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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:	Case No. 17-29073
VIDANGEL, INC.,	Chapter 11
Debtor.	Judge Kevin R. Anderson

**DEBTOR’S MOTION FOR AN ORDER (1) AUTHORIZING
BUT NOT REQUIRING THE DEBTOR TO PAY UTILITY
PROVIDERS, (2) DETERMINING AND APPROVING
ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE
UTILITY SERVICES, (3) PROHIBITING UTILITY
PROVIDERS FROM DISCONNECTING SERVICE, AND
(4) GRANTING RELATED RELIEF**

VidAngel, Inc., the above-captioned debtor and debtor-in-possession (the “**Debtor**” or “**VidAngel**”) hereby moves the Court (the “**Motion**”) under sections 105 and 366 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 6003 and 6004(h) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) for entry of interim and final orders (the “**Interim Order**” and “**Final Order**,” respectively) (1) authorizing but not requiring the Debtor to continue to pay pre-petition utility providers, (2) determining and approving adequate assurance of payment for future utility service, (3) prohibiting utility providers from

disconnecting service, and (4) granting related relief. This Motion is supported by the arguments and authorities set forth below, the *Declaration of Patrick Reilly in Support of the Debtor's Chapter 11 Petition and Requests for First-Day Relief* (the “**First-Day Declaration**”), and the entire record before the Court in this Chapter 11 case (this “**Case**”).

I.
SUMMARY OF RELIEF REQUESTED

1. By this Motion, the Debtor requests entry of the Interim Order and Final Order substantially in the form attached as Exhibit A and Exhibit B hereto, respectively, (a) authorizing but not requiring the Debtor to continue to pay pre-petition utility providers, (b) determining and approving adequate assurance of payment for future utility service, (c) prohibiting utility providers from disconnecting service, and (d) granting related relief.

2. The statutory predicates for the relief sought herein are sections 105 and 366 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004.

II.
JURISDICTION

3. This Court has jurisdiction to consider the relief requested in this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b) and venue is proper in the District of Utah under 28 U.S.C. §§ 1408 and 1409.

III.
RELEVANT BACKGROUND

A. General.

4. The Debtor is the worldwide leader in video filtering technology. The Debtor's services allow its subscribers to filter potentially objectionable content (such as profanity, nudity, and violence) in motion pictures (including television shows) and stream such content for its subscribers' private viewing. The Debtor is also an original content provider, and it provides a streaming service to view the content it produces. The Debtor's original comedy series, Dry Bar

Comedy, has had more than 16 million minutes viewed in the 7 days prior to the Petition Date. The Debtor's services give subscribers and their families choice over the content they view and share with their families.

5. From late 2014 through late December 2016, VidAngel used a purchase model to provide video to its customers (the "**Disc Ownership Model**"). Under the Disc Ownership Model, VidAngel purchased DVDs and Blu-ray discs and sold them to its customers. VidAngel would decrypt the contents of the purchased discs and stream the content to the owner of such discs, filtered as each customer individually requested. VidAngel's proprietary technology enabled (and required) users to filter the video for various types of potentially objectionable content, which were silenced or deleted when the video was streamed. Once purchased, a customer could opt to sell the video disc back to VidAngel, or keep the actual physical disc, which VidAngel would ship to purchasers, on request, or store for the customer in a secure vault.

6. VidAngel's Disc Ownership Model was popular and growing, with more than 1 million viewers as of December 2016. However, in June 2016, Disney Enterprises, Inc., Lucasfilm Ltd. LLC, Twentieth Century Fox Film Corporation, and Warner Bros. Entertainment Inc. (the "**Studios**") sued VidAngel in the United States District Court for the Central District of California, Case No. 2:16-cv-04109-AB-PLA (the "**Copyright Action**"), for copyright infringement of approximately 80 of the Studios' copyrighted works. The Studios alleged that VidAngel's decryption of its works was a technical violation of the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. § 1201(a), and that VidAngel's filtering and streaming violated their exclusive rights to make copies of and publicly perform their works in violation of 17 U.S.C. § 106. On December 12, 2016, the District Court granted the Studios' Motion for a Preliminary Injunction. VidAngel complied with the preliminary injunction, shutting down VidAngel's and its customers' use of the Disc Purchase Model. The Studios have amended their

complaint to add additional plaintiffs and allege the infringements of additional motion pictures before pursuing the Copyright Action to a judgment. The Studios rejected VidAngel's Statutory Offer to Allow the Entry of Judgment against it.

7. Six months after the issuance of the preliminary injunction, VidAngel launched a new streaming-based service (the "**Stream-Based Model**"), which avoids any decryption of the Studios' copyrighted works, and does not involve any physical video discs. Subscribers who use the Stream-Based Model select video content from third-party services such as Amazon, Netflix, and HBO using their own accounts with those third-party streaming services.¹ Using VidAngel's proprietary technology, subscribers can elect to have VidAngel remove or silence various types of potentially objectionable content when they view the selected video.

8. To ensure that the new Stream-Based Model does not violate the any provision of the Copyright Act, VidAngel initiated a declaratory relief action in the United States District Court for the District of Utah, Case No. 2:17-cv-00989-EJF (the "**Declaratory Relief Action**"), and named various copyright owners whose copyrighted works might be streamed and filtered. The Declaratory Relief Action is in its early stages, and none of the defendants have answered.

9. At this time, the Debtor requires the breathing space of the Automatic Stay of section 362(a) of the Bankruptcy Code after the disruption of its previous business and to reorganize around the new Stream-Based Model. The Studios are pressing forward with the preliminary injunction in the California District Court, attempting to apply it to enjoin VidAngel's new Stream-Based Model. The Declaratory Relief Action is in its early stages, and the Utah District Court needs an opportunity to consider the issues and confirm that the Stream-Based Model does not violate any rights of motion picture copyright owners. Further, the

¹ Users must maintain and pay the third-party content providers directly.

Stream-Based Model, which is profitable, will provide sufficient revenue to enable the Debtor to reorganize its business and pay its creditors.

B. Facts Specific to the Motion.

10. As set forth in the First-Day Declaration, in the ordinary course of business, the Debtor incurs expenses for internet, gas, water, sewer, trash and other similar utility services provided by three utility providers (as such term is used in Bankruptcy Code Section 366, collectively, the “**Utility Providers**”), a list of which is attached as Exhibit C hereto (the “**Utility Service List**”).²

11. The Debtor pays for the Utility Providers to provide some or all of the utilities services in the ordinary course of business at its office location.

12. Uninterrupted utility services at the Debtor’s office are essential to the Debtor’s ongoing operations and, therefore, to the success of this Case. As an internet services business, uninterrupted electrical supply and internet services are crucial to the provision of the Debtor’s video streaming services and back-end and front-end customer support. Lightstream Managed Services, LLC is essential to providing the Debtor’s streaming services to customers. Indeed, any interruption of any of the Debtor’s utility services, even for a brief period of time, would negatively affect the Debtor’s operations and its ability to provide its service to customers and maintain operations of its business. It is therefore critical that utility services continue uninterrupted during this Case.

² The Debtor has included all known Utility Providers; however, the Debtor reserves the right to supplement the Utility Service List, attached as Exhibit C hereto, to include any other Utility Provider that may have been unintentionally omitted. Additionally, the listing of an entity on the Utility Service List is not an admission that such entity is a utility within the meaning of Section 366 of the Bankruptcy Code, and the Debtor reserves the right to contest any such characterization in the future.

13. To the extent that the Debtor subsequently identifies additional providers of utility services, the Debtor hereby seeks authority to amend the Utility Service List to add or remove any Utility Provider. The Debtor will amend the Utility Service List by notifying the added Utility Provider in writing that the Debtor has added it to the Utility Service List. The Debtor further requests that the Interim Order and Final Order apply to any such subsequently identified Utility Provider as provided in the Adequate Assurance Procedures, regardless of when each Utility Provider was added to the Utility Service List. With respect to any subsequently identified Utility Provider, the Proposed Adequate Assurance shall be deemed adequate assurance of payment for any Utility Provider that does not make an Additional Assurance Request within 21 days of receiving a copy of the Interim Order, Final Order, or the Motion (each of which fully recite the Adequate Assurance Procedures). The Debtor shall have the period specified in the proposed Adequate Assurance Procedures to seek to resolve any subsequently added Utility Provider's Additional Assurance Request by mutual agreement with the Utility Provider without further order of the Court or to schedule a Determination Hearing with the Court to determine the adequacy of assurance of payment with respect to such Utility Provider in accordance with such Adequate Assurance Procedures.

14. The Debtor requests that all Utility Providers, including subsequently added Utility Providers, be prohibited from altering, refusing, or discontinuing utility services to the Debtor absent further order of the Court.

15. The Debtor pays the Utility Providers on a periodic basis based on each Utility Provider's billing cycle. The Debtor has no defaults with the Utility Providers, and has a history of prompt and complete payment of all utilities. The Debtor believes it is substantially current within one billing cycle with all of its Utility Providers. The Debtor does not have any deposits on file with any of the Utility Providers.

16. The Debtor submits that it would be administratively burdensome to segregate pre-petition amounts from post-Petition Date amounts owing to each Utility Provider on each account where the billing cycles do not coincide with the Petition Date (and most, if not all, will not). Accordingly, the Debtor requests that the Court authorize, but not require, the Debtor to pay all pre-petition amounts owing to Utility Providers in the ordinary course of its business for administrative convenience and to ensure that the Utility Providers do not cease provision of the utility services as a result of non-payment. In addition, failure to pay pre-petition amounts could result in Utility Providers requesting a higher Adequate Assurance Deposit or to take action to terminate utility services, resulting in a greater cost to the estate than if payments from the Debtor continued uninterrupted.

IV. ARGUMENTS & AUTHORITIES

A. Proposed Adequate Assurance Procedures.

Section 366 of the Bankruptcy Code provides that a utility provider may alter, refuse, or discontinue a Chapter 11 debtor's utility service if the utility does not receive from the debtor adequate "assurance of payment" within 30 days from the Petition Date. 11 U.S.C. § 366(b). Section 366(c)(1)(A) defines the phrase "adequate assurance of payment" to mean, among other things, a cash deposit. 11 U.S.C. § 366(c)(1)(A). Accordingly, the Debtor proposes to provide a deposit to each requesting Utility Provider in an amount equal to two weeks' worth of utility service as calculated by the Debtor according to the last historical 52-week period (each, an "**Adequate Assurance Deposit**"); provided, however, that (a) a request for such deposit is made in writing no later than thirty (30) days after the Petition Date (the "**Request Deadline**"); and (b) such requesting Utility Provider does not already hold a deposit equal to or greater than the Adequate Assurance Deposit (which existing deposit shall be deemed to be the Adequate

Assurance Deposit for purposes of this Motion). All such Adequate Assurance Deposits shall be returned to the Debtor upon the earlier of (a) consensual termination of services between Utility Provider and the Debtor or (b) closing of a sale of substantially all of the Debtor's assets or confirmation of a Chapter 11 plan, if not applied or returned earlier.

The Debtor intends to pay post-petition obligations owed to the Utility Providers in a timely manner. The Debtor expects that its cash flow from operations or from its substantial cash reserve will be sufficient to pay post-petition obligations related to its utility services.

The Debtor submits that the Adequate Assurance Deposit, in conjunction with the Debtor's demonstrated ability to pay for future utility services in the ordinary course of business (together, the "**Proposed Adequate Assurance**"), constitutes sufficient adequate assurance to the Utility Providers. If any Utility Provider believes additional assurance is required, that Utility Provider may request such assurance pursuant to the procedures set forth below.

As a condition of requesting and accepting an Adequate Assurance Deposit, and absent compliance with the Adequate Assurance Procedures (defined below), the requesting Utility Provider shall be deemed to have (a) stipulated that the Adequate Assurance Deposit constitutes adequate assurance of payment of such Utility Provider within the meaning of Section 366 of the Bankruptcy Code, and (b) waived any right to seek additional or different adequate assurance during the course of this Case. Likewise, any Utility Provider that does not request an Adequate Assurance Deposit by the Request Deadline and does not file an objection to the Motion or pursuant to the Adequate Assurance Procedures (as described below) shall be deemed to have adequate assurance that is satisfactory to it within the meaning of Section 366 of the Bankruptcy Code.

In light of the severe consequences to the Debtor and its operations of any interruption in services by the Utility Providers, but recognizing the right of the Utility Providers to evaluate the

Proposed Adequate Assurance on a case-by-case basis, the Debtor proposes that the Court approve and adopt the following procedures (the “**Adequate Assurance Procedures**”).

- a. The Debtor will mail a notice of the hearing date and a copy of this motion to the Utility Providers on the Utility Service List so that notice of this Motion is received within 21 days of the Final Hearing.
- b. If a Utility Provider is not satisfied with the Proposed Adequate Assurance and seeks additional assurance of payment in the form of deposits, prepayments, or otherwise, it must serve a request (an “**Additional Assurance Request**”) upon (i) proposed counsel for the Debtor, Parsons Behle & Latimer, 201 S. Main Street, Suite 1800, Salt Lake City, Utah, 84111, Attn: Brian Rothschild, (ii) the Office of the United States Trustee for the District of Utah, 405 South Main Street, Suite 300, Salt Lake City, Utah 84111, and (iii) the official committee of unsecured creditors, if any, formed in this Case (collectively, the “**Notice Parties**”).
- c. Any Additional Assurance Request must (i) be made in writing, (ii) set forth the location(s) for which utility services are provided, (iii) include a summary of the Debtor’s payment history relevant to the affected account(s), including any security deposits, (iv) certify the amount that is equal to one month of utility service it provides to the Debtor, calculated as a historical average over the past 12 months, and (v) explain why the Utility Provider believes the Debtor’s Adequate Assurance Deposit is not sufficient adequate assurance of future payment.
- d. Upon the Debtor’s receipt of any Additional Assurance Request at the addresses set forth in Subsection b. above, the Debtor shall have 14 days from the receipt of such Additional Assurance Request (the “**Resolution Period**”) to negotiate with such Utility Provider to resolve such Utility Provider’s request for additional assurance of payment.
- e. The Debtor may resolve any Additional Assurance Request by mutual agreement with the Utility Provider and without further order of the Court, and may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of future payment, including, without limitation, cash deposits, prepayments, and other forms of security, without further order of the Court if the Debtor believes such additional assurance is reasonable.
- f. If the Debtor determines that the Additional Assurance Request is not reasonable and cannot reach an alternative resolution with the Utility Provider during the Resolution Period, the Debtor, during or immediately after the Resolution Period, will request a hearing before the Court to determine the adequacy of assurances of payment with respect to a particular Utility Provider (the “**Determination Hearing**”) pursuant to Section 366(c)(3) of the Bankruptcy Code.

- g. Pending resolution of any such Determination Hearing, the Utility Provider filing such Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing service to the Debtor on account of unpaid charges for pre-petition services or on account of any objections to the Proposed Adequate Assurance.
- h. With respect to any Utility Provider that received notice of the Motion at least 21 days before the Final Hearing, the Proposed Adequate Assurance shall be deemed adequate assurance of payment for any Utility Provider that does not make an Additional Assurance Request within 14 days prior to the Final Hearing and does not timely objection to the Motion. With respect to any subsequently identified Utility Provider, the Proposed Adequate Assurance shall be deemed adequate assurance of payment for any Utility Provider that does not make an Additional Assurance Request within 21 days of receiving a copy of the Interim Order, Final Order, or the Motion.
- i. The Utility Providers are forbidden to alter, refuse, or discontinue service on account of any pre-petition charges, or require additional assurance of payment other than the Proposed Adequate Assurance except through the Adequate Assurance Procedures.

B. The Utility Providers Are Adequately Assured of Payment for Future Services.

Uninterrupted utility service is critical for the success of the Debtor's Case. Section 366(c)(2) of the Bankruptcy Code provides that a utility provider may discontinue its services to a debtor if the debtor has not furnished adequate assurance of payment within 30 days after the petition date. *See* 11 U.S.C. § 366(c)(2). Congress enacted Section 366 of the Bankruptcy Code to protect debtors from utility service cutoffs upon a bankruptcy filing while providing utility companies with adequate assurance that the debtors will pay for post-petition services. *See* H.R. Rep. No. 95-595, at 350 (1978), reprinted in 1978 U.S.C.C.A.N. 5963, 6306. Accordingly, Section 366 of the Bankruptcy Code protects debtors by prohibiting utilities from altering, refusing, or discontinuing services to a debtor solely on account of unpaid pre-petition amounts for a period of 30 days after a Chapter 11 filing. At the same time, it protects utilities by permitting them to alter, refuse, or discontinue service after 30 days if the debtor has not furnished "adequate assurance" of payment in a form "satisfactory" to the utility.

Section 366(c) of the Bankruptcy Code also specifies the factors that a bankruptcy court may consider when determining whether an adequate assurance payment is, in fact, adequate. Specifically, courts no longer may consider (a) the absence of a security deposit before a debtor's petition date, (b) a debtor's history of timely payments, or (c) the availability of an administrative expense priority when determining the amount of a deposit. Notwithstanding these changes, Congress did not intend to abrogate the bankruptcy court's ability to determine the amount of adequate assurance necessary or change the fundamental requirement that assurance of payment must simply be "adequate." *See, e.g., In re DBSI, Inc.*, 405 B.R. 698, 708 (Bankr. D. Del. 2009) ("[g]enerally, adequate assurance is considered to be something less than an absolute guarantee. The particular facts and circumstances of each case are evaluated and taken into consideration to determine what constitutes adequate assurance") (internal quotation marks omitted); *Steinebach v. Tucson Elec. Power Co. (In re Steinebach)*, 303 B.R. 634, 641 (Bankr. D. Ariz. 2004) ("a utility is only entitled to adequate assurance of payment. Adequate assurance of payment is not, however, absolute assurance").

Thus, while Section 366(c) of the Bankruptcy Code limits the factors a court can consider when determining whether a debtor has provided adequate assurance of payment, it does not limit the court's ability to determine the amount of payment necessary, if any, to provide such adequate assurance. Instead, Section 366(c) of the Bankruptcy Code gives courts discretion in determining the amount of payment necessary for adequate assurance that they previously had under Section 366(b) of the Bankruptcy Code. *Compare* 11 U.S.C. § 366(b) ("On request of a party in interest and after notice and a hearing, the court may order reasonable modification of the amount of the deposit or other security necessary to provide adequate assurance of payment.") *with* 11 U.S.C. § 366(c)(3)(a) ("On request of a party in interest and after notice and

a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).”).

In addition, it is well established that Section 366(b) of the Bankruptcy Code permits a bankruptcy court to find that no adequate assurance payment at all is necessary to provide a utility with adequate assurance of payment. *See Va. Elec. & Power Co. v. Caldor, Inc.* -N. Y., 117 F.3d 646, 650 (2d Cir. 1997) (“Even assuming that other security should be interpreted narrowly, . . . bankruptcy court’s authority to modify the level of the deposit or other security provided for under § 366(b), includes the power to require no deposit or other security where none is necessary to provide a utility supplier with adequate assurance of payment.”) (citations omitted). This principle may be applicable in cases where the debtor has made pre-petition deposits or prepayments for services that utilities ultimately will render post-petition. *See also* 11 U.S.C. § 366(c)(1)(A)(v) (recognizing a prepayment for post-petition services as adequate assurance). Accordingly, even after the 2005 revisions to Section 366 of the Bankruptcy Code, courts continue to have discretion to determine the amount of adequate assurance payments and, where appropriate, to determine that no such payment is necessary.

Courts also have recognized that, in determining the requisite level of adequate assurance, bankruptcy courts should “focus upon the need of the utility for assurance, and to require that the debtor supply no more than that, since the debtor almost perforce has a conflicting need to conserve scarce financial resources.” *Va. Elec. & Power Co.*, 117 F.3d at 650 (emphasis in original) (citations omitted); *see also In re Penn Cent. Transp. Co.*, 467 F.2d 100, 103-04 (3d Cir. 1972) (affirming bankruptcy court’s ruling that no utility deposits were necessary where such deposits likely would “jeopardize the continuing operation of the [debtor] merely to give further security to suppliers who already are reasonably protected”).

Accordingly, demands by a Utility Provider for a guarantee of payment should be refused when the Debtor's specific circumstances already afford adequate assurance of payment.

The Debtor submits that the Proposed Adequate Assurance, and the Adequate Assurance Procedures provide more than adequate assurance of future payment. Furthermore, the Debtor expects that funds from its operations will be sufficient to pay operating costs, including utility costs, as such costs come due. Moreover, the Debtor has a powerful incentive to stay current on utility obligations because of its reliance on utility services for the operation of its business.

17. Furthermore, a loss of any one of the utility services and the inevitable disruption to its operations would endanger the Debtor's reorganization. These factors, which the Court may (and should) consider when determining the amount of any adequate assurance payments, justify a finding that the Proposed Adequate Assurance and the Adequate Assurance Procedures assure the Utility Providers of future payment.

Courts in this and other jurisdictions have approved relief similar to the relief requested by this Motion. *See, e.g., In re Vector Arms., Corp.* No. 15-23109 (Bankr. D. Utah. February 19, 2015 (interim), Marcy 12, 2015 (final); *In re Marion Energy Inc.*, Case No. 14-31632 (Bankr. D. Utah, Dec. 1, 2014); *see also In re Amicus Wind Down Corp. (f/k/a Friendly Ice Cream Corp.)*, Case No. 11-13167 (Bankr. D. Del. Oct. 24, 2011) (deeming utilities adequately assured where the debtor established a segregated account containing the aggregate estimated cost for two weeks of utility service); *In re Neb. Book Co.*, No. 11-12005 (Bankr. D. Del. July 21, 2011) (same); *In re L.A. Dodgers LLC*, No. 11-12010 (Bankr. D. Del. July 19, 2011) (same); *In re Ambassadors Int'l, Inc.*, No. 11-11002 (Bankr. D. Del. Apr. 26, 2011) (same).³

³ Because of the voluminous nature of the orders cited herein, the cited orders are not attached to the Motion. Copies of these orders are available on request of the Debtor's counsel.

Moreover, if a Utility Provider disagrees with the Debtor's proposed Adequate Assurance, the Adequate Assurance Procedures will enable the parties to negotiate and, if necessary, seek Court intervention without jeopardizing the Debtor's continuing operations.

C. The Proposed Adequate Assurance Procedures Are Appropriate.

The Court has authority to approve the Adequate Assurance Procedures under Section 105(a) of the Bankruptcy Code, which provides that the Court "may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). The purpose of Section 105(a) of the Bankruptcy Code is "to assure the bankruptcy courts power to take whatever action is appropriate or necessary in aid of the exercise of their jurisdiction." 2 COLLIER ON BANKRUPTCY ¶ 105.01 (Alan N. Resnick & Henry J. Sommer, eds. 16th ed. rev. 2014) at 105–6.

The Adequate Assurance Procedures are necessary in this Case. If the Adequate Assurance Procedures are not approved, a Utility Provider could blindside the Debtor by unilaterally deciding on or after the 30th day following the Petition Date that it is not adequately protected and discontinuing service or making an exorbitant demand for payment to continue service. Discontinuation of utility service could shut down operations and damage the Debtor's business, assets, inventory, and employees, resulting in significant harm to the Debtor's business operations that would jeopardize the Debtor's chances of executing a successful reorganization.

WAIVER OF BANKRUPTCY RULES 6004(A) AND 6004(H)

Given the nature and urgency of the relief requested herein, the Debtor respectfully requests a waiver of (a) the notice requirements under Bankruptcy Rule 6004(a) and (b) the 14-day stay under Bankruptcy Rule 6004(h), to the extent either rule is applicable to avoid irreparable harm to the Debtor and its business.

DEBTOR'S RESERVATION OF RIGHTS

Nothing in this Motion should be construed as (a) an admission as to the validity or priority of any claim against the Debtor, (b) a waiver of the Debtor's rights to dispute any claims, or (c) an approval or assumption of any agreement, contract, or lease, under Section 365 of the Bankruptcy Code. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtor's rights to dispute such claim subsequently.

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

**V.
NOTICE**

The Debtor has provided notice of this Motion to (a) the Office of the United States Trustee for the District of Utah; (b) the entities listed on the List of Creditors Holding the 20 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); and (c) all ECF notice parties and parties who have requested notice on the Court's docket. In light of the nature of the relief requested in this Motion, the Debtor respectfully submits that no further notice is necessary.

**VI.
CONCLUSION**

For the reasons stated above, the Debtor requests that the Court grant the Motion and enter the Interim Order lodged herewith and, after holding the Final Hearing, the Final Order.

Respectfully submitted,

/s/ Brian M. Rothschild

Brian M. Rothschild

J. Thomas Beckett

PARSONS BEHLE & LATIMER

Proposed Attorneys for VidAngel, Inc.

Exhibit A

Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re: VIDANGEL, INC., Debtor,	Case No. 17-29073 Chapter 11 Judge Kevin R. Anderson
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**ORDER GRANTING, ON AN INTERIM BASIS, DEBTOR'S
MOTION (1) AUTHORIZING BUT NOT REQUIRING THE
DEBTOR TO PAY UTILITY PROVIDERS,
(2) DETERMINING AND APPROVING ADEQUATE
ASSURANCE OF PAYMENT FOR FUTURE UTILITY
SERVICES, (3) PROHIBITING UTILITY PROVIDERS
FROM DISCONNECTING SERVICE, AND (4) GRANTING
RELATED RELIEF**

Upon the motion (the “**Motion**”)¹ filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**”) under Section 105 and 366 of Title 11 of the United States Code (the “**Bankruptcy Code**”) for entry of interim and final orders (the “**Interim Order**” and “**Final Order**,” respectively) (1) authorizing but not requiring the Debtor to continue to pay pre-petition utility providers, (2) determining and approving adequate assurance of payment for future utility service, (3) prohibiting utility providers from disconnecting service, and (4) granting related relief; all as more fully described in the Motion; and the Court, having reviewed the Motion and having heard the statements of counsel in support of the relief requested in the Motion at the

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

hearing before the Court (the “**Hearing**”), finds that the Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334, that this is a core matter under 28 U.S.C. § 157(b)(2), that notice of the Motion and the Hearing were sufficient under the circumstances and that no further notice need be given; and the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein and that such relief is necessary to avoid immediate and irreparable harm to the Debtor’s estate,

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis to the extent provided herein pending the hearing on the Final Order granting the Motion.

2. Any objection to the Motion must be filed in the Court and served on counsel to the Debtor so that such objection is received no later than **October 31, 2017, at 5:00 p.m. (Prevailing Utah Time)** (the “**Objection Deadline**”). If any party in interest files an objection, the Court will hold a hearing on the relief sought in the Motion on a final basis on **November 14, 2017, at 10:00 a.m. (Prevailing Utah Time)** (the “**Final Hearing**”) at the United States Bankruptcy Court, Frank E. Moss, U.S. Courthouse, 350 South Main Street, Courtroom 376, Salt Lake City, Utah 84101. If no objections are filed to the Motion, this Court may enter a Final Order on the Motion without holding the Final Hearing.

3. Entry of this Interim Order is without prejudice to the rights of any party in interest to interpose an objection to the Motion, and any such objection will be considered on a *de novo* basis at the final hearing.

4. In the interim, the Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order.

5. The Debtor is authorized but not required to continue to pay Utility Providers in the ordinary course of its business including, in its business judgment, on account of amounts due from the pre-petition period.

6. The Debtor shall pay the Adequate Assurance Deposit to Utility Providers that request the Adequate Assurance Deposit as provided in the Motion following such requests.

7. The following procedures (the “**Adequate Assurance Procedures**”) are hereby approved:

- (a) The Debtor will mail a notice of the hearing date and a copy of this motion to the Utility Providers on the Utility Service List so that notice of this Motion is received within 21 days of the Final Hearing.
- (b) If a Utility Provider is not satisfied with the Proposed Adequate Assurance and seeks additional assurance of payment in the form of deposits, prepayments, or otherwise, it must serve a request (an “**Additional Assurance Request**”) upon (i) proposed counsel for the Debtor, Parsons Behle & Latimer, 201 S. Main Street, Suite 1800, Salt Lake City, Utah, 84111, Attn: Brian Rothschild (ii) the Office of the United States Trustee for the District of Utah, 405 South Main Street, Suite 300, Salt Lake City, Utah 84111, and (iii) the official committee of unsecured creditors, if any, formed in this Case (collectively, the “**Notice Parties**”).
- (c) Any Additional Assurance Request must (i) be made in writing, (ii) set forth the location(s) for which utility services are provided, (iii) include a summary of the Debtor’s payment history relevant to the affected account(s), including any security deposits, (iv) certify the amount that is equal to one month of utility service it provides to the Debtor, calculated as a historical average over the past 12 months, and (v) explain why the Utility Provider believes the Debtor’s Adequate Assurance Deposit is not sufficient adequate assurance of future payment.
- (d) Upon the Debtor’s receipt of any Additional Assurance Request at the addresses set forth in Subsection b. above, the Debtor shall have 14 days from the receipt of such Additional Assurance Request (the “**Resolution Period**”) to negotiate with such Utility Provider to resolve such Utility Provider’s request for additional assurance of payment.
- (e) The Debtor may resolve any Additional Assurance Request by mutual agreement with the Utility Provider and without further order of the Court, and may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of future payment, including, without limitation, cash

deposits, prepayments, and other forms of security, without further order of the Court if the Debtor believes such additional assurance is reasonable.

- (f) If the Debtor determines that the Additional Assurance Request is not reasonable and cannot reach an alternative resolution with the Utility Provider during the Resolution Period, the Debtor, during or immediately after the Resolution Period, will request a hearing before the Court to determine the adequacy of assurances of payment with respect to a particular Utility Provider (the “**Determination Hearing**”) under Section 366(c)(3) of the Bankruptcy Code.
- (g) Pending resolution of any such Determination Hearing, the Utility Provider filing such Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing service to the Debtor on account of unpaid charges for pre-petition services or on account of any objections to the Proposed Adequate Assurance.
- (h) With respect to any Utility Provider that received notice of the Motion at least 21 days before the Final Hearing, the Proposed Adequate Assurance shall be deemed adequate assurance of payment for any Utility Provider that does not make an Additional Assurance Request within 14 days prior to the Final Hearing and does not timely objection to the Motion. With respect to any subsequently identified Utility Provider, the Proposed Adequate Assurance shall be deemed adequate assurance of payment for any Utility Provider that does not make an Additional Assurance Request within 21 days of receiving a copy of the Interim Order, Final Order, or the Motion.
- (i) The Utility Providers are forbidden to alter, refuse, or discontinue service on account of any pre-petition charges, or require additional assurance of payment other than the Proposed Adequate Assurance except through the Adequate Assurance Procedures.

8. This Order applies to any subsequently identified Utility Provider, regardless of when each Utility Provider was added to the Utility Service List.

9. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the pre-petition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtor’s designation of any particular check or electronic payment request as being approved by this Order.

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

11. Rule 6003 of the Bankruptcy Rules has been satisfied to the extent applicable.

12. Notwithstanding Bankruptcy Rules 6004, 7062, or 9014, the terms and conditions of this Order shall be immediately effective upon its entry.

13. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

[END OF DOCUMENT]

Exhibit B

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re: VIDANGEL, INC., Debtor,	Case No. 17-29073 Chapter 11 Judge Kevin R. Anderson
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**FINAL ORDER (1) AUTHORIZING BUT NOT REQUIRING
THE DEBTOR TO PAY UTILITY PROVIDERS,
(2) DETERMINING AND APPROVING ADEQUATE
ASSURANCE OF PAYMENT FOR FUTURE UTILITY
SERVICES, (3) PROHIBITING UTILITY PROVIDERS
FROM DISCONNECTING SERVICE, AND (4) GRANTING
RELATED RELIEF**

Upon the motion (the “**Motion**”)¹ filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**”) seeking entry of an order under Section 105 and 366 of Title 11 of the United States Code (the “**Bankruptcy Code**”) for entry of interim and final orders (the “**Interim Order**” and “**Final Order**,” respectively) (1) authorizing but not requiring the Debtor to continue to pay pre-petition utility providers, (2) determining and approving adequate assurance of payment for future utility service, (3) prohibiting utility providers from disconnecting service, and (4) granting related relief, all as more fully set forth in the Motion; and the Court, having reviewed the Motion and having heard the statements of counsel in support of the relief requested in the Motion at the hearing before the Court (the “**Hearing**”), finds that the Court has

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334, that this is a core matter under 28 U.S.C. § 157(b)(2), that notice of the Motion and the Hearing were sufficient under the circumstances and that no further notice need be given; and the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein and that such relief is necessary to avoid immediate and irreparable harm to the Debtor's estate,

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as provided herein on a final basis.
2. The Debtor is authorized, but not required, to continue to pay Utility Providers in the ordinary course of its business including, in its business judgment, on account of amounts due from the pre-petition period.
3. The following procedures (the "**Adequate Assurance Procedures**") are hereby adopted.
 - (a) If a Utility Provider is not satisfied with the Proposed Adequate Assurance and seeks additional assurance of payment in the form of deposits, prepayments, or otherwise, it must serve a request (an "**Additional Assurance Request**") upon (i) proposed counsel for the Debtor, Parsons Behle & Latimer, 201 S. Main Street, Suite 1800, Salt Lake City, Utah, 84111, Attn: Brian Rothschild, (ii) the Office of the United States Trustee for the District of Utah, 405 South Main Street, Suite 300, Salt Lake City, Utah 84111, and (iii) the official committee of unsecured creditors, if any, formed in this Case (collectively, the "**Notice Parties**").
 - (b) Any Additional Assurance Request must (i) be made in writing, (ii) set forth the location(s) for which utility services are provided, (iii) include a summary of the Debtor's payment history relevant to the affected account(s), including any security deposits, (iv) certify the amount that is equal to one month of utility service it provides to the Debtor, calculated as a historical average over the past 12 months, and (v) explain why the Utility Provider believes the Debtor's Adequate Assurance Deposit is not sufficient adequate assurance of future payment.
 - (c) Upon the Debtor's receipt of any Additional Assurance Request at the addresses set forth in Subsection a. above, the Debtor shall have 14 days from the receipt of such Additional Assurance Request (the "**Resolution Period**") to negotiate with such Utility Provider to resolve such Utility Provider's request for additional assurance of payment.
 - (d) The Debtor may resolve any Additional Assurance Request by mutual agreement with the Utility Provider and without further order of the Court, and may, in

connection with any such agreement, provide a Utility Provider with additional adequate assurance of future payment, including, without limitation, cash deposits, prepayments, and other forms of security, without further order of the Court if the Debtor believes such additional assurance is reasonable.

- (e) If the Debtor determines that the Additional Assurance Request is not reasonable and cannot reach an alternative resolution with the Utility Provider during the Resolution Period, the Debtor, during or immediately after the Resolution Period, will request a hearing before the Court to determine the adequacy of assurances of payment with respect to a particular Utility Provider (the “**Determination Hearing**”) under Section 366(c)(3) of the Bankruptcy Code.
- (f) Pending resolution of any such Determination Hearing, the Utility Provider filing such Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing service to the Debtor on account of unpaid charges for pre-petition services or on account of any objections to the Proposed Adequate Assurance.
- (g) With respect to any Utility Provider that received notice of the Motion at least 21 days before the Final Hearing, the Proposed Adequate Assurance shall be deemed adequate assurance of payment for any Utility Provider that does not make an Additional Assurance Request within 14 days prior to the Final Hearing and does not timely objection to the Motion. With respect to any subsequently identified Utility Provider, the Proposed Adequate Assurance shall be deemed adequate assurance of payment for any Utility Provider that does not make an Additional Assurance Request within 21 days of receiving a copy of the Interim Order, Final Order, or the Motion.
- (h) The Utility Providers are forbidden to alter, refuse, or discontinue service on account of any pre-petition charges, or require additional assurance of payment other than the Proposed Adequate Assurance except through the Adequate Assurance Procedures.

4. This Order applies to any subsequently identified Utility Provider, regardless of when each Utility Provider was added to the Utility Service List.

5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the pre-petition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtor’s designation of any particular check or electronic payment request as being approved by this Order.

6. Notice of the Motion as provided therein shall be deemed good and sufficient and the requirements of Bankruptcy Rule 6004(a) and the Local Bankruptcy Rules are satisfied by such notice.

7. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

8. Notwithstanding Bankruptcy Rules 6004(h), 7062, or 9014, the terms and conditions of this Order shall be immediately effective upon its entry.

9. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

[END OF DOCUMENT]

EXHIBIT C

Utility Service List

Vendor Name	Address	Service	Average monthly bill
VERACITY COMMUNICATIONS	170 Election Road Suite 200, Draper, UT 84020	Monthly business internet (1 GB)	\$835
GOOGLE FIBER	Registered agent: 15 West South Temple Ste 1701 Salt Lake City, UT 84101 Physical address: 1600 Amphitheatre Pkwy, Mountain View, CA 94043	Monthly business internet (1 GB)	\$270
FIG REAL ESTATE HOLDINGS, LLC	295 W Center St, Provo, UT 84601	Monthly utilities for office, including gas, trash, water, and sewer.	\$1,500
LIGHTSTREAM MANAGED SERVICES, LLC	208 N 2100 West, Suite 200, Salt Lake City, UT 84116	Monthly charges for data hosting services (AWS)	\$85,000