of these Chapter 11 Cases and serves the best interests of creditors and all stakeholders.

L. Expedited Hearing and Shortened Notice

127. Concurrently herewith the Debtors are filing *Debtors' Motion for Emergency Consideration of First Day Motions* (the "Expedited Hearing Motion").

128. As described in each of the First Day Motions, the relief requested in the First Day Motions filed by the Debtors is essential to maintaining the viability of the Debtors' business and allowing the Debtors to maximize the value of its estates, to the benefit of all parties in interest. Further, through the First Day Motions, the Debtors only seek the relief that is necessary to avoid immediate and irreparable harm to the Debtors and their estates. Accordingly, the Debtors assert, and I believe, that the First Day Motions involve matters that require an expedited, emergency hearing and shortened notice periods and request the Court to conduct such hearing on January 8, 2025 at 11:00 AM (EST), or as soon as reasonably practicable thereafter.

M. Other Retention Applications

129. The Debtors intend to promptly file other applications to retain and employ Raines, Feldman, Littrell LLP ("RFL") as proposed bankruptcy counsel and BDO Consulting Group, LLC ("BDO"), as financial advisors in these Chapter 11 Cases.

130. I believe the retention of both RFL and BDO is necessary and critical to the Debtors success in these Chapter 11 Cases and each of the Debtors has consented to RFL's and BDO's retention pursuant to resolutions passed by each Debtors' board of directors that have been filed with the Debtors' Petitions.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 6, 2025

/s/ *Kevin M. Harrigan*

Kevin Harrigan
President and Chief Executive Officer of the Debtors