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

| | | |
|---|---|---|
| In re: | ) | Chapter 11 |
| VYAIRE MEDICAL, INC., *et al.*,[1] | ) | Case No. 24-11217 (BLS) |
| Debtors. | ) | (Joint Administration Requested) |

**DECLARATION OF CHARLES N. BRALEY IN SUPPORT OF THE MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) UTILIZE CASH COLLATERAL, (II) GRANTING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (III) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING A FINAL HEARING, AND (VI) GRANTING RELATED RELIEF**

I, Charles N. Braley, hereby declare under penalty of perjury as follows:

1. I am a Partner and Managing Director of AlixPartners LLP ("AlixPartners") and the Chief Restructuring Officer ("CRO") of Vyaire Medical, Inc., and its affiliated debtors and debtors in possession (collectively, the "Debtors" and, together with their non-Debtor subsidiaries, collectively, the "Company"). I have over 20 years of experience in the restructuring and turnaround management industry and have led turnaround or restructuring efforts for various companies during that time. I have personally been involved in many recent comparable chapter 11 reorganizations including *In re Mallinckrodt plc*, Case No. 20-12522 (Bankr. D. Del. 2020); *In re NPC International Inc.*, Case No. 20-33353 (Bankr. S.D. Tex. 2020); *In re Basic Energy Services, Inc.*, Case No. 16-12320 (Bankr. D. Del. 2016), *In re Dendreon Corporation*, Case No.

[1] The last four digits of Debtor Vyaire Medical, Inc.'s federal tax identification number are 6495. A complete list of each of the Debtors in these chapter 11 cases and each such Debtor's federal tax identification number may be obtained on the website of the Debtors' proposed claims and noticing agent at https://omniagentsolutions.com/Vyaire. The location of Debtor Vyaire Medical, Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 26125 North Riverwoods Boulevard, Mettawa, Illinois, USA 60045.

14-12515 (Bankr. D. Del. 2014); *In re BearingPoint, Inc.*, Case No. 09-10691 (Bankr. S.D.N.Y. 2009); and *In re Remy Int'l, Inc.*, Case No. 07-11481, among others. I specialize in advising senior executives, boards of directors, and creditors in distressed situations. My combination of restructuring, operating, and transaction experience spans multiple countries and a variety of industries. I am above 18 years of age, and I am competent to testify.

2. I submit this declaration (this "Declaration") in support of the relief requested in the *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "Motion"),[2] filed substantially contemporaneously herewith, which seeks approval of debtor in possession financing in the form of a $180 million superpriority senior secured debtor-in-possession facility (the "DIP Facility"), which includes a new money component of up to $45 million in term loans and a "roll-up" component of up to $135 million, and the consensual use of Cash Collateral.[3] Upon entry of the Interim Order, the Debtors would receive immediate access to $25 million of New Money Commitments and access to Cash Collateral.

---

[2] A detailed description of the Debtors and their business, including the facts and circumstances giving rise to the Debtors' chapter 11 cases, is set forth in the *Declaration of John Bibb, Group Chief Executive Officer of Vyaire Medical, Inc., in Support of Chapter 11 Filing and First Day Motions* (the "First Day Declaration"), filed contemporaneously herewith on June 9, 2024 (the "Petition Date"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration or the Motion.

[3] The material terms of the DIP Facility are set forth in detail in the Motion. For the avoidance of doubt, any description of the DIP Facility herein or in the Motion is qualified in its entirety by reference to the DIP Documents.

3. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my discussions with other members of the Debtors' management team and the Debtors' advisors, my review of relevant documents and information concerning the Debtors' operations, financial affairs, and restructuring initiatives, or my opinions based upon my experience and knowledge. If called as a witness, I could and would testify competently to the facts set forth in this Declaration on that basis. I am authorized to submit this Declaration on behalf of the Debtors.

**AlixPartners Retention**

4. In March 2024, the Debtors engaged AlixPartners to serve as their restructuring advisor. The Debtors sought AlixPartners' services to commence contingency preparations in the event that a chapter 11 filing became necessary and to advise the Debtors on strategic and business alternatives and liquidity management. Over the course of its engagement, AlixPartners has evaluated the Debtors' operations and cash requirements to operate their businesses during these chapter 11 cases, including by assisting in the development of the Debtors' near-term cashflow forecasts. In addition, AlixPartners has assisted the Debtors in the development of the Debtors' business plan, the assessment of strategic alternatives, and financing-related workstreams. AlixPartners has worked closely with the Debtors' management and other restructuring professionals and has become well-acquainted with the Debtors' capital structure, liquidity needs, and business operations.

5. Immediately following its engagement, AlixPartners began obtaining diligence from the Debtors and evaluating the Debtors' operations and near-term liquidity requirements for a bridge financing and, subsequently, for the debtor-in-possession financing process. AlixPartners worked with key members of the Debtors' business—including, but not limited to, members of the

finance, legal, and operations leaderships—to evaluate and understand the Debtors' cashflows, financial reporting, and general operations.

6. As part of an evaluation of the Debtors' liquidity position, AlixPartners assisted in the development of the Debtors' 13-week cashflow forecasts as well as an analysis of the Debtors' longer-term liquidity needs. These forecasts take into account anticipated cash receipts and disbursements during the projected period and considered a number of factors, including, but not limited to, the effect of the chapter 11 filing on the operations of the business, fees and interest expenses associated with postpetition financing, professional fees, customer and vendor obligations, as well as the operational performance of the underlying business.

7. On the Petition Date, the Company appointed me to the role of CRO. The Debtors determined that appointing a CRO would help support certain operational, restructuring, and cost reduction initiatives, improve their financial forecasting and treasury management capabilities, and help facilitate discussions with key creditor constituencies. Additionally, the DIP Lenders required the appointment of a CRO to provide the DIP Facility.

**The Debtors' Capital Structure**

8. As described in more detail in the First Day Declaration, the Debtors have approximately $534 million in total funded debt outstanding as of the Petition Date. This consists of approximately $339 million in aggregate principal amount of First Lien Term Loans outstanding, approximately $78.6 million in aggregate principal amount of First Lien Notes outstanding, and approximately $115.7 million outstanding in aggregate principal amount of Second Lien Term Loans outstanding.

**The Debtors' Immediate Need for Access to the DIP Facility and Cash Collateral**

9. I am familiar with the DIP Facility, the material terms thereof, and the Debtors' immediate liquidity needs. Based on my experience in the restructuring industry generally and my

experience with the Debtors in particular, I believe that approval of the proposed DIP Facility and use of Cash Collateral is essential for the continued normal course operation of the Debtors' business and a prerequisite to the successful completion of the Marketing and Sale Process and the Restructuring Transactions contemplated by the Restructuring Support Agreement.

10. The Debtors have recently faced significant headwinds brought on by the residual effects of the COVID-19 pandemic, operational challenges, and persistent inflation. These challenges have placed increased pressure on the Debtors' balance sheet and have strained the Debtors' liquidity. The Debtors pursued alternative financing transactions including an amend and extend and bridge financing, but ultimately, the Debtors were only able to secure financing on an in-court basis.

11. Prior to the commencement of these chapter 11 cases, the Debtors, in consultation with their advisors, took deliberate steps to conserve liquidity and elongate the Company's runway prior to commencement of chapter 11 proceedings to advance the Marketing and Sale process and facility negotiations with creditors. These efforts bore fruit. The Debtors have multiple indications of interest in hand and commence these chapter 11 cases with support across their capital structure, as reflected in the Restructuring Support Agreement.

12. However, as a result, the Debtors enter these chapter 11 cases with approximately $1.7 million in accessible cash on hand, which is insufficient to support their global operations and sustain the business for more than a few days. Additionally, in the period leading up to these chapter 11 cases, the Debtors were faced with a dearth of liquidity and had to pick and choose exactly where to spend their diminishing cash balances. Although the Debtors attempted to manage relationships with suppliers and vendors, near-term payment demands and the potential for supply chain disruptions suggested that this stopgap measure was not sustainable. The Debtors simply

cannot afford to take on any additional uncertainty without putting their entire business enterprise at risk and need to secure additional financing to ensure the continued viability of their enterprise. Given the Debtors' limited cash and in light of the size, scope, cash-intensive nature of the Debtors' operations, and liquidity needed to continue a value-maximizing Marketing and Sale Process, the Debtors require immediate access to proceeds under the DIP Facility and use of Cash Collateral to administer these chapter 11 cases and avoid business disruption, continue to provide service for their customers, and avoid other value-destructive business impacts to the Debtors' estates.

13. Access to the DIP Facility and use of the Cash Collateral will allow the Debtors to continue operations in the ordinary course, avoid significant business disruption, and allow the Debtors' management and advisors to facilitate the Marketing and Sale Process and effectuate the restructuring transactions contemplated in the Restructuring Support Agreement. The Debtors face significant costs related to maintaining their operations and corporate enterprise and in respect of these chapter 11 cases including: (a) satisfying obligations to employees, suppliers and customers, (b) satisfying expenses and billings related to the Debtors' manufacturing operations, (c) paying expenses relating to the use and maintenance of facilities, (d) making other payments that are essential for the continued management, operation, and preservation of the their business and assets, and (e) funding the administrative cost of these chapter 11 cases.

14. Access to this liquidity at the outset of these chapter 11 cases will convey a positive message to all stakeholders that the Debtors are adequately funded with the ability to satisfy operational obligations in the ordinary course. This positive message will reduce the likelihood that certain stakeholders will attempt to accelerate the Debtors' obligations, which would further exacerbate the Debtors' liquidity situation. Participants in the Marketing and Sale Process will also have greater confidence that the Debtors will not face value-destructive business impacts due

to their liquidity position prior to the consummation of any sale transaction. Moreover, because the DIP Facility and use of Cash Collateral are essential to the Debtors' continued operations, absent the requested relief the Debtors may be unable to continue marketing the business as a going-concern.

15. Accordingly, the Debtors require immediate access to liquidity—the proposed DIP Facility provides just that. Interim approval of the DIP Facility, permitting the Debtors to access up to $25 million of interim New Money Commitments and providing access to the use of Cash Collateral during the interim period will be critical to the Debtors' ability to continue operating and successfully administer these chapter 11 cases. Based on my experience in numerous large-scale corporate bankruptcy cases, my familiarity with the Debtors' operations, and my extensive discussions with the Debtors' management team and advisors, I believe that entering into the $45 million new financing facility and receiving access to Cash Collateral is critical to the Debtors and in the best interests of their stakeholders.

16. Over the preceding month, AlixPartners professionals operating at my direction and I assisted and advised the Debtors in evaluating the amount of funding that the Debtors will require during these chapter 11 cases. The size of the DIP Facility was derived from a cash-flow projection, including estimates of near-term and longer-term liquidity needs, that my team developed in coordination with the Debtors' management team, as well as the consideration that all of the Debtors' cash is encumbered. In light of the foregoing, I believe the thirteen-week cashflow forecast (the "Initial DIP Budget"), attached to the Interim Order as Exhibit B, represents a reasonable estimate of the Debtors' cash sources, and needs during the first thirteen weeks of these chapter 11 cases.

17. Based on the Initial DIP Budget, the DIP Facility and use of Cash Collateral will provide the Debtors with sufficient liquidity to maintain their business operations as the Debtors work to advance the Marketing and Sale Process and effectuate the Restructuring Transactions contemplated by the Restructuring Support Agreement.

18. Further, substantially all of the Debtors' cash represents Cash Collateral, and accordingly, the Debtors will not be able to meet their near-term liquidity needs without access to Cash Collateral. The Debtors rely on the Cash Collateral generated from their operations to, among other things, honor employee wages and benefits, satisfy vendor obligations in exchange for goods and services crucial to the Debtors' business operations, fund operational expenses, and maintain relationships with suppliers and customers. These needs require that operating revenue be available to satisfy payroll and contractual obligations, pay suppliers, meet overhead, and make any other payments that are essential for the continued maintenance, operation, and preservation of the Debtors' business. Absent access to the Cash Collateral, the Debtors would face a value-destructive interruption to their business operates and severe limitations on their ability to implement the restructuring transactions contemplated by the Restructuring Support Agreement.

## Conclusion

19. I believe that access to the DIP Facility and Cash Collateral will ensure the Debtors have sufficient funds to preserve and maximize the value of their estates, pursue their restructuring goals in the interim period, and responsibly administer these chapter 11 cases throughout the period that the Debtors expect will be necessary to implement and effectuate the sale process contemplated by the Restructuring Support Agreement.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: June 10, 2024

*/s/ DRAFT*
Name: Charles N. Braley
Title: Chief Restructuring Officer
Vyaire Medical, Inc.