

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

TARONIS FUELS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 22-11121 (BLS)

(Joint Administration Requested)

**DECLARATION OF R. JERED RUYLE IN SUPPORT OF THE
DEBTORS' CHAPTER 11 PETITIONS AND FIRST DAY PLEADINGS**

I, R. Jered Ruyle, being duly sworn, depose and say:

1. I am the Chief Executive Officer and President of Taronis Fuels, Inc., a corporation organized under the laws of Delaware (the “Lead Debtor” or the “Company”, and along with its affiliated debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”). I served as an Executive Vice President of the Lead Debtor since January 2020, and served as a sales representative of the Company prior to that. From November 30, 2021, to March 8, 2022, I served as interim Chief Executive Officer and President, at which point the Board of Directors (the “Board”) appointed me as Chief Executive Officer, President, and director of the Lead Debtor.

2. After obtaining a bachelor's degree from the University of Texas at Tyler in Business Administration, I held positions with my family's multi-generational business in the welding supply industry—which was acquired by Taronis Fuels—obtained experience in fill plant operations, served as manager of logistics teams and sales teams, as well as served as President of

1 The Debtors in these chapter 11 cases, along with the last four digits (if any) of each Debtor's federal tax identification number include: Taronis Fuels, Inc. (7454), MagneGas Welding Supply – West, LLC (6662), Taronis Sub III LLC (5826), MagneGas Welding Supply – South, LLC (8686), MagneGas Real Estate Holdings, LLC (7412), MagneGas IP, LLC (0988), MagneGas Production, LLC (7727), Taronis Sub I LLC (4205), Taronis-TAS, LLC (2356), Taronis-TAH, LLC (3542), and Taronis Sub II LLC (9673). The location of the Debtors' service address in these chapter 11 cases is 24980 N. 83rd Avenue, Suite 100, Peoria, Arizona 85383.

an independent gas distributor. In total, I have more than 14 years of experience in the packaged gas industry.

3. In my capacity as Chief Executive Officer and President of the Company, and as a result of my discussions with the Debtors' employees, consultants, professionals and Board, I have become generally familiar with the Debtors' day-to-day operations, business and financial affairs, and books and records.

4. Except as otherwise indicated herein, all statements set forth in this declaration (the "Declaration") are based on: (i) my personal knowledge of and familiarity with the Debtors' operations, finances, and restructuring efforts; (ii) my review of relevant documents and information provided to me by employees of or advisors to the Debtors or professionals retained by Debtors; (iii) my opinion based on my experience and knowledge of the Debtors' operations and financial and business affairs, including my general knowledge of the industry in which the Debtors operate; (iv) information supplied to me by and consultation with other members of Debtors' management, and the Debtors' professional advisors; and/or (v) my opinion based on my experience, knowledge, and information concerning the Debtors' operations and financial condition. I have obtained this information in the course of my tenure working with the Debtors and their professionals, including Debtors' outside corporate and restructuring counsel. In making this Declaration, I also have relied on information and materials that the Debtors' personnel and advisors have gathered, prepared, verified and provided to me, in each case under my ultimate supervision, at my direction and/or for my benefit in preparing this Declaration.

5. My investigation of the Debtors' operations and circumstances is ongoing. To the extent that I learn that any information provided herein is materially inaccurate, I or the Debtors

will act promptly to notify the Court and other parties; however, I believe all information herein to be true to the best of my knowledge.

6. I am authorized to submit this Declaration on behalf of the Debtors and am over the age of 18. If called upon to testify, I would testify competently to the facts set forth herein.

7. On November 11, 2022 (the “Petition Date”), the Debtors filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), with the United States Bankruptcy Court for the District of Delaware (the “Court”). The Debtors continue to manage and operate their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. To minimize the adverse effects on their businesses, the Debtors have filed motions and pleadings seeking various types of “first day” relief (collectively, the “First Day Pleadings”). To familiarize the Court with the Debtors, their business, the circumstances leading to these Chapter 11 Cases, and the first day relief that the Debtors are seeking, I have organized the Declaration as follows:

- **Part I** provides an overview regarding the Debtors, their businesses, and their capital structure.
- **Part II** describes the circumstances surrounding the commencement of these Chapter 11 Cases.
- **Part III** summarizes the relevant facts in support of each of the First Day Pleadings.

I. OVERVIEW OF THE DEBTORS’ BUSINESSES AND FINANCIAL AFFAIRS

A. THE DEBTORS’ BUSINESSES

8. Through its subsidiaries, the Lead Debtor manufactures and distributes industrial and medical gases and associated welding and safety supplies. Currently, the Debtors operate fifteen (15) retail locations, three (3) gas fill plants, and have approximately ninety-two (92) employees, serving retail customers in four (4) states. The Debtors supply their customers with products ranging from bulk quantities of cryogenic gases to individual packaged cylinders. The

Debtors have the capacity and expertise to supply large, bulk cryogenic gas customers as well as small one-man businesses.

9. Historically, the Debtors were a renewable fuel and power generation company with the primary business objective to produce sustainable, socially responsible alternatives to existing fossil fuel and industrial gas productions to meet the industrial, commercial, and residential needs of the economy. At their peak, the Debtors operated over nineteen (19) retail locations, three (3) wholesale locations, and five (5) gas fill plants. The Debtors' first commercially viable product, "MagneGas," was a clean, renewable metal cutting fuel comprised of hydrogen produced by the Debtors and is patent protected. MagneGas was sold as an alternative product substitute for existing fossil fuel-based metal cutting fuel, such as acetylene and propane. The Debtors' products have been independently validated by global gas authorities as vastly safer than acetylene, the most dangerous industrial gas in use. The operational "gasification units" were historically located in Texas. As of the end of 2021, the Debtors have suspended the production and retail sales of MagneGas.

10. The MagneGas Welding Supply² stores historically sold and distributed a full line of industrial gases and welding equipment and services to users including metalworking, manufacturing, utility power plants, medical, agriculture, transportation, repair, demolition, salvage, and a number of other industries. As discussed below, in August 2022, pursuant to two sales transactions, the Debtors sold their wholesale operations and their retail operations in Florida. As a result of these sales, the Debtors' business operations solely consist of the distribution and sale of various gases to retail customers, primarily in Texas and California.

² The MagneGas Welding Supply stores include: MagneGas Welding Supply – West, LLC, Taronis Sub III (defined below), and MagneGas Welding Supply – South, LLC.

11. The Debtors' management team is currently comprised of the following members:

NAME	TITLE	YEARS WITH THE DEBTORS
R. Jered Ruyle	Chief Executive Officer, President, Board Member	>2 years
Jakob Ogdahl	Vice President, Corporate Treasurer and Investor Relations	>2 years
Patricia Shaffer	Controller	~10 months

B. THE DEBTORS' CORPORATE STRUCTURE AND BOARD

12. The Lead Debtor was initially organized as a Delaware limited liability company on February 1, 2017, under the name MagneGas Welding Supply, LLC, to be a holding company for Taronis Technologies, Inc.'s ("Taronis Technologies") welding supply companies. On April 9, 2019, the Lead Debtor was converted from a limited liability company to a corporation in accordance with the Delaware General Corporation Law. In conjunction with the conversion, the Lead Debtor's name was changed to Taronis Fuels, Inc.

13. On December 5, 2019, Taronis Technologies spun-off Taronis Fuels from the remainder of its businesses through a distribution of 100% of the issued and outstanding shares of common stock of Taronis Fuels to the stockholders of Taronis Technologies on a pro rata basis. As a result, the Lead Debtor became an independent, publicly traded company. The spin-off was believed to provide each company with certain opportunities and benefits, including enhanced strategic focus, access to capital, and financial flexibility. In connection with the spin-off, the Lead Debtor and Taronis Technologies entered into a number of agreements whereby the Lead Debtor and Taronis Technologies agreed, among other things, to (i) indemnify each other's past and present directors, officers and employees, and each of their successors and assigns, against certain liabilities incurred in connection with the spin-off and Taronis Technologies' respective

businesses, (ii) be liable for all pre-distribution U.S. federal income taxes, foreign income taxes and non-income taxes attributable to our businesses as well as for all other taxes attributable to us after the distribution, (iii) provide and/or make available various administrative services and assets to each other, and (iv) lease or sublease certain office space to each other.

14. As set forth on the organizational structure chart attached hereto as **Exhibit A**, the Lead Debtor has nine, wholly owned subsidiaries:

- i. MagneGas Real Estate Holdings, LLC (“MagneGas Real Estate”),
- ii. MagneGas IP, LLC (“MagneGas IP”),
- iii. MagneGas Production, LLC (“MagneGas Production”),
- iv. MagneGas Welding Supply – West, LLC (“MGWS West”),
- v. Taronis Sub III LLC (f/k/a MagneGas Welding Supply – Southeast, LLC) (“Taronis Sub III”),
 - o Taronis Sub III wholly owns Taronis-TAS, LLC (“Taronis-TAS”) and Taronis-TAH, LLC (“Taronis-TAH”)
- vi. MagneGas Welding Supply – South, LLC (“MGWS South”),
- vii. Taronis Sub I LLC (f/k/a Taronis-TGS, LLC) (“Taronis Sub I”),
 - o Taronis Sub I wholly owns Taronis Sub II LLC (f/k/a Tech-Gas Solutions, LLC) (“Taronis Sub II”)
- viii. MagneGas Ireland Limited (“MagneGas Ireland”), and
 - o MagneGas Ireland wholly owns Taronis Netherlands, B.V. (“Taronis Netherlands”)
- ix. MagneGas Limited, a United Kingdom registered entity (“MagneGas Ltd.”).³

³ MagneGas Ltd., MagneGas Ireland, and Taronis Netherlands are non-Debtor foreign affiliates of the Debtors.

15. On March 5, 2021, Thomas Wetherald (“Wetherald”) and Tobias Welo (“Welo”) filed a verified complaint against the then-directors of the Lead Debtor’s Board, including Scott Mahoney, Robert Dingess, Kevin Pollack, William Staunton III, Peter Molloy (collectively, the “Former Directors”), and the Lead Debtor, asserting certain causes of action to prevent the Former Directors from blocking basic shareholder rights to, among other things, replace the Former Directors and enhance corporate governance. *See generally Wetherald v. Mahoney*, C.A. No. 2021-0194-MTZ (Del. Ch. Mar. 5, 2021). After briefing on the issues, on April 1, 2021, the Court of Chancery granted partial summary judgment in favor of Wetherald and Welo as to the correct record date for shareholder voting.

16. On April 5, 2021, Wetherald and Welo also filed a verified complaint against Dingess, Pollack, Staunton, and Molloy to confirm that the Former Directors were validly and effectively removed from the Board and that Wetherald, Welo, Sergey Vasnetsov (“Vasnetsov”), Mary Pat Thompson (“Thompson”), and Andrew McCormick (“McCormick”) were validly elected as members of the Board. *See generally Wetherald v. Dingess*, C.A. No. 2021-0291-MTZ (Del. Ch. Apr. 5, 2021). This action as well as the action above were both dismissed by agreement of the parties on April 12, 2021 with the Former Board relenting to the relief requested by Wetherald and Welo.

17. Since these actions, there has been turnover on the Board. Les Graff (“Graff”), Kevin Foti (“Foti”), and Welo joined the Board between April 2021 and July 2021. Foti, Thompson, and Graff resigned from the Board in December 2021, February 2022, and September 2022, respectively. McCormick and Wilbur Ross resigned on March 1, 2022. Vasnetsov resigned on April 5, 2022. Welo resigned on or around October 12, 2022. As mentioned above, I joined the Board in March 2022, and Timothy Bernlohr (“Bernlohr”) joined the Board as an independent

director in October 2022. Therefore, the current Board comprises three members: Bernlohr, Ruyle, and Rick Steinseifer.

C. THE DEBTORS' PREPETITION CAPITAL STRUCTURE

18. The Debtors' assets are comprised primarily of owned intellectual property, including patents and trademarks of the gasification units, the manufacturing, sale and distribution of gasification units, manufacturing and related equipment, furniture and fixtures, its leased manufacturing facilities and related building improvements, and receivables. Additionally, as of the Petition Date, the Debtors have approximately \$10.1 million in current assets, cash and cash equivalents, accounts receivable, inventory, and deposits. The Debtors have approximately \$43.5 million in total assets, which include current assets, property, equipment, intangible assets, and goodwill.

19. The Debtors' have approximately \$26.2 million in total liabilities primarily relating to (i) rent-related obligations under its leases for its distribution facilities in Texas, Louisiana, Indiana, and California; (ii) approximately \$5.6 million in principal and accrued interest under that a Loan and Security Agreement, dated as of October 21, 2020 (as amended, supplemented, or otherwise modified, the "Prepetition Loan Agreement") by and among the Debtor, as borrower, and Tech Capital, LLC, as lender ("Tech Capital" or the "Prepetition Lender") pursuant to which Tech Capital provided prepetition loans (collectively, the "Prepetition Loan"); (iii) approximately \$4.2 million for trade and other third party accounts payable; (iv) unsecured notes payables to certain parties; and (v) certain obligations to employees, as discussed in the Wages and Benefits Motion (defined below).

i. Secured Debt

20. As noted above, on October 21, 2020, Debtors Taronis Fuels, Taronis Sub III LLC, MGWS South, MGWS West, Taronis Sub II LLC, Taronis-TAS, Taronis – TAH and the

Prepetition Lender entered into the Prepetition Loan Agreement that provided the Debtors with a senior secured asset-based revolving credit facility up to \$10 million, secured by the Debtors' assets, including inventory and accounts receivable. Interest on the Prepetition Loan accrues on the daily outstanding balance, at the non-default rate of 2.75% per annum over and above the rate announced as the "prime" rate in the Western Edition of the Wall Street Journal, provided that the Prime Rate shall be deemed to be not less than 3.25% per annum and provided that the minimum amount of interest payable together with the applicable administrative fees⁴ shall not be less than \$10,000 per month. Interest is due and payable monthly. Debtors MagneGas Production, MagneGas Real Estate, MagneGas IP, MagneGas Ltd., Taronis Sub I LLC, and non-Debtors Taronis Netherlands and MagneGas Ireland are the guarantors under the Prepetition Loan Agreement.

21. On December 14, 2020, the Debtors entered into a Secured Promissory Note with the Prepetition Lender for a senior secured term loan in the amount of \$2.5 million (the "Term Note"). Pursuant to the terms of the Prepetition Loan Agreement and the Term Note, the Debtors would be in default in the event that the Prepetition Lender determines that there has been a material adverse change in the company's business or financial condition, or that there has been any change in the company's ability to pay and perform its obligations when due.

22. Pursuant to the Prepetition Loan Agreement, the Debtors opened a money market account with Tech Credit Union, funded with proceeds of the December 14, 2020 Term Note, to be maintained until all obligations are fully repaid and the related loan documents are terminated.

⁴ The administrative fee is fifteen hundredths of one percent (.15%) per month of the average daily outstanding balance of the loan obligations during the preceding month.

23. On June 30, 2022, the Prepetition Lender over-advanced \$2,000,000 under the Prepetition Loan Agreement to provide the Debtors with the liquidity needed to (i) make the escrow deposit for the benefit of the SEC, and (ii) operate their businesses through the closings of the Debtors two sales, both as more fully described below.

24. Under the Prepetition Loan Agreement, the Debtors have made periodic paydowns of the Prepetition Loan, including certain amounts from the sale proceeds of the Espri Sale and Airgas Sale (as defined below). As of the Petition Date, the total amount outstanding under the Prepetition Loan Agreement equals approximately \$5.6 million.

25. Additionally, the Debtors own four vehicles that are financed through PACCAR Inc., General Motors Financial Company, Inc., and Chrysler Financial, as well as certain real property that is also subject to mortgages.

ii. Unsecured Debt

26. As of the Petition Date, the Debtors estimate that their unsecured debt aggregates approximately \$10.3 million.

27. In 2021, pursuant to the Paycheck Protection Program of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), administered by the U.S. Small Business Administration, the Lead Debtor entered into two promissory notes with Wells Fargo and MidFirst Bank in the amounts of \$1,993,712 and \$2,000,000, respectively (together, the “PPP Loans”). The CARES Act provides that all or a portion of the PPP Loan may be forgiven upon the request of a company to the lender, subject to requirements in the promissory note and the CARES Act. In accordance therewith, the PPP Loans were forgiven on or about June 7, 2021 and December 22, 2021, respectively.

28. On April 21, 2021, the Lead Debtor issued a note in the principal amount of \$2.5 million (the “Wetherald Note”), to Wetherald, a former director of the Company.⁵ Wetherald’s participation was disclosed to, and approved by, the Board. The Wetherald Note was paid off in full in June 2021.

29. On August 3, 2021, and September 2, 2021, the Lead Debtor issued \$2.5 million and \$1.25 million of convertible promissory notes to CRCM Opportunity Fund III, LP (“CRCM”) pursuant to a note purchase agreement (the “CRCM NPA”) and Ezrah Charitable Trust (“ECT”), pursuant to a note purchase agreement (the “ECT NPA”), respectively. The convertible promissory notes accrue interest at an annual rate of 1% and mature August 2, 2028 and September 2, 2028 under the CRCM NPA and ECT NPA, respectively. The principal and unpaid accrued interest on the notes are convertible into shares of the Company’s common stock at \$7 per share at the option of the holder. As discussed below, the debt obligations in connection with the CRCM NPA and ECT NPA have been satisfied.

30. On August 19, 2021, the Lead Debtor also issued \$2.5 million of convertible promissory notes to the Merchant Livestock Company, Inc., pursuant to a note purchase agreement (the “Merchant NPA”). The convertible promissory note accrues interest at an annual rate of 1% and mature August 19, 2028. The principal and unpaid accrued interest on the notes are convertible at the option of the holder into shares of the Lead Debtor’s common stock at the lower of (i) \$7 per share or (ii) 85% of the price to the public in an underwritten offering of the Lead Debtor’s common stock that occurs substantially concurrently with an initial listing of the common stock on a national securities exchange. As of the Petition Date, approximately \$2.5 million is outstanding under Merchant NPA.

⁵ On or about December 2021, Wetherald resigned from the Board.

iii. Equity

31. As of November 2, 2022, the Debtors had approximately 17,060,699 outstanding shares of common stock, held by 224 investors. As of May 2022, the Debtors have issued approximately 171,661 common stock grants, approximately 927,097 common stock options, and approximately 2,070,577 warrants. However, as further discussed below, the Debtors deregistered their common stock on May 23, 2022.

II. EVENTS LEADING TO CHAPTER 11 FILING

32. A number of factors negatively impacted the Debtors' financial performance, ultimately leading the Debtors to seek relief under chapter 11.

A. SEC INVESTIGATION

33. On or around August 28, 2020, the Securities and Exchange Commission (the "SEC") launched an investigation into the Debtors, and specifically potential violations of section 17(a) of the Securities Act and sections 13(a) and 10(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") by BBHC, Inc. (f/k/a Taronis Technologies) and its officers, directors, and employees (the "SEC Investigation"). The investigation concerned, among other things, potential false statements made by Taronis Technologies relating to increases in revenue, acquisitions, ownerships of patents, material developments in operations, and partnerships with various municipalities and corporations.

34. The Lead Debtor, in turn, began an internal investigation concerning alleged violations of the securities laws, including involvement of then-Chief Executive Officer, Scott B. Mahoney ("Mahoney"), and notified its shareholders regarding issues with the Debtors' management, including the discovery of actions endorsed by the Board that were not in the best interests of the shareholders.

35. On April 2, 2021, Mahoney informed the Former Board that he was resigning as Chief Executive Officer, President, and member of the Former Board.

36. On or around April 10, 2021, the audit committee of the Board (the “Audit Committee”) determined that the Debtors’ previously-issued financial statements may have contained errors relating to, among other things, (i) recognition of revenue from contracts with customers and international sales, (ii) entries between the Debtors’ and the Debtors’ former parent, Taronis Technologies, which may have dated back to the Debtors’ spin-off, (iii) financial reporting of the Debtors’ acquisition of Taronis Sub II, which occurred in May 2020, and (iv) underreporting of cost of goods sold, and the overreporting of gross income, in the second and third quarters of the 2020 fiscal year. As a result, the Audit Committee determined that the Lead Debtor’s previously issued financial statements for the year ending on December 31, 2019 and the interim quarterly periods in fiscal 2020 should not be relied upon.

37. Also on or around April 10, 2021, the Board suspended Tyler B. Wilson (“Wilson”), the Debtors’ then-Vice President, Secretary, and General Counsel, pending an investigation. On or around May 6, 2021, Wilson, notified the Board of his resignation. His resignation was treated as without “good reason” under the executive severance plan.

38. As stated above, Mahoney allegedly directed the Debtors’ accounting team to fraudulently adjust the cost of goods sold, overstating gross profits by millions of dollars. Mahoney allegedly pursued risky international sales while the Debtors’ core domestic industrial gas business had been starved of inventory and capital equipment. These actions hindered the growth and the profitability of the Debtors, as well as damaged important customer and vendor relationships. Additionally, and as noted above, Lead Debtor was spun off from Taronis Technologies in 2019, an event resulting in significant devaluation of the Lead Debtors’ shares.

Additionally, the Former Board's repeated over-spending on projects that failed to produce the expected revenues and cash flow led to negative cash flow. For instance, from 2019-2020, Mahoney was rewarded a 100% raise in his base salary from \$250,000 to \$500,000. Wilson also received an 100% salary increase to \$275,000.

39. At the beginning of March 2022, the SEC notified the Debtors that the SEC had begun a preliminary determination to recommend an enforcement action against the Lead Debtor. The proposed action alleged that the Lead Debtor violated section 17(a) of the Securities Act of 1933 and sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 10b-5, 12b-20, 12b-25, 13a-11, and 13a-13 thereunder. While the investigation was pending, the Lead Debtor has agreed to voluntarily deregister its common stock with the SEC in May 2022.

40. On August 24, 2022, the SEC filed a complaint in the United States District Court for the Middle District of Florida against the Lead Debtor, Mahoney, Wilson, and Taronis Technologies, seeking permanent injunctions and civil money penalties against Mahoney, Wilson, as well as Taronis Technologies (the "SEC Action"). The complaint also sought disgorgement of allegedly ill-gotten gains with prejudgment interest and an officer-and-director bar against Wilson and to have Wilson reimburse Taronis Fuels. In a consent order, without admitting or denying the commission's allegations, Mahoney agreed to pay a \$150,000 civil penalty and be barred for five years from acting as an officer or director of a public company and from participating in an offering of penny stock.

41. Prior to the filing of the SEC Action, the Lead Debtor and the SEC entered into a consent order and settlement that, without admitting or denying SEC's allegations, agreed to be permanently enjoined from violations of certain provisions of the federal securities laws and to pay disgorgement and interest amounting to approximately \$5.1 million pursuant to a one-year

payment plan. Under an escrow agreement between the SEC and the Lead Debtor (the “Escrow Agreement”), the first installment of the settlement payment in the amount of \$1,276,975.12 was placed into escrow. On November 2, 2022, the court entered final judgment concerning the settlement between SEC and the Lead Debtor. The first installment of the settlement payment remains in escrow.

B. LIQUIDITY CRISIS WITH THE PREPETITION LENDER

42. On March 8, 2022, the Prepetition Lender provided a notice of default (the “Notice of Default”) to the Debtors alleging a material adverse change in the Debtors’ business and financial condition as a result of the SEC Investigation and possible outcomes of such investigation. The possible outcomes included potential disgorgement of amounts raised by the Debtors in private placements in 2020, the potential payment of civil penalties by the Debtors, and the inability of the Debtors to raise capital. Pursuant to the Notice of Default, the rate of interest on the obligations outstanding under the Prepetition Loan Agreement and the Term Note increased by 5% and 4% over the non-default rate, respectively. The Prepetition Lender reserved the right to exercise its other rights and remedies under the Prepetition Loan Agreement, including ceasing to make advances under the Prepetition Loan Agreement, accelerating all obligations outstanding under the Prepetition Loan Agreement, and terminating the Prepetition Loan Agreement. As of the Petition Date, approximately \$5.6 million is outstanding under the Prepetition Loan Agreement.

43. In connection with the Prepetition Loan Agreement, the Debtors and the Prepetition Lender entered into certain forbearance agreement dated April 8, 2022 (the “Forbearance Agreement”) in which, among other things (a) the Debtors acknowledged their outstanding obligations under the Prepetition Loan Agreement and their numerous defaults thereunder and (b) Prepetition Lender agreed to forbear from exercising any of its rights and

remedies until the earliest of June 6, 2022, or the occurrence of additional defaults or any other conditions listed under section 5 of the Forbearance Agreement (the “Forbearance Termination Date”). Pursuant to the Forbearance Agreement, the Debtors also released any claims, causes of action or defenses against the Prepetition Lender except those related to the Prepetition Lender’s obligations under the Prepetition Loan Agreement. Section 5 of the Forbearance Agreement was further amended by (a) that certain First Amendment to Forbearance Agreement, dated as of June 6, 2022; and (b) that certain Second Amendment to Forbearance Agreement, dated as of August 5, 2022 to extend the Forbearance Termination Date to October 6, 2022. No further forbearance agreements were entered into prior to the Petition Date.

C. LITIGATION REGARDING WILSON AND NOTEHOLDERS

44. On February 11, 2022, Wilson filed a complaint against the Lead Debtor in the United States District Court for the District of Arizona, alleging that the Lead Debtor failed to pay to Wilson severance benefit to which he was entitled under the Lead Debtor’s executive severance plan (the “ERISA Action”). Wilson sought an award of that benefit totaling \$1,873,213.78 plus interest, attorneys’ fees, and costs. On September 20, 2022, the parties virtually attended a private mediation but were unable to reach a settlement to resolve the claims and defenses. On September 27, 2022, Wilson filed a motion for sanctions against the Lead Debtor, alleging that the Lead Debtor failed to participate in mediation in good faith. On September 30, 2022, the Lead Debtor filed a motion to stay all proceedings in the ERISA Action pending resolution of the SEC Action. The briefing on the merits of the ERISA Action is complete and is pending before the Court.

45. On March 11, 2022, Wilson also filed a complaint against the Lead Debtor in the Delaware Court of Chancery, seeking advancement for legal fees and expenses incurred by Wilson in connection with the SEC Investigation and any related present or future proceedings, including the SEC Action. Pursuant to a settlement agreement reached between the parties, the Lead Debtor

agreed to pay Wilson's fees to fulfill its advancement obligations to Wilson. The Lead Debtor paid a total of \$172,653.21 prior to the Petition Date.

46. On or around March 29, 2022, CRCM Opportunity Fund III, LP ("CRCM") and The Ezrah Charitable Trust ("ECT") sent a letter to the Debtors to execute the rights to claim the entire unpaid principal balances and all unpaid accrued interest of the convertible promissory notes, signed on August 3, 2021 with CRCM and September 3, 2021 with ECT due to the occurrence of the Event of Default. The principal balances of the notes held by CRCM and ECT were \$2.5 million and \$1.25 million, respectively.

47. On May 26, 2022, CRCM and ECT filed a lawsuit in Delaware Superior Court alleging breach of contract of their respective promissory notes. *See CRCM Opportunity Fund III LP, v. Taronis Fuels Inc.*, C.A. No. N22C-05-175 PRW (CCLD) (Del. Supr. Ct. May 26, 2022). The parties in this action entered a settlement agreement whereby the Debtors agreed to pay the principal and interest due under the CRCM NPA in the amount of \$ 2,525,958.50, and the principal and interest due under the ECT NPA in the amount of \$ 1,261,918.25. On August 20, 2022, CRCM and ECT dismissed the lawsuit with prejudice pursuant to the settlement agreement.

48. Taken together, these events have strained the Debtors' liquidity such that immediate remedial efforts were necessary for the Debtors to continue to operate in the ordinary course of business.

D. PREPETITION RESTRUCTURING EFFORTS

49. Over the past few months, the Debtors have taken a number of steps to attempt to address the operational and liquidity issues they have faced, including negotiating with lenders prior and subsequent to alleged defaults, negotiating with certain parties in connection with the sale of the Debtors' assets, and engaging restructuring professionals.

i. Deregistration and Restatement of Financial Results

50. The Company had been seeking to restate its historical financial results and become current in its reporting obligations under the Exchange Act. The Debtors sought to raise funds in order to continue the work needed for these goals, but the Debtors were unable to secure any such funding, in large part because of the SEC Investigation and the possible outcomes of such investigation (as discussed above). Ultimately, the Lead Debtor was unable to complete a restatement of its historical financial results and become current in its reporting obligations.

51. After careful consideration of the alternatives, the Board determined that deregistering the Lead Debtor's securities under the Exchange Act was in the best interests of the Lead Debtor and its stockholders because, among other reasons, deregistration should reduce legal, accounting and consultant expense and allow for the reallocation of management and employee time to advancing core business strategies.

52. On May 23, 2022, the Lead Debtor filed a Form 15 with the SEC to deregister its common stock and associated rights under section 12(g) of the Exchange Act, which suspended the Debtors' obligation to file periodic reports, such as Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, and other filing requirements under section 13(a) of the Exchange Act. As of September 19, 2022, the Lead Debtor ceased to be a publicly reporting company with the SEC.

ii. Sale of Certain Assets

53. During this time, the Debtors explored the sales of portions of their businesses to provide liquidity to address certain debts and to continue as a going-concern. The Debtors solicited interest from parties in connection with the purchase and sale of their wholesale business, known as the "Tech-Gas" or "TGS" business, and a sale of their Florida retail business. The Debtors

established and populated data rooms with diligence documents available to potential buyers who signed non-disclosure agreements. The Debtors, in the exercise of their business judgment, determined that a sale of their wholesale business and a sale of their Florida retail business was in the best interests of the Debtors and could provide sufficient cash proceeds to reorganize the Debtors around the remainder of their businesses.

54. Accordingly, after good-faith negotiations between the parties, on August 5, 2022, Airgas USA, LLC (“Airgas”) and Taronis Sub III entered into certain *Asset Purchase Agreement* (the “Airgas APA,” the sale of assets thereunder, the “Airgas Sale”) whereby Airgas purchased substantially all of the assets used in the industrial gas and welding supply distribution of Taronis Sub III’s business (*i.e.*, the Debtors’ Florida retail business) except certain excluded assets (as defined in the Airgas APA), including the tangible assets, all of the accounts receivable, deposits, inventories, intangible properties and fixed assets, all contract rights, causes of action, claims, all intellectual property rights, and intangibles and goodwill for a purchase price of \$7 million, plus Assumed Liabilities (as defined in the Airgas APA).⁶ The sale to Airgas closed on August 16, 2022. The Debtors used certain of the proceeds from this sale to satisfy in full the Debtors’ obligations under the CRCM NPA and ECT NPA.

55. On August 11, 2022, Taronis Sub I and Taronis Sub II entered into an *Asset Purchase Agreement* (the “Espri APA,” the sale of assets thereunder, the “Espri Sale”) where Taronis Sub I sold to Tech-Gas Solutions LLC, a Delaware limited liability company (an entity formed by TMG Gases, Inc. (d/b/a EspriGas) for the purpose of consummating the Espri Sale) (“Espri”), all of its assets (*i.e.*, the Debtors’ wholesale business) except certain excluded assets (as

⁶ The funds in Debtors’ MWS-SE Operating Account at Wells Fargo ending in 6752 belong to Airgas pursuant to the Airgas APA.

defined in the Espri APA), including inventory, fixed assets such as machinery, equipment, furniture, all assumed contracts (as defined in the Espri APA), intellectual property, licenses, intangible assets, goodwill, rights under warranties, and all of sellers' rights against third parties, causes of action, choses in action, rights of recovery, rights of set off, and rights of recoupment, rights to warranty claims, and other intangible rights for a purchase price of \$8.6 million, plus Assumed Liabilities (as defined in the Espri APA). The Espri Sale closed that same day. In connection with the Espri Sale, Taronis Sub I and Tech-Gas Solutions LLC, a Delaware limited liability company, entered into certain *Transition Services Agreement* with Espri (the "Espri TSA") which provided for transitioning of all eighteen (18) of Taronis Sub I's employees (the "Sub I Employees") to Espri. Under the Espri TSA, the parties agreed that Debtors would continue to employ the Sub I Employees and provide their wages and benefits through November 6, 2022, and Espri would hire the Sub I Employees on November 7, 2022. Espri agreed to refund the Debtors for the wages and benefits paid to the Sub I Employees during the transition period between August 11, 2022, and November 6, 2022. The Sub I Employees would receive their final payroll checks from the Debtors on November 11, 2022 (for the period worked through November 6, 2022).

iii. Engaging Restructuring Advisers

56. During the months leading up to the Petition Date, the Debtors engaged restructuring advisers to address liquidity concerns arising from the notice of default delivered by the Prepetition Lender and to evaluate strategic options. On March 10, 2022, the Debtors also engaged Potter Anderson & Corroon LLP ("Potter Anderson") as its counsel in connection with financial restructuring and the potential commencement and prosecution of chapter 11 bankruptcy cases. Potter Anderson had served as counsel to the Lead Debtor in the Chancery Court litigation described above. In advance of the filing, the Debtors engaged Aurora Management Partners, Inc.

to provide interim management and restructuring advisory services to the Company in November 2022. Relatedly, the Board authorized the appointment of Tim Turek of Aurora Management Partners, Inc. as Chief Restructuring Officer. The Debtors have worked closely with their advisors in evaluating their go-forward business plan and viability going-forward.

57. Working with prior restructuring advisors, during the first half of 2022, the Debtors identified four (4) underperforming locations and started a process of winding them down as permitted under the respective leases for those locations. Additionally, the Debtors sublet properties that were no longer in use or were not operating with sufficient profitability. Finally, the Debtors laid off certain employees to make every effort to justify headcount at each of their locations and took other cost cutting efforts to avoid a bankruptcy filing.

iv. Negotiations with the Prepetition Lender and Debtor in Possession Financing

58. Since issuing the Notice of Default and entering into the Forbearance Agreement, the Debtors have been in constant communication with the Prepetition Lender regarding the Debtors' operations, liquidity, and go-forward plans, including the commencement of these Chapter 11 Cases.

59. In considering their need for postpetition financing, the Debtors and their advisors considered several factors in the exercise of their business judgment, including (a) the need for financing based on the Debtors' operations, (b) the Debtors' inability to administer a chapter 11 case in an orderly and stabilized manner without additional financing, and (c) the Debtors' inability to preserve value of their operations and estates without additional financing. The Debtors' management team, with the assistance of the Debtors' advisors, undertook a detailed analysis of the Debtors' operations and funding needs. As a result of that analysis, it is my belief that the

Debtors need additional postpetition liquidity to operate in chapter 11 to conduct a value-maximizing sale process.

60. With the assistance of G2 Capital Advisors, LLC (“G2”) and the Debtors’ other professionals, the Debtors considered various sources for postpetition financing. Given the Debtors’ capital structure, the Debtors engaged with the “Prepetition Lender”, given such lender were a practical capital source for postpetition financing. The Prepetition Lender had familiarity with the Debtors’ business and also had liens on substantially all of the Debtors’ assets, such that any postpetition financing would have to be raised on a (a) junior secured or unsecured basis or (b) on a priming basis with either consent from the Prepetition Lender or approval from the Court on a nonconsensual basis.

61. Contemporaneously with engaging with the Prepetition Lender, G2 developed a list of potential third-party lenders, other than the Prepetition Lender, that they believed, based on their experience and judgment, were most likely to fund a DIP facility on the best terms available in the market. G2 distributed “teaser” materials to and solicited interest from multiple potential third-party lenders, other than the Prepetition Lender. In addition, G2 reached out to prominent liquidation firms to gauge their interest in lending based on the Debtors’ cylinders and other hard assets. Several of the parties contacted agreed to execute non-disclosure agreements in furtherance of providing DIP financing but only one of the parties submitted a proposal for postpetition financing. The Prepetition Lenders also indicated that they would not consent to being primed, other than by the DIP Credit Facility.

62. In light of the challenges associated with raising third-party financing and in consultation with G2 and the Debtors’ other advisors, the Debtors ultimately concluded that further pursuing alternative financing sources was not in the best interest of the Debtors’ stakeholders,

and the best and least-costly approach was to continue engaging with the Prepetition Lender to negotiate the terms of a DIP facility. Simply put, and based on the prepetition outreach, I believe that other than the DIP Credit Facility, the Debtors have no other viable financing alternatives under the circumstances. Accepting the postpetition financing proposed by the Prepetition Lender was an appropriate step given that the DIP financing (a) provides a path to emerge from chapter 11 by allowing the Debtors to proceed with the sale process and subsequent orderly wind-down, (b) provides additional liquidity to support the administration of these Chapter 11 Cases, and (c) obviates the need for a potential protracted and expensive dispute regarding adequate protection and the use of cash collateral.

v. Negotiations with the Prepetition Lender and Debtor in Possession Financing

63. As of the Petition Date, I understand that the Debtors will have approximately less than \$693,704 of cash on hand, which I believe is insufficient during the interim period and throughout these Chapter 11 Cases to fund the administration of the Debtors' cases and avoid irreparable harm to the Debtors' operations.

64. Specifically, the Debtors have an immediate need to obtain the DIP Credit Facility and to use the cash collateral to, among other things, (a) preserve the Debtors' operations without material disruption, (b) maintain ordinary course relationships with and satisfy obligations for their employees, vendors, suppliers, customers and other parties, and (c) pay the costs of administering these Chapter 11 Cases. In addition, the liquidity provided by the DIP Credit Facility would also provide confidence to the Debtors' employees and creditors that the Debtors will be adequately capitalized to continue operating "business as usual" during the pendency of these Chapter 11 Cases. Furthermore, absent this funding, the Debtors will be unable to continue operating their businesses at the levels that are necessary to preserve their goodwill, customer loyalty, and

reputation in the marketplace. Thus, immediate access to the DIP Credit Facility and cash collateral is crucial to the Debtors' efforts to preserve value for their stakeholders to prevent immediate and irreparable harm to the value of the Debtors' estates.

vi. **The Dip Credit Facility Was Negotiated in Good Faith and at Arms' Length and the Fees in Connection with the Dip Credit Facility Are Reasonable.**

65. The Debtors, with the assistance of their advisors actively negotiated the terms and conditions of the DIP Credit Facility with the DIP Lender. The negotiations lasted for over three weeks. The process was marked by hard bargaining to achieve the best available terms for the Debtors for what ultimately became the DIP Credit Facility. During this time, the parties exchanged multiple iterations of the DIP Term Sheet outlining the structure and economic terms of the DIP Credit Facility and multiple drafts of the Interim DIP Order. These negotiations were extensive and, based upon my observations and involvement in negotiations, conducted at arms' length and in good faith.

66. The fees and rates to be paid under the DIP Credit Facility are competitive with and within the range of reasonableness for financings of this type. I believe that the Debtors would be unable to obtain credit at a materially lower cost than the interest and fees under the DIP Credit Facility from an alternative lender. I believe that paying such interest and fees to obtain access to the DIP Credit Facility is less costly to the Debtors' estates than the value degradation resulting from the lack of access to the DIP Credit Facility.

67. Additionally, I believe that the other terms of the DIP Credit Facility are reasonable under the circumstances, including the milestones and the "roll-up" feature of the DIP Credit Facility. The DIP Lender indicated that the non-financial elements were part and parcel of, and integral to, the overall DIP Credit Facility and conditions precedent for the DIP Lender to extend postpetition financing to the Debtors. The Debtors ultimately made the decision, and I agree, that

the benefits of accessing the DIP Credit Facility and use of cash collateral outweighed the modest burdens and expenses imposed by the financing arrangements.

68. Without access to the DIP Credit Facility and the use of cash collateral, I believe the Debtors would suffer immediate and irreparable harm, and the Debtors will not be able to successfully consummate a value-maximizing transaction and administer these Chapter 11 Cases. I also believe that the use of cash collateral alone would be insufficient to meet the Debtors' postpetition liquidity needs. Accordingly, I believe that the Court's entry of the Interim DIP Order is necessary to preserve the going concern value of the Debtors' operating businesses, pursue the sale of substantially all of the Debtors' assets, and ensure an orderly wind-down of the Debtors' remaining estates.

vii. Go-Forward Plan

69. In addition to the two sales discussed above, the Debtors also marketed, and solicited interest from interested parties, the Debtors' California retail business. Prior to the Petition Date, the Debtors entered into advanced discussions with Airgas for the purchase of the Debtors' California business and operations; however, the Debtors did not complete such sale prior to the filing of these Chapter 11 Cases. The Debtors anticipate moving expeditiously to document a private sale agreement with Airgas for these assets and submitting it to the Court for approval, upon notice and an opportunity of parties-in-interest to object. In connection therewith, the Debtors anticipate a relatively truncated sale process given the prepetition marketing.

70. Simultaneously, the Debtors anticipate running a postpetition marketing and auction process for the Debtors' remaining Texas business and operations and will file a motion to approve bid procedures and the sale thereof shortly after the Petition Date.

71. The Debtors believe, in the exercise of their business judgment, that a sale of their remaining businesses as a going-concern will maximize value for all of their stakeholders, including their employees and creditors.

72. In addition, and in connection with the liquidation of the Debtors' remaining assets, the Debtors intend to use all available bankruptcy tools to review, challenge, and avoid certain prepetition transactions and commence actions for the benefit of their estates and creditors. The Debtors believe that the Debtors' estate may have significant, viable clawback actions related to certain prepetition transfers. The Debtors have or are in the process of retaining special counsel under section 327(e) of the Bankruptcy Code to investigate and pursue these assets for the benefit of the Debtors' estates.

III. FIRST DAY PLEADINGS

73. In furtherance of these objectives, the Debtors filed the First Day Pleadings⁷ concurrently with the commencement of these Chapter 11 Cases. I have reviewed each of the First Day Pleadings (including the exhibits and schedules attached thereto) and, to the best of my knowledge, information and belief, the facts set forth therein are true and correct. Based on my personal knowledge, information supplied to me by and discussions with other members of Debtors' management, Debtors' counsel and professionals and representatives, my review of relevant documents, my opinion based upon my experience and the aforementioned review and discussions, and as set forth in more detail below, I believe the relief sought in the First Day Pleadings is: (a) vitally necessary for the Debtors to (i) effectuate a smooth transition into, and operate within, these Chapter 11 Cases, (ii) avoid immediate and irreparable harm, and (iii) avoid

⁷ Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to them in the relevant First Day Pleadings filed contemporaneously herewith.

interruption or disruption to its business and estate to the greatest extent practicable; (b) in the best interests of the Debtors' creditors, estates and other stakeholders; and (c) constitutes a critical element in maximizing value during the Chapter 11 Cases.

74. Several of these pleadings request authority to pay certain prepetition claims. I understand that Rule 6003 of the Federal Rules of Bankruptcy Procedure provides, in relevant part, that the Court shall not consider motions to pay prepetition claims during the first 21 days following the filing of a chapter 11 petition, "except to the extent that relief is necessary to avoid immediate and irreparable harm." In light of this requirement, the Debtors have narrowly tailored their requests for immediate authority to pay certain prepetition claims to those circumstances where the failure to pay such claims would cause immediate and irreparable harm to the Debtors' estates. Other relief will be deferred for consideration at a later hearing.

A. Administrative Motions

1. Motion of Debtors for Entry of an Order (I) Directing the Joint Administration of the Debtors' Chapter 11 Cases and (II) Granting Related Relief (the "Joint Administration Motion")

75. By the Joint Administration Motion, the Debtors seek entry of an order directing the joint administration of the Chapter 11 Cases for procedural purposes only.

76. I believe joint administration will promote the economical and efficient administration of the Debtors' estates to the benefit of the Debtors, their creditors, the U.S. Trustee, and the Court. Specifically, joint administration of the Chapter 11 Cases will permit (i) the Clerk of the Court to utilize a single docket for all of these Chapter 11 Cases, and to combine notices to all parties-in-interest in the Debtors' respective cases; (ii) counsel for all parties-in-interest to include all of the Debtors' cases in a single caption for the numerous documents that are likely to be filed and served in these Chapter 11 Cases; and (iii) parties-in-interest in these Chapter 11 Cases to stay apprised of all the various matters before the Court with greater ease and efficiency.

Moreover, the entry of an order directing joint administration of these Chapter 11 Cases will reduce fees and costs by avoiding duplicative filings and objections. Finally, I believe that joint administration will not adversely affect the Debtors' respective constituencies because the Joint Administration Motion seeks only administrative, not substantive, consolidation of the Debtors' estates.

77. I therefore believe that the relief requested in the Joint Administration Motion is in the best interests of the Debtors' estates, their creditors and all parties-in-interest, and constitutes a critical element of achieving a successful and smooth transition to chapter 11.

2. *Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) File a Consolidated Creditors Matrix, (B) File a Consolidated Top 30 Creditor List, and (C) Redact Certain Personally Identifiable Information for Individual Creditors; and (II) Granting Related Relief (the "Creditor Matrix Motion")*

78. By the Creditor Matrix Motion, the Debtors seek entry of an order, (i) authorizing the Debtors to (a) file a Consolidated Creditor Matrix in lieu of submitting a separate mailing matrix for each Debtor, (b) file a Consolidated Top 30 Creditors List in lieu of submitting a separate list for each Debtor, (c) redact certain personally identifiable information—including home addresses—for the Debtors' individual creditors; and (ii) granting related relief.

79. It is my understanding, through discussions with the Debtors' advisors, that segregating and converting computerized records to a Debtor-specific creditor matrix format would be an unnecessarily burdensome task and result in duplicate mailings. Because the top creditors of the Debtors overlap, a single, consolidated list of the Debtors' thirty largest unsecured, non-insider creditors will provide the U.S. Trustee with a sufficiently clear picture of the Debtors' unsecured creditor constituency and will help alleviate administrative burdens, costs, and the possibility of duplicative service.

80. Additionally, it is my belief that, through discussions with the Debtors' advisors, that the list of creditors may include personally identifiable information, which could be used to perpetrate identity theft if disclosed publicly. To prevent any harm to creditors as a result of identity theft, harassment, or stalking, and to avoid disclosure of otherwise private information, the Debtors request redacting personally identifiable information in any paper filed or to be filed from any paper filed or to be filed with the Court in these Chapter 11 Cases, including the creditor matrix.

3. *Application of Debtors for Entry of an Order Authorizing the Retention and Appointment of Donlin, Recano & Company, Inc. as Claims and Noticing Agent for the Debtors Effective as of the Petition Date (the "Claims Agent Application")*

81. Through the Claims Agent Application, the Debtors request entry of an order appointing Donlin, Recano & Company, Inc. ("DRC") as claims and noticing agent ("Claims and Noticing Agent") for the Debtors and their Chapter 11 Cases, including assuming full responsibility for the distribution of notices and the maintenance, processing and docketing of proofs of claim filed in these Chapter 11 Cases.

82. It is my understanding that DRC has acted as the claims and noticing agent in numerous cases of comparable size, including several large bankruptcy cases pending in both this District and in other districts. Additionally, in compliance with the *Protocol for the Employment of Claims and Noticing Agents Under 28 U.S.C. § 156(c) of the United States Bankruptcy Court for the District of Delaware*, the Debtors obtained and reviewed engagement proposals from two (2) other Court-approved claims and noticing agents to ensure selection through a competitive process. I believe based on all engagement proposals obtained and reviewed, that DRC's rates are competitive and reasonable given DRC's quality of services and expertise. I find DRC to be a highly competent and diligent provider of claims and noticing services.

83. As more fully detailed in the Claims Agent Application, I understand that DRC will engage in certain claims administration and noticing services as necessary, including, but not limited to, the distribution of notices and the maintenance, processing and docketing of proofs of claim filed in these Chapter 11 Cases. The Claims Agent Application pertains only to the work to be performed by DRC under the Clerk's delegation of duties permitted by 28 U.S.C. § 156(c) and Local Rule 2002-1(f).⁸

84. I am advised that Local Rule 2002-1(f) requires the Debtors to retain a claims and noticing agent in these Chapter 11 Cases, as the Debtors' creditor matrix contains more than two hundred (200) creditors or parties-in-interest. I believe that by appointing DRC as the Claims and Noticing Agent in these Chapter 11 Cases, the distribution of notices and the processing of claims will be expedited, and the Clerk will be relieved of the administrative burden of processing what may be an overwhelming number of claims. Accordingly, I believe that retention of DRC is in the best interests of the Debtors and their estates and creditors.

B. Operational Motions

1. *Motion of Debtors for Entry of Interim and Final Orders (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment, (II) Establishing Procedures for Resolving Objections by Utility Companies, (III) Prohibiting Utility Companies from Altering, Refusing Or Discontinuing Service, and (IV) Granting Related Relief (the "Utilities Motion")*

85. By the Utilities Motion, the Debtors request entry of interim and final orders (a) approving the Debtors' proposed form of adequate assurance of payment (the "Proposed Adequate Assurance") to their utilities, as that term is used in Bankruptcy Code section 366 (the

⁸ Although the Services Agreement (as defined in the Claims Agent Application) with DRC contemplates that DRC will provide services for the Debtors outside the scope of 28 U.S.C. § 156(c), the Debtors will seek authorization by separate application to retain and employ DRC as administrative advisor pursuant to Bankruptcy Code section 327, in the event that the Debtors require such services.

“Utility Companies”); (b) approving procedures for resolving any objections by the Utility Companies relating to the Proposed Adequate Assurance; and (c) prohibiting the Utility Companies from altering, refusing or discontinuing services to or discriminating against the Debtors solely on the basis of the commencement of these Chapter 11 Cases, a debt that is owed by the Debtors for services rendered prior to the Petition Date or on account of any perceived inadequacy of the Debtors’ Proposed Adequate Assurance.

86. It is my understanding that the Debtors fully intend to pay all undisputed postpetition obligations owed to the Utility Companies in a timely manner. Nevertheless, to provide additional assurance of payment for future services to the Utility Companies following the Petition Date, the Debtors propose to establish a newly-created, interest-bearing, segregated account (the “Adequate Assurance Account”) and (ii) place a deposit equal to the Debtors’ estimated aggregate cost for two (2) weeks of Utility Services, calculated based on the historical average over the past twelve (12) months, into such Utility Deposit Account. The Debtors also propose a procedure by which Utility Companies may request additional adequate assurance (the “Adequate Assurance Procedures”), as described in the Utilities Motion.

87. The services provided by the Utility Companies (the “Utility Services”) to the Debtors are critical to the continuing operations of the Debtors’ businesses. Accordingly, preserving the Utility Services on an uninterrupted basis is essential to preserving and maximizing the value of the estates. Thus, it is critical that Utility Services continue uninterrupted during the Chapter 11 Cases.

88. I believe that the relief requested in the Utilities Motion is in the best interest of the Debtors’ estates, their creditors and all parties-in-interest, constitutes a critical element of

achieving a successful and smooth transition to chapter 11, and granting the relief requested will avoid immediate and irreparable harm to the Debtors' businesses.

2. *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs; and (II) Granting Related Relief (the “Wages and Benefits Motion”)*

89. By the Wages and Benefits Motion, the Debtors request entry of interim and final orders authorizing, but not directing, the Debtors to (a) pay certain prepetition wages, compensation, employee benefits and other related obligations (the “Employee Obligations”) in an aggregate amount not to exceed \$293,690 on an interim basis, and in an aggregate amount not to exceed \$418,100 on a final basis; and (b) honor and continue (but not assume) in the ordinary course of business the Debtor's existing employee benefit programs (the “Employee Programs”). I do not believe any Employee (as defined in the Wages and Benefits Motion) is owed any prepetition amounts in excess of the \$13,650 limit contained in section 507(a)(4) of the Bankruptcy Code (the “Priority Cap”) on account of prepetition Employee Obligations. However, to the extent an Employee is owed over the Priority Cap, the Debtors will not pay any such Employee an amount more than the Priority Cap on account of such obligations without further order of the Court.

90. As of the Petition Date, the Debtors employ approximately ninety-two (92) employees (the “Employees”). Of these, approximately ninety-one (91) Employees are full-time, and one (1) Employee is part-time. In addition to the Employees, the Debtors supplement their workforce from time to time by retaining independent contractors (the “Independent Contractors”) and short-term or temporary workers (the “Temporary Workers”), who are hired for a specific short-term project, or on a short-term freelance, per diem or a temporary basis. Most of the Employees are highly skilled with specialized training necessary to operate the Debtors' businesses. The Employees and Independent Contractors provide a variety of essential functions,

including executive, finance, human resources, information technology and other operational and administrative matters. The Employees' expertise in each of their respective positions, and their understanding of the Debtors' operations, are essential to the effective operation of the Debtors' businesses.

91. The Debtors' Employees are particularly critical to maintaining going concern value for the estate. Thus, retaining the Employees is critical to the Debtors' ability to operate and maximize value in these Chapter 11 Cases. Any disruption from Employee resignations or diminishment of their morale could have devastating effects on the Debtors' restructuring efforts. Accordingly, it is critical that the Debtors be authorized to pay the Employee Obligations and maintain Employee Programs.

92. I believe that the relief requested in the Wages and Benefits Motion is in the best interest of the Debtors' estates, their creditors and all parties-in-interest, constitutes a critical element of achieving a successful and smooth transition to chapter 11, and granting the relief requested will avoid immediate and irreparable harm to the Debtors' businesses.

3. *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System, (B) Honor Certain Prepetition Obligations Related Thereto and (C) Maintain Existing Business Forms; (II) Authorizing the Debtors' Banks to Honor All Related Payment Requests; and (III) Granting Related Relief (the "Cash Management Motion")*

93. By the Cash Management Motion, the Debtors seek entry of interim and final orders, (a) authorizing the Debtors to (i) continue to operate their cash management system (the "Cash Management System"), (ii) honor certain prepetition obligations related thereto, (iii) maintain existing business forms in the ordinary course of business in accordance with the terms described in the Cash Management Motion; and (b) authorizing the Debtors' banks to honor all related payment requests.

94. As of the Petition Date, the Debtors maintained ten (10) bank accounts: (i) a domestic operating account held at MidFirst Bank (the “MidFirst Operating Account”); (ii) six (6) domestic operating accounts held at Wells Fargo, which include three accounts that hold regional revenue (the “Regional Operating Accounts”), two corporate accounts (the “Corporate Operating Accounts”), and a legacy customer account (the “Tyler Welding Supply Operating Account”, together with the Regional Operating Accounts, and the Corporate Accounts, the “Wells Fargo Operating Accounts”, and together with the MidFirst Operating Account, the “Operating Accounts”); and (iii) three (3) accounts held at Technology Credit Union (together with MidFirst Bank and Wells Fargo, the “Banks”), which include a domestic Business Money Market Savings Account, a domestic Simple Savings Account and a domestic Business Interest Checking Account (the “Tech Credit Savings Accounts”, and together with the Operating Accounts, the “Existing Bank Accounts”).

95. Funds from general business operations that include regional revenues inflow to the regional Wells Fargo Operating Accounts. If the Debtors are taking in capital, either debt or equity, funds inflow to either the Wells Corporate Account, MidFirst Operating Account, or the Tech Credit Savings Accounts.

96. Funds outflow from all accounts, except the Tyler Welding Supply Operating Account. Pursuant to the Deposit Account Control Agreement with the Prepetition Lender, there is a daily, manual sweep of all regional deposits to the Lender.

97. Through the Cash Management Motion, the Debtors request authority to: (a) continue to use, with the same account numbers, the Operating Accounts; (b) treat the Operating Accounts for all purposes as accounts of the Debtors as debtors in possession; and

(c) conduct banking transactions by all usual means and debit the Operating Accounts on account of all usual items and payment instructions.

98. In addition, as part of the Cash Management System, the Debtors utilize preprinted business forms (the “Business Forms”) in the ordinary course of its business. To minimize expenses to their estates and avoid confusion on the part of employees, customers, vendors, and suppliers during the pendency of these Chapter 11 Cases, the Debtors request that the Court authorize their continued use of all correspondence and Business Forms (including, without limitation, letterhead, purchase orders, invoices, and preprinted checks) as such forms were in existence immediately before the Petition Date and thereafter, without reference to the Debtors’ status as debtors in possession, rather than requiring the Debtors to incur the expense and delay of ordering entirely new business forms as required under the U.S. Trustee Guidelines.

99. Maintaining the Cash Management System, including the ability to continue to use the Operating Account and existing Business Forms, will help minimize any disruption in the Debtors’ business operations as they focus on and advance their bankruptcy cases, and preserve the value of their estate. Indeed, any disruptions in the Cash Management System could lead to delays in satisfying the Debtors’ obligations to their employees, vendors and suppliers. In order to avoid the potential erosion of value that could ensue from any such interruptions, I believe it is imperative that the Debtors be authorized to continue the Cash Management System consistent with the Debtors’ historical practice, which I believe will avoid immediate and irreparable harm to the Debtors’ businesses.

4. *Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors To (A) Maintain Existing Insurance Policies and Pay All Obligations Arising Thereunder; (B) Renew, Revise, Extend, Supplement or Enter Into New Insurance Policies Pursuant, and (C) Continue Their Insurance Premium Financing Program; and (II) Granting Related Relief (the “Insurance Motion”)*

100. By the Insurance Motion, the Debtors request entry of an order authorizing, but not directing, the Debtors to (i) maintain existing Insurance Policies (defined below) and to pay in the ordinary course all premiums, deductibles, administration fees, and audited amounts related to the Insurance Policies (collectively, the “Insurance Obligations”), (ii) renew, revise, extend, supplement or enter into new insurance coverage as needed in their business judgment, and (iii) continue their insurance premium financing program and renew or enter into new premium financing programs as necessary under substantially similar terms.

101. The Debtors maintain various insurance policies providing coverage for, among other things, the Debtors’ directors and officers liability, commercial automobile, excess and general liability (each an “Insurance Policy” and, collectively, the “Insurance Policies”). The Insurance Policies are obtained from various insurance carriers (each an “Insurance Carrier” and, collectively, the “Insurance Carriers”). A comprehensive list of each Insurance Policy, including its coverage type, provider, policy term, and policy number are attached as Schedule 1 to **Exhibit A** and **Exhibit B** of the Insurance Motion. Some of the Insurance Policies (collectively, the “Financed Policies”) are financed through the insurance premium financing agreements (the “Financing Agreements”) maintained with First Insurance Funding and BankDirect Capital Finance (collectively, the “PFA Lenders”).

102. The Insurance Policies, including the Financed Policies, are essential to the preservation of the value of the Debtors’ businesses, properties, and assets. Not only are some of the Insurance Policies required by various regulations, laws, and contracts (including the

Prepetition Loan Agreement) that govern the Debtors' commercial activities, but I have also been advised by counsel that section 1112(b)(4)(C) of the Bankruptcy Code provides that "failure to maintain appropriate insurance that poses a risk to the estate or to the public" is "cause" for mandatory conversion or dismissal of a chapter 11 case. Moreover, I have been advised by counsel that the U.S. Trustee Guidelines require the Debtors to maintain insurance coverage throughout the pendency of these Chapter 11 Cases.

103. The aggregate amount of annual premiums on account of the Debtors' Insurance Policies is approximately \$805,000 (including premiums the Debtors have already paid to date). The Debtors pay the premiums annually or periodically (typically quarterly) throughout the policy term. In the ordinary course of business, the Debtors pay the premiums through their insurance broker, Marsh & McLennan Agency LLC. As of the Petition Date, the Debtors are current on all of their Insurance Obligations. However, the estimated prepetition amount accrued, but not yet owing, in connection with the Insurance Program is \$516,000. The Debtors request authority to continue to pay their obligations on account of the Insurance Program in the ordinary course of business.

104. I believe that the coverage types, levels and premiums for these Insurance Policies are neither unusual in amount nor in number in relation to the extent of the business operations conducted by the Debtors, and they are similar to businesses of comparable size and type to those of the Debtors.

105. I believe that the relief requested in the Insurance Motion is necessary to preserve and enhance the value of the Debtors' estates for the benefit of all creditors, and that absent the relief sought in the Insurance Motion, a failure to pay any Insurance Obligations or to permit the Debtors to renew, revise, extend, supplement, change or enter into new insurance policies, as

needed in their business judgment, will immediately threaten the continued operation of the Debtors and, consequently, the Debtors' estates.

5. *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Payment of Certain Prepetition and Postpetition Taxes and Fees and (II) Granting Related Relief (the "Tax Motion")*

106. By the Tax Motion, the Debtors request the entry of interim and final orders (i) authorizing, but not directing, the Debtors to remit and pay Taxes and Fees (as defined below) without regard to whether such obligations accrued or arose before or after the Petition Date, and (ii) granting related relief.

107. In the ordinary course of business, the Debtors collect, withhold, and incur sales, use, property taxes, as well as other business, and regulatory fees and assessments (collectively, the "Taxes and Fees").⁹ The Debtors remit the Taxes and Fees to various federal, state, and local governments, including taxing and licensing authorities. The Authorities listed in the schedule attached as **Exhibit C** to the Tax Motion is a true and accurate list of the Authorities to which the Debtors remit the Taxes and Fees.

108. The Taxes and Fees are remitted and paid by the Debtors through checks and electronic funds transfers that are processed through their banks and other financial institutions. The Debtors request authority to pay approximately \$523,700 in such Taxes and Fees. The Debtors estimate that approximately \$523,700 in Taxes and Fees are outstanding as of the Petition Date, of which \$500,500 is currently payable or will become due and owing to the Authorities in the first twenty-one (21) days after the Petition Date.

⁹ By this Motion, the Debtors do not seek the authority to collect and remit state and federal employee-related taxes and withholdings. Such relief is instead requested in the *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief*, filed contemporaneously herewith.

109. The Debtors pay the Taxes and Fees to the Authorities on a periodic basis, remitting them monthly, semi-monthly, quarterly, semi-annually, or annually depending on the nature and incurrence of a particular Tax or Fee. The Debtors seek authority pursuant to this Motion to make such payments with respect to Taxes and Fees where: (a) Taxes and Fees accrued or were incurred prepetition but were not paid prepetition or were paid in an amount less than actually owed; (b) Taxes and Fees paid prepetition by the Debtors were lost or otherwise not received in full by any of the Authorities; or (c) Taxes and Fees incurred for prepetition periods may become due after the commencement of these Chapter 11 Cases.

110. In addition, the Debtors collect and hold certain outstanding tax liabilities in trust for the benefit of the applicable Authorities, and these funds may not constitute property of the Debtors' estates.

111. The Taxes and Fees are summarized as follows:

Category	Description	Approximate Amount Accrued as of Petition Date	Approximate Amount Due During Interim Period
Sales and Use Taxes	Taxes imposed on the sale and use of certain goods and services.	\$452,000	\$452,000
Property Taxes	Taxes and obligations related to real and personal property holdings.	\$25,200	\$2,000
Regulatory and Other Taxes and Fees.	Taxes and Fees related to permitting, licensing, regulatory assessments, and other fees paid to the Authorities.	\$46,500	\$46,500
Total		\$523,700	\$500,500

112. I believe that any failure to pay the Taxes and Fees could materially disrupt the Debtors' business operations as set forth in the Tax Motion. Moreover, unpaid Taxes and Fees

may result in penalties, the accrual of interest, or both, as well as statutory liens that could impact the Debtors' operations and these Chapter 11 Cases.

113. For these reasons, and as further described in the Tax Motion, I believe the relief requested therein is in the best interests of the Debtors' estates, their creditors, and all other parties-in-interest, granting the relief requested will avoid immediate and irreparable harm to the Debtors' businesses, and will enable the Debtors to continue to manage their business operations while the Debtors are in chapter 11 without disruption in order to maximize the estates' value.

6. *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Certain Prepetition Claims of Critical Vendors (II) Granting Related Relief (the "Critical Vendors Motion")*

114. By the Critical Vendors Motion, the Debtors request the entry of interim and final orders (i) authorizing the Debtors to continue paying allowed prepetition claims of Critical Vendors (as defined below); and (ii) granting related relief.

115. Prior to the Petition Date, I, with the assistance of the Debtors' other officers, operational employees, and advisors, engaged in a process to (a) identify those trade vendors, suppliers, and service providers that are most critical to the Debtors' businesses and (b) estimate the aggregate amounts owed to such vendors as of the Petition Date.

116. We considered a variety of factors, including, among other things:

- whether a vendor is a sole or limited-source or high-volume supplier for goods or services critical to the Debtors' business operations;
- whether alternative vendors are available that can provide requisite volumes of similar goods or services on equal or better terms and, if so, whether the Debtors would be able to continue operating while transitioning business thereto;
- the degree to which replacement costs (including pricing, transition expenses, professional fees, and lost sales of future revenue) exceed the amount of a vendor's prepetition claim;
- whether an agreement exists by which the Debtors could compel a vendor to continue performing on prepetition terms;
- whether certain specifications or contract requirements prevent, directly or

indirectly, the Debtors from obtaining goods or services from alternative sources;

- whether failure to pay all or part of a particular vendor's claim could cause the vendor to refuse to ship inventory or to provide critical services on a postpetition basis;
- whether failure to pay all or part of a particular vendor's claim would significantly harm such vendor's ability to remain in business, leading to fewer options in the market for the Debtors to choose from;
- whether failure to pay a particular vendor could result in contraction of trade terms as a matter of applicable non-bankruptcy law or regulation; and
- whether authorization for payment of a particular vendor is being sought under another motion of the Debtors for first day relief.

117. Following this analysis, we identified certain vendors utilized in the ordinary course that would be difficult or impossible to replace or could only be replaced at substantially higher costs for the Debtors as they transition in chapter 11.

118. The Debtors purchase goods and services from certain vendors, suppliers, and/or service providers (the "Critical Vendors") that are unaffiliated with the Debtors and whose continued provision of such goods and/or services is crucial to maintaining the Debtors' ongoing business operations. The Critical Vendors are, by and large, sole source or limited source suppliers or vendors who provide a material economic or operational advantage when compared to other available suppliers and vendors. Further, certain of these suppliers are in the unique position of holding a virtual monopoly over the goods and services they provide to the Debtors. Disruption in the provision of goods and services from the Critical Vendors, even for a short duration, could significantly impact the Debtors' operations and cause irreparable harm to the Debtors' businesses.

119. The Debtors hope to assure continuing supply of goods and services from the Critical Vendors postpetition through negotiation and consensual agreements with such vendors. However, the Debtors acknowledge their fiduciary duties to consider and plan for the contingency that some or all of the Critical Vendors may refuse to continue providing goods and services absent payment of their prepetition claims. Even if the Debtors were able to identify adequate

replacements of the Critical Vendors, such replacements would likely result in time delay and substantially higher costs to the Debtors. Accordingly, it is essential that the Debtors be able to maintain their business relationships with, and honor outstanding payment obligations to, the Critical Vendors given the critical role that they play in the Debtors' businesses. To prevent the commencement of these Chapter 11 Cases from causing an unexpected or inopportune interruption to their business operations, the Debtors are seeking to pay Critical Vendor Claims (as defined below) to ensure the Debtors' continued receipt of goods and services and favorable credit terms from the Critical Vendors.

120. The Debtors therefore seek authority to honor prepetition obligations to Critical Vendors. The Debtors seek authority to pay all or a portion of the prepetition claims held by Critical Vendors (collectively, the "Critical Vendor Claims") on an interim basis in an amount not to exceed \$400,000 and on a final basis in an amount not to exceed \$800,000.

121. For these reasons, and as further described in the Critical Vendors Motion, I believe the relief requested therein is in the best interests of the Debtors' estates, their creditors, and all other parties-in-interest, and will enable the Debtors to continue to manage their business operations while the Debtors are in chapter 11 without disruption in order to maximize the estates' value.

7. *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing, (B) Use Cash Collateral, (C) Grant Secured Liens and Provide Claims with Superpriority Administrative Expense Status, and (D) Grant Adequate Protection to the Prepetition Secured Parties; (II) Modifying the Automatic Stay; (III) Scheduling a Final Hearing; and (IV) Granting Related Relief (the "DIP Financing Motion")*

122. Pursuant to the Debtors' DIP Financing Motion, the Debtors seek authority to enter into the DIP Facility, use Cash Collateral, and obtain related relief. The DIP Facility, if approved, would provide the Debtors with access to up to \$3 million of new money immediately upon entry

of the proposed interim order (the “Interim DIP Order”) approving the DIP facility and a total of \$5,306,000 of new money upon approval on a final basis.

123. As of the Petition Date, I understand that the Debtors will require immediate access to the DIP Facility and use of Cash Collateral to ensure they have sufficient liquidity during the interim period to fund essential costs and expenses, including the costs of the Debtors’ postpetition marketing and sale process, and to avoid irreparable harm to the Debtors’ operations. In addition, the Debtors will require full access to the DIP Facility after a final hearing to continue operations, fund working capital needs, and consummate the transactions contemplated by the sale process. The Debtors, with the assistance of their advisors, have concluded that the proposed DIP Facility will be sufficient to support operations and maintain necessary liquidity on the currently contemplated schedule for these chapter 11 cases.

124. I believe that the Debtors are in need of the immediate infusion of liquidity being provided by the proposed DIP Facility to ensure sufficient working capital to operate their business, administer their estates, and effectuate the sale processes contemplated to be filed shortly upon the filing of these Chapter 11 Cases. Specifically, the Debtors have an immediate need to obtain the DIP Facility and to use the Cash Collateral on an interim basis to, among other things, in addition to running the sale process, (i) permit the orderly continuation of their business, (ii) maintain business relationships with their vendors, insurance carriers, and other parties, (iii) make payroll, (iv) pay the costs of administering these Chapter 11 Cases, and (v) satisfy other working capital and general corporate purposes of the Debtors.

125. The Debtors, in consultation with their advisors, have also determined that absent the funding provided by the proposed DIP Facility, the Debtors will be unable to continue operating their business at the levels that are necessary to preserve their goodwill, customer

loyalty, and reputation in the marketplace. Thus, immediate access to the DIP Facility and Cash Collateral is crucial to the Debtors' efforts to preserve value for their stakeholders during these Chapter 11 Cases.

126. Based upon my conversations with the Debtors' management team and advisors and my review of the proposed budget (the "Budget"), I believe that the Debtors will not have sufficient sources of working capital and financing to operate their business in the ordinary course of business throughout these Chapter 11 Cases without the DIP Facility and authorized use of Cash Collateral.

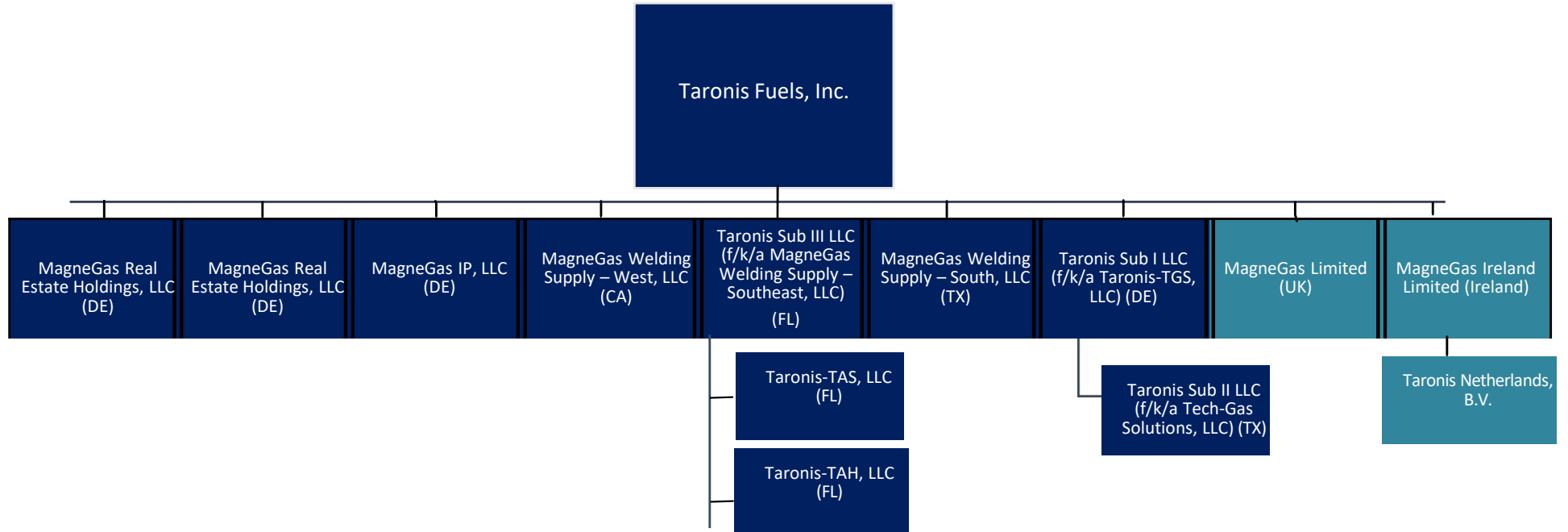
Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true correct.

Dated: November 14, 2022
Wilmington, Delaware

By: /s/ Jered Ruyle
Name: R. Jered Ruyle
Title: Chief Executive Officer

Exhibit A

Corporate Organization Chart



All LLCs are 100% owned by Taronis Fuels, Inc.
 Taronis Sub II LLC is 100% owned by Taronis Sub I LLC.
 Taronis-TAS, LLC is 100% owned by Taronis Sub III LLC.
 Taronis-TAH, LLC is 100% owned by Taronis Sub III LLC.
 Taronis Netherlands, B.V. is 100% owned by MagneGas Ireland Limited.

 - Debtor Entities

 - Non-debtor Affiliates