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 (___)
Debtors.	)	(Joint Administration Requested)

MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THE CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED THERETO, (C) MAINTAIN EXISTING BUSINESS FORMS, (D) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS, AND (II) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (collectively, the "Debtors" and, each, a "Debtor") state as follows in support of this motion:[2]

Relief Requested

1. The Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (respectively, the "Interim Order" and the "Final Order" and, collectively, the "Proposed Orders"): (a) authorizing the Debtors to continue to operate the Cash Management System (as defined below), illustrated on Exhibit 1 attached to the Proposed Orders and maintain existing Bank Accounts (as defined herein), honor

[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.

[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 and incorporated by reference herein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.

certain prepetition obligations related thereto, maintain existing business forms in the ordinary course of business, continue to perform intercompany transactions consistent with historical practice, and grant administrative expense status to postpetition intercompany balances; and (b) granting related relief. In addition, the Debtors request that the Court schedule a final hearing approximately 21 days from the Petition Date.

Jurisdiction and Venue

2. The United States District Court for the District of Delaware has jurisdiction over this matter pursuant to 28 U.S.C. §1334, which was referred to the United States Bankruptcy Court for the District of Delaware (the "Court") under 28 U.S.C. § 157 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. The Debtors confirm their consent, pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested herein are sections 105, 345, 363, 364, and 503 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), rules 2002, 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Local Rules 2002-1, 2015-2 and 9013-1.

Background

5. Vyaire Medical, Inc., together with its direct and indirect subsidiaries (collectively, "Vyaire" or the "Company"), is a global company focused on developing products and providing

related services for the diagnosis, treatment, and monitoring of various cardiology, pulmonology, and respiratory health conditions. With a 70-year history of pioneering breathing technology, the integrated solutions offered by the Company help enable, enhance, and extend lives. Headquartered in Mettawa, Illinois, Vyaire operates approximately 27 offices and manufacturing facilities, and employs approximately 950 individuals around the world. The Company has a global reach, and Vyaire products are available in more than 100 countries. Its customers are the hospitals, health centers, and private practice facilities delivering life-enhancing products and services to patients every day.

6. On June 9, 2024 (the "Petition Date"), Vyaire Medical, Inc. and certain of its subsidiaries filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their business and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this motion, the Debtors filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no official committees have been appointed or designated.

The Cash Management System

I. Overview.

7. In the ordinary course of business, the Debtors, together with their non-Debtor affiliates, maintain a consolidated cash management system (the "Cash Management System") to facilitate the efficient operation of their business, as illustrated on Exhibit 1 attached to the Proposed Orders.

8. Comparable to the centralized cash management systems used by similarly situated companies, the Cash Management System is used to manage the cash of operating units in a

cost-effective manner and ensure the availability of adequate funds at each entity. The Debtors use the Cash Management System in the ordinary course of their business to collect, transfer, and disburse funds generated from their operations and to facilitate cash monitoring, forecasting, and reporting.

9. The Cash Management System includes a total of 63 bank accounts, 19 of which are held by Debtors (such bank accounts held by the Debtors, together with any other bank accounts the Debtors may open in the ordinary course of business, the "Bank Accounts"). A list of the Bank Accounts is attached to the Proposed Orders as Exhibit 2. All of the Bank Accounts are held at JPMorgan Chase Bank, N.A. ("JPM" or the "Cash Management Bank"). The bank accounts not owned by the Debtors, all of which are maintained at banks outside of the United States, are used to collect receipts and make disbursements for non-Debtor entity activities. As discussed below, there are intercompany transfers between Debtors and non-Debtors on an ad-hoc basis as needed to support the international business, including fulfilling ordinary course production requirements related to customer orders.

10. The Cash Management System facilitates the timely and efficient collection, management, and disbursement of funds used in the Debtors' business. The Debtors estimate that cash collections will average approximately $12 million per month for the first 3 months of these chapter 11 cases, including cash receipts, credit card receipts, wire transfer receipts, and ACH receipts (exclusive of Intercompany Claims). In addition, the Debtors estimate that total disbursements on account of continued operations will be approximately $16 million per month for the first 3 months of these chapter 11 cases (exclusive of Intercompany Claims).

11. The Debtors' accounting and treasury departments manage the Bank Accounts, including the opening, closing, and day-to-day maintenance of the Cash Management System. The

accounting and treasury departments operate under certain controls and internal policies for entering, processing, and releasing funds in the ordinary course of the Debtors' business, including in connection with the intercompany transactions, and perform monthly reconciliations of the Bank Accounts to the Debtors' books and records to ensure that all transfers are accounted for properly. The Debtors have used the current Cash Management System without substantial modification for more than five years.

12. The Cash Management System uses integrated systems to help control funds, ensure cash availability for each entity, and reduce administrative expenses by facilitating the movement of funds among multiple entities. As described herein, given the economic and operational scale of the Debtors' business, any disruption to the Cash Management System would be materially detrimental to the Debtors' operations to the detriment of their estates and stakeholders. To minimize the disruption and to maximize the value of the Debtors' estates, the Debtors request authority to continue operating the Cash Management System in the ordinary course of business and consistent with prepetition practices during the pendency of these chapter 11 cases.

II. The Bank Accounts and Flow of Funds.

13. The Cash Management System is tailored to meet the Debtors' operating needs—enabling the Debtors to control and monitor corporate funds, ensure cash availability and liquidity, comply with the requirements of their financing agreements, and reduce administrative expenses by facilitating the movement of funds and the development of accurate account balances.

A. The Bank Accounts.

14. The 19 Bank Accounts are held by the following Debtors:

- 3 Bank Accounts owned by Vyaire Medical, Inc.;
- 3 Bank Accounts owned by Vyaire Medical LLC;
- 2 Bank Accounts owned by Vyaire Medical Receivables LLC;

- 2 Bank Accounts owned by Vyaire Respiratory Diagnostics LLC;
- 2 Bank Accounts owned by Vyaire Medical Consumables LLC;
- 1 Bank Account owned by Vyaire Medical Payroll LLC;
- 1 Bank Account owned by Vyaire Medical 203, Inc.;
- 1 Bank Account owned by Vyaire Medical 211, Inc.;
- 1 Bank Account owned by Vyaire Finance B.V.;
- 1 Bank Account owned by Breathe US HoldCo, Inc.;
- 1 Bank Account owned by Vyaire TSR Sub, LLC; and
- 1 Bank Account owned by Vyaire Receivables LLC.

15. As of the Petition Date, the Debtors have approximately $1.7 million of cash on hand available in the Bank Accounts. The majority of the Debtors' Bank Accounts are denominated in U.S. dollars (USD), with one Bank Account (ending in 3729) denominated in Euros. The Debtors' Bank Accounts are described in the following table:

Account	Account Description
The Bank Accounts	
Main Concentration Account *JPM Account ending in 6750*	The main concentration account, held by Debtor Vyaire Medical LLC, is the primary account for the Debtors' operational and financing activities (the "Main Concentration Account"). The Main Concentration Account is funded by the Receivables Account. The Main Concentration Account maintains a balance sufficient to fund day-to-day cash needs and disburses funds throughout the Cash Management System, as needed—for example, to pay taxes, vendors, and other operational costs. The Main Concentration Account is governed by a deposit account control agreement in favor of Bank of America, N.A. and Wilmington Trust, National Association.
Disbursement Accounts *JPM Account ending in 8823* *JPM Account ending in 9813* *JPM Account ending in 6768* *JPM Account ending in 6776* *JPM Account ending in 9358* *JPM Account ending in 1052*	Six of the Debtors' Bank Accounts are disbursement accounts (the "Disbursement Accounts"). The Debtors use the Disbursement Accounts to make disbursements related to trade vendors, certain general and administrative expenses, payroll, and other corporate expenses. The Disbursement Accounts are zero balance accounts and receive funds from the Main Concentration Account as needed to pay for operational costs, taxes, and other expenses.
Collections Accounts *JPM Account ending in 8568* *JPM Account ending in 3963* *JPM Account ending in 0930* *JPM Account ending in 6800*	The Debtors maintain 4 collections accounts (the "Collections Accounts") that receive payments made to Debtors Vyaire Medical 203, Inc., Vyaire Medical 211, Inc., Vyaire Respiratory Diagnostics LLC, and Vyaire Medical Consumables LLC, respectively. Funds from these accounts are zero-balanced daily to the receivables account (the "Receivables Account") ending in 0162.

Account	Account Description
Receivables Account *JPM Account ending in 0162*	The Receivables Account is a zero-balance account that receives cash from the Collections Accounts and transfers its balance daily to the Main Concentration Account.
Medical Intercompany Account *JPM Account ending in 6818*	Intercompany transactions between U.S and non-U.S. accounts are carried out between Debtor Vyaire Medical Inc.'s intercompany account (the "Medical Intercompany Account") and the Main Concentration Account. The Medical Intercompany Account zero-balances to the Main Concentration Account.
Escrow Account *JPM Account ending in 3957*	The escrow account (the "Escrow Account") holds cash collateral and other restricted funds that serve to support/guarantee letters of credit and bank guarantees for certain leases and payroll deductions.
Professional Fee Escrow Account *JPM Account ending in 2296*	The Bank Account ending in 2296 (the "Professional Fee Escrow Account") will hold funds in escrow for payment of professionals during these chapter 11 cases.
Corporate Deposit Account *JPM Account ending in 7959*	The Corporate Deposit Account is used to receive miscellaneous corporate cash receipts, such as tax refund and insurance reimbursement. The Debtors transfer its balance manually to the Main Concentration Account on an as-needed basis.
International Account *JPM Account ending in 3729*	The Debtors maintain an international account (the "International Account") in the Netherlands. This Bank Account is held in Amsterdam and is primarily used to pay taxes in Euros.
Utilities Adequate Assurance Account *JPM Account ending in 8175*	Previously inactive, the Bank Account ending in 8175 (the "Utilities Adequate Assurance Account") has been repurposed to hold funds intended to provide adequate assurance to the Debtors' utility providers during these chapter 11 cases, subject to any applicable order entered by the Court.
Dormant Account *JPM Account ending in 9539*	The Bank Account that is not in regular use or holds nominal amounts of cash (the "Dormant Account").

B. Bank Fees.

16. The Debtors pay the Cash Management Bank approximately $25,000 per month in the aggregate on account of fees incurred in connection with the administration of the Cash Management System (the "Bank Fees"). Alternatively, the Debtors sometimes carry a balance in the Bank Accounts high enough to have the Bank Fees waived. The Debtors do not believe that they owe any prepetition amounts on account of Bank Fees as of the Petition Date.

Out of an abundance of caution, the Debtors request authority to pay any outstanding Bank Fees, including any prepetition amounts, in the ordinary course of business on a postpetition basis. Further, the Debtors seek authority to continue paying Bank Fees, including any Bank Fees that may be owed as of the Petition Date, in the ordinary course on a postpetition basis.

C. Company Credit Cards.

17. As part of the Cash Management System, the Debtors provide certain employees with access to (i) approximately 156 corporate credit cards (the "Corporate Credit Cards") used for work-related expenses, such as work-related meals, office supplies, work-related lodging, vendor payments, and small, nonrecurring purchases made on behalf of the Debtors; (ii) four purchasing credit cards (the "Purchasing Credit Cards") used for U.S. and international office purchases; and (iii) a virtual credit card (the "Virtual Credit Card") that is used globally for the purchase of work-related airline flights—all held through American Express Company on arm's-length terms (collectively, the "Credit Card Program"). The Corporate Credit Cards, Purchasing Credit Cards, and Virtual Credit Card are reimbursed from the Disbursement Account ending in 6768. Further, only 3 employees within the treasury department have the authority to approve payments on account of the Credit Card Program.

18. In the aggregate, the line of credit under the Credit Card Program totals approximately $800,000. Historically, the Debtors spend approximately $400,000 monthly under the Credit Card Program. The Debtors pay off outstanding balances monthly, and the Debtors estimate that approximately $95,000 is outstanding on account of the Credit Card Program as of the Petition Date.

19. The Credit Card Program is an integral part of the Debtors' Cash Management System. The Employees' continued use of the Corporate Credit Cards for office supplies, vendor payments, and other work-related purposes, and continued use of the Purchasing Credit Cards and

the Virtual Credit Card, and the Debtors' ability to pay expenses incurred through the Credit Card Program, is essential to the continued operation of the Debtors' business. Accordingly, the Debtors seek authority, but not direction, to issue credit cards pursuant to the Credit Card Program, subject to any terms and conditions thereof, and to pay any amount due and owing thereunder, in the ordinary course of business on a postpetition basis, including, without limitation, making payments on account of charges that were made under the Credit Card Program both prior to and after the Petition Date.

III. Compliance with the U.S. Trustee Guidelines and the Bankruptcy Code.

A. U.S. Trustee Authorized Depositories.

20. Section 345(a) of the Bankruptcy Code governs a debtor's cash deposits during a chapter 11 case and authorizes deposits of money as "will yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment." 11 U.S.C. § 345(a). In order to comply with section 345 of the Bankruptcy Code, the Office of the United States Trustee for the District of Delaware's (the "U.S. Trustee") *Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees* (the "U.S. Trustee Guidelines") generally require chapter 11 debtors to, among other things, deposit all estate funds into an account with an authorized depository that agrees to comply with the requirements of the U.S. Trustee. Section 345(b) of the Bankruptcy Code requires a debtor's bank to post a bond unless a debtor's funds are "insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States." 11 U.S.C. § 345(b).

21. The Bank Accounts are all held at JPM, an authorized depository under the U.S. Trustee Guidelines and insured by the Federal Deposit Insurance Corporation ("FDIC"). If the Debtors open any new accounts during these cases, the Debtors will do so at institutions which

are designated as authorized depositories by the U.S. Trustee Guidelines. Thus, the Debtors believe that because the Cash Management Bank has been authorized by the U.S. Trustee, and the Debtors do not have investment accounts, the Debtors are in compliance with section 345(b) of the Bankruptcy Code and the U.S. Trustee Guidelines.

22. Out of an abundance of caution, to the extent the Court does not determine that the requirements of section 345(b) of the Bankruptcy Code are satisfied, the Debtors request a 30-day waiver of the requirements of section 345(b) on an interim basis, and a 45 -day waiver on a final basis, subject to the Debtors' rights to seek further extensions thereof.

B. Business Forms and Books and Records.

23. As part of the Cash Management System, the Debtors may utilize numerous business forms from time to time in the ordinary course of their business, including letterhead, purchase orders, invoices, and checks (the "Business Forms"). The U.S. Trustee Guidelines require that the Cash Management Bank prints "Debtor in Possession" and the bankruptcy case number on checks issued after the Petition Date.

24. With respect to any checks that are generated electronically after the Petition Date, the Debtors will update such checks to indicate their status as "Debtor in Possession" and the bankruptcy case numbers. However, out of an abundance of caution, the Debtors request that, to the extent there are any pre-printed checks and other Business Forms, the Court authorize the Debtors' continued use of all such Business Forms in existence immediately before the Petition Date, without reference to the Debtors' status as debtors in possession 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.

IV. Intercompany Transactions within the Cash Management System.

25. In the ordinary course of business, the Debtors regularly engage in routine business relationships with each other and non-Debtor affiliates (the "Intercompany Transactions"), resulting in intercompany receivables and payables (the "Intercompany Claims"). When the Debtors need to make a transfer in foreign currency (typically when subsidiaries need additional funds from the Main Concentration Account), minimal transfer fees are incurred.

26. Intercompany Transactions occur as part of the ordinary course operation of the Cash Management System, and at any given time, there may be Intercompany Claims owing by a Debtor to another Debtor, or by a Debtor to a non-Debtor affiliate. Specifically, at the end of each day, the Main Concentration Account, held by Debtor Vyaire Medical, Inc., receives excess cash swept from the Receivables Account, maintained by Debtor Vyaire Receivables LLC, and certain non-Debtor bank accounts, including international bank accounts. Conversely, when affiliates of Debtor Vyaire Medical, Inc. need to make certain disbursements, such affiliates may draw cash from the Main Concentration Account via the Medical Intercompany Account. Intercompany Transactions are recorded on such occasions.

27. As such, in connection with the daily operation of the Cash Management System, as funds are disbursed throughout the Cash Management System and as business is transacted between and amongst the Debtors and non-Debtor affiliates, at any given time there may be Intercompany Claims owing by one Debtor to another Debtor, or one Debtor to a non-Debtor affiliate. The Intercompany Claims are reflected as receivables and payables balances, as applicable, in the respective Debtors' accounting systems, and no settlement of these Intercompany Claims is typically made in cash. The Debtors closely track all fund transfers in their respective accounting systems and can ascertain, trace, and account for all Intercompany Transactions. The Debtors, with the assistance of their advisors, have also put in place monitoring systems to be able

to track postpetition intercompany transfers. As of the Petition Date, the Debtors estimate that there is approximately $71 million in outstanding net Intercompany Claims owed on account of such obligations. The Debtors estimate that, on a monthly basis, approximately $1 million net is transferred from Debtor entities to non-Debtor entities.

28. The Intercompany Transactions are an essential component of the Debtor and their non-Debtor affiliates' complex global operations, and they are crucial for the Debtors' ability to process payroll and payments to third-party vendors, provide enterprise-wide management and support services, facilitate the shipping of devices to customers, and otherwise facilitate operations on a daily basis. If the Intercompany Transactions were to be discontinued, the Cash Management System and the Debtors' operations would be disrupted unnecessarily to the detriment of the Debtors, their creditors, and other stakeholders.

29. Accordingly, the Debtors seek authority, and, to the extent applicable, relief from the automatic stay, to continue the Intercompany Transactions and pay prepetition Intercompany Claims and continue paying Intercompany Claims on a postpetition basis in the ordinary course of business, in a manner substantially consistent with the Debtors' past practices and well-reasoned policies.[3]

[3] This motion provides an overview of the Debtors' typical Intercompany Transactions. The relief requested herein is applicable with respect to all Intercompany Transactions and is not limited to those Intercompany Transactions described in this motion. To the extent that there are any outstanding prepetition obligations related to Intercompany Transactions not described herein, the Debtors, out of an abundance of caution, seek authority to honor such obligations.

Basis for Relief

I. The Court Should Authorize the Debtors' Continued Use of the Cash Management System As It Is Essential to the Debtors' Ongoing Operations and Restructuring Efforts.

30. The U.S. Trustee Guidelines require debtors in possession to, among other things: (a) establish one debtor-in-possession bank account for all estate monies required for the payment of taxes, including payroll taxes; (b) close all existing bank accounts and open new debtor-in-possession accounts; (c) maintain a separate debtor-in-possession account for cash collateral; and (d) obtain checks that bear the designation "debtor in possession" and reference the bankruptcy case number and type of account on such checks. These requirements are intended to provide a clear line of demarcation between prepetition and postpetition transactions, payments, and operations and help protect against the inadvertent payment of prepetition claims by preventing banks from honoring checks drawn before the Petition Date.

31. Considering, however, the complexity of the Debtors' business and financial affairs and the need to collect, disburse, and move funds throughout the Cash Management System that is necessary to maintain Debtors' existing corporate accounting and cash forecasting reporting, enforcement of these provisions of the U.S. Trustee Guidelines during these chapter 11 cases would disrupt the Debtors' ability to efficiently administer these chapter 11 cases. Accordingly, the Debtors respectfully request that the Court allow them to operate each of the Bank Accounts listed on Exhibit 2 attached to the Proposed Orders, as they were maintained in the ordinary course of business prior to the Petition Date.

32. The continuation of the Cash Management System should be permitted pursuant to section 363(c)(1) of the Bankruptcy Code, which authorizes the debtor in possession to "use property of the estate in the ordinary course of business without notice or a hearing." Bankruptcy courts routinely treat requests for authority to continue utilizing existing cash management systems

as a relatively "simple matter." *In re Baldwin-United Corp.*, 79 B.R. 321, 327 (Bankr. S.D. Ohio 1987). Additionally, courts recognize that an integrated cash management system "allows efficient utilization of cash resources and recognizes the impracticalities of maintaining separate cash accounts for the many different purposes that require cash." *In re Columbia Gas Sys., Inc.*, 136 B.R. 930, 934 (Bankr. D. Del. 1992), *aff'd in part and rev'd in part*, 997 F.2d 1039 (3d Cir. 1993). The United States Court of Appeals for the Third Circuit emphasized that requiring a debtor to maintain separate accounts "would be a huge administrative burden and economically inefficient." *Columbia Gas*, 997 F.2d at 1061; *accord In re Southmark Corp.*, 49 F.3d 1111, 1114 (5th Cir. 1995) (noting that maintaining an existing cash management system allows a debtor "to administer more efficiently and effectively its financial operations and assets").

33. Requiring the Debtors to adopt a new, segmented cash management system during these chapter 11 cases would be expensive, burdensome, and unnecessarily disruptive to the Debtors' operations. Importantly, the Cash Management System provides the Debtors with the ability to, among other things, quickly assess the location and amount of funds, which, in turn, allows management to track and control such funds, ensure cash availability throughout the Debtors' corporate structure, and reduce administrative costs through a centralized method of coordinating the collection and movement of funds. Maintaining the current Cash Management System will facilitate the Debtors' smooth transition into chapter 11 by, among other things, minimizing delays in paying postpetition debts and eliminating administrative inefficiencies. Finally, maintaining the current Cash Management System will allow the Debtors' accounting and treasury employees to focus on their daily responsibilities as opposed to the non-accretive task of reconstructing the Cash Management System.

34. The Debtors' continued use of the Cash Management System will facilitate the Debtors' transition into chapter 11 by, among other things, avoiding administrative inefficiencies and expenses associated with disrupting this system and minimizing delays in the payment of postpetition obligations. Parties in interest will not be harmed by the Debtors maintaining the Cash Management System, including maintaining the Bank Accounts and the Intercompany Transactions, because the Debtors implemented appropriate mechanisms to ensure that unauthorized payments will not be made on account of obligations incurred before the Petition Date. Specifically, the Debtors have implemented internal control procedures that prohibit payments on account of prepetition debts without the prior approval of the Debtors' accounting and treasury departments, and only three employees within the accounting and treasury departments may approve payments. In light of such protective measures, the Debtors submit that maintaining the Cash Management System is in the best interests of their estates and creditors.

35. Accordingly, the Debtors request the Court authorize the continued use of the existing Cash Management System to facilitate the Debtors' transition into chapter 11. Specifically, the Debtors request that the Court authorize the Cash Management Bank to continue to maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course of business. In this regard, the Cash Management Bank should be authorized to receive, process, honor, and pay any and all checks, ACH transfers and other instructions, and drafts payable through, drawn, or directed on such Bank Accounts after the Petition Date by holders, makers, or other parties entitled to issue instructions with respect thereto. Notwithstanding the foregoing, any check, draft, or other notification that the Debtors advise the Cash Management Bank to have drawn, issued, or otherwise presented before the Petition Date may be honored by the Cash Management Bank only to the extent

authorized by order of the Court. If the Debtors' ability to conduct transactions by these methods is impaired, the Debtors may be unable to perform under certain contracts, and payments to vendors could be delayed, resulting in unnecessary disruption to their business operations and additional costs to their estates.

36. The Debtors request that the Court grant further relief from the U.S. Trustee Guidelines to the extent they require the Debtors to make all disbursements by check. In particular, the U.S. Trustee Guidelines require that all receipts and all disbursements of estate funds must be made by check with a notation representing the reason for the disbursement. As discussed above, in the ordinary course of business, the Debtors conduct transactions through ACH transfers and other similar methods. In addition, a certain percentage of the Debtors' receipts are received through wire transfer or credit card payments. If the Debtors' ability to conduct transactions by debit, credit card, wire, ACH transfer, or other similar methods—including their ability to pay associated fees—is impaired, the Debtors may be unable to perform under certain contracts, their business operations may be unnecessarily disrupted, and their estates will incur additional costs.

37. The Debtors further request that the Court authorize the Cash Management Bank to accept and honor all representations from the Debtors as to which checks, drafts, wires, or ACH transfers should be honored or dishonored consistent with any order of the Court and governing law, whether such checks, drafts, wires, or ACH transfers are dated before or subsequent to the Petition Date. The Debtors also request that, to the extent the Cash Management Bank honors a prepetition check or other item drawn on any account either: (a) at the direction of the Debtors; (b) in the good-faith belief that the Court has authorized such prepetition check or item to be honored; or (c) as a result of a mistake made despite implementation of reasonable customary item handling procedures, such bank will not be deemed to be liable to the Debtors, their estates, or any

other party on account of such prepetition check or other item honored postpetition. The Debtors respectfully submit that such relief is reasonable and appropriate because the Cash Management Bank is not in a position to independently verify or audit whether a particular item may be paid in accordance with a Court order or otherwise.

38. Moreover, the Debtors request that the Court authorize the Debtors to pay any prepetition Bank Fees on account of prepetition transactions that are charged postpetition, and authorize the banks to: (a) continue to charge the Debtors the Bank Fees; and (b) charge-back returned items to the Bank Accounts, whether such items are dated before, on, or subsequent to the Petition Date, in the ordinary course.

39. Courts in this district routinely allow debtors in large chapter 11 cases to maintain their existing cash management systems and waive the U.S. Trustee Guidelines on the grounds that they may be potentially disruptive to a debtor's postpetition business operations and restructuring efforts. Such relief generally is non-controversial. *See*, *e.g.*, *In re Express, Inc.*, No. 24-10831 (KBO) (Bankr. D. Del. May 15, 2024) (authorizing the debtors to maintain use of their prepetition cash management system); *In re Sientra, Inc.*, No. 24-10245 (JTD) (Bankr. D. Del. Mar. 11, 2024) (same); *In re MVK FarmCo LLC*, No. 23-11721 (LSS) (Bankr. D. Del. Nov. 13, 2023) (same); *In re Yellow Corp.*, No. 23-11069 (CTG) (Bankr. D. Del. Sept. 14, 2023) (same); *In re PGX Holdings, Inc.*, No. 23-10718 (CTG) (Bankr. D. Del. June 4, 2023) (same).

II. The Court Should Authorize Payment of Fees and Prepetition Obligations Related to the Bank Accounts.

40. Courts have recognized that it is appropriate to authorize the payment of prepetition obligations where necessary to protect and preserve the estate, including an operating business's going-concern value. *See, e.g.*, *In re Just for Feet, Inc.*, 242 B.R. 821, 825–26 (D. Del. 1999); *see also In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002); *In re Ionosphere*

Clubs, Inc., 98 B.R. 174, 175–76 (Bankr. S.D.N.Y. 1989); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983). In so doing, these courts acknowledge that several legal theories rooted in sections 105(a) and 363(b) of the Bankruptcy Code support the payment of prepetition claims.

41. Section 363(b) of the Bankruptcy Code permits a bankruptcy court, after notice and a hearing, to authorize a debtor to "use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). "In determining whether to authorize the use, sale or lease of property of the estate under this section, courts require the debtor to show that a sound business purpose justifies such actions." *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) (collecting cases); *see also Armstrong World*, 29 B.R. at 397 (relying on section 363 of the Bankruptcy Code to allow contractor to pay prepetition claims of suppliers who were potential lien claimants because the payments were necessary for general contractors to release funds owed to debtors); *Ionosphere Clubs*, 98 B.R. at 175 (finding that a sound business justification existed to justify payment of certain prepetition wages); *In re Phx. Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987) (requiring the debtor to show a "good business reason" for a proposed transaction under section 363(b)).

42. Courts also authorize payment of prepetition claims in appropriate circumstances based on section 105(a) of the Bankruptcy Code, which codifies a bankruptcy court's inherent equitable powers to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Under section 105(a) of the Bankruptcy Code, courts may authorize pre-plan payments of prepetition obligations when essential to the continued operation of a debtor's business. *See Just for Feet*, 242 B.R. at 825–26. Specifically, a court may

use its power under section 105(a) of the Bankruptcy Code to authorize payment of prepetition obligations pursuant to the "necessity of payment" rule (also referred to as the "doctrine of necessity"). *See, e.g.*, *Ionosphere Clubs*, 98 B.R. at 176; *In re Lehigh & New England Ry Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (stating that courts may authorize payment of prepetition claims when there "is the possibility that the creditor will employ an immediate economic sanction, failing such payment"); *see also In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (noting that, in the Third Circuit, debtors may pay prepetition claims that are essential to the continued operation of the business). A bankruptcy court's use of its equitable powers to "authorize the payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept." *Ionosphere Clubs*, 98 B.R. at 175–76 (citing *Miltenberger v. Logansport, C. & S.W. Ry. Co.*, 106 U.S. 286 (1882)). Indeed, at least one court has recognized that there are instances when a debtor's fiduciary duty can "only be fulfilled by the preplan satisfaction of a prepetition claim." *See CoServ*, 273 B.R. at 497.

43. These standards are satisfied here because paying fees, including Bank Fees, and related prepetition obligations are necessary to maintain the Cash Management System and avoid any disruption in the administration of the Bank Accounts. The Debtors request authority, but not direction, to continue to pay the Bank Fees, including any prepetition Bank Fees, in light of the material benefit of maintaining the Cash Management System. The relief requested represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates, and is therefore justified under sections 105(a) and 363(b) of the Bankruptcy Code and Bankruptcy Rule 6003.

III. The Court Should Authorize the Debtors to Continue Using Their Existing Business Forms.

44. To the extent the Debtors have preprinted checks, and to avoid disruption of the Cash Management System and unnecessary expense, pursuant to Local Rule 2015-2(a), the Debtors request that they be authorized to continue to use such checks and other Business Forms substantially in the form existing immediately before the Petition Date, without reference to their status as debtors in possession. The Debtors submit that parties in interest will not be prejudiced if the Debtors are authorized to continue to use Business Forms substantially in the forms existing immediately before the Petition Date. Parties doing business with the Debtors undoubtedly will be aware of their status as debtors in possession and, thus, changing preprinted business forms is unnecessary and would be unduly burdensome. Nonetheless, and in accordance with Local Rule 2015-2(a), with respect to any checks that are generated electronically, or following the depletion of the Debtors' preprinted check stock during the pendency of these chapter 11 cases, if any, the Debtors shall ensure that such electronic checks and new check stock reflect their status as debtors in possession and the corresponding bankruptcy case number.

45. In other large chapter 11 cases, courts in this District have allowed debtors to use their prepetition business forms without the "debtor in possession" label. *See*, *e.g.*, *In re Express, Inc.*, Case No. 24-10831 (KBO) (Bankr. D. Del. May 15, 2024) (authorizing the debtors' continued use of business forms without a "Debtor in Possession" marking); *In re Sientra, Inc*., Case No. 24-10245 (JTD) (Bankr. D. Del. Mar. 11, 2024) (same); *In re MVK FarmCo LLC*, Case No. 23-11721 (LSS) (Bankr. D. Del. Nov. 13, 2023) (same); *In re Yellow Corp.*, Case No. 23-11069 (CTG) (Bankr. D. Del. Sept. 14, 2023) (same); *In re PGX Holdings, Inc*., Case No. 23-10718 (CTG) (Bankr. D. Del. June 4, 2023) (same).

IV. The Court Should Authorize the Debtors to Continue Conducting Intercompany Transactions in the Ordinary Course and Grant Administrative Priority Status to Postpetition Intercompany Claims Among the Debtors, or by one Debtor to a non-Debtor affiliate.

46. The Debtors' funds move through the Cash Management System as described above. At any given time, there may be Intercompany Claims owing by one Debtor to another Debtor, or by one Debtor to a non-Debtor affiliate. Intercompany Transactions are made between and among Debtor affiliates in the ordinary course as part of the Cash Management System.[4] The Debtors closely track all fund transfers in their accounting systems and can ascertain, trace, and account for all Intercompany Transactions previously described. The Debtors will continue to maintain records of such Intercompany Transactions. If the Intercompany Transactions were to be discontinued, the Cash Management System and the related administrative controls would be disrupted to the detriment of the Debtors' and their estates. Since these transactions represent extensions of intercompany credit made in the ordinary course of business that are an essential component of the Cash Management System, the Debtors request the authority to continue conducting the Intercompany Transactions in the ordinary course of business without need for further Court order.

47. If the Intercompany Transactions were to be discontinued, the Cash Management System and related administrative controls would be disrupted to the Debtors' detriment. On the other hand, preserving "business as usual" and avoiding the unnecessary distractions inevitably

[4] Because the Debtors engage in Intercompany Transactions on a regular basis and such transactions are common among enterprises like that of the Debtors, the Debtors submit that the Intercompany Transactions are ordinary course transactions within the meaning of section 363(c)(1) of the Bankruptcy Code and, thus, do not require this Court's approval. Nonetheless, out of an abundance of caution, the Debtors are seeking express authority to engage in such transactions on a postpetition basis. Moreover, the continued performance of the ordinary course Intercompany Transactions is integral to ensure the Debtors' ability to operate their businesses as debtors in possession.

associated with any substantial disruption in the Cash Management System will facilitate the Debtors' sale efforts.

48. To ensure each individual Debtor will not, at the expense of its creditors, fund the operations of another entity, the Debtors request, pursuant to section 503(b)(1) of the Bankruptcy Code, that all postpetition payments between or among a Debtor and another Debtor, and between or among a Debtor and a non-Debtor affiliate, on account of an Intercompany Transaction be accorded administrative expense status. For the avoidance of doubt, the relief requested herein with respect to the postpetition Intercompany Transactions and the intercompany balances resulting therefrom shall not constitute an admission of the Debtors or any other party as to the validity, priority, or status of any prepetition intercompany balance or the Intercompany Transaction(s) from which such intercompany balance may have arisen. Out of an abundance of caution, the Debtors respectfully request the authority to continue conducting the Intercompany Transactions in the ordinary course of business without need for further Court order. Any and all Intercompany Transactions will be undertaken in accordance with the DIP Credit Agreement[5] and any and all subordination or other requirements included therein.

49. Similar relief has been granted in other comparable chapter 11 cases in this jurisdiction. *See*, *e.g.*, *In re Express, Inc.*, Case No. 24-10831 (KBO) (Bankr. D. Del. May 15, 2024) (authorizing the continuation of intercompany transactions in the ordinary course of business and according administrative expense status to intercompany claims related thereto); *In re MVK FarmCo LLC*, Case No. 23-11721 (LSS) (Bankr. D. Del. Nov. 13, 2023) (same);

[5] "DIP Credit Agreement" means that certain Senior Secured Super-Priority Term Loan Debtor-In-Possession Credit Agreement to be entered into by and among Vyaire Company, as holdings, Vyaire Medical, Inc. as U.S. Borrower, Vyaire Finance B.V., as the Dutch Borrower, the other lenders from time to time party thereto, and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent, as such agreement may be amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time.

In re Yellow Corp., Case No. 23-11069 (CTG) (Bankr. D. Del. Sept. 14, 2023) (same); *In re Lannett Co., Inc.*, Case No. 23-10559 (JKS) (Bankr. D. Del. June 5, 2023) (same); *In re PGX Holdings, Inc.*, Case No. 23-10718 (CTG) (Bankr. D. Del. June 4, 2023) (same).

V. Waiving of the Requirements of Section 345(b) of the Bankruptcy Code Is Warranted.

50. The Debtors further seek a waiver of the deposit and investment requirements set forth in section 345 of the Bankruptcy Code. Section 345(a) of the Bankruptcy Code authorizes deposit or investment of money of estates, such as cash, as "will yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment." For deposits that are not "insured or guaranteed by the United States or by a department, agency or instrumentality of the United States or backed by the full faith and credit of the United States," section 345(b) of the Bankruptcy Code provides that the estate must require from the entity with which the money is deposited or invested a bond in favor of the United States secured by the undertaking of a corporate security, "unless the court for cause orders otherwise."

51. Courts may waive compliance with section 345 of the Bankruptcy Code for "cause." In evaluating whether "cause" exists, courts have considered a number of factors such as:

a. the sophistication of the debtor's business;

b. the size of the debtor's business operations;

c. the amount of the investments involved;

d. the bank ratings (Moody's and Standard & Poor) of the financial institutions where the debtor-in-possession funds are held;

e. the complexity of the case;

f. the safeguards in place within the debtor's own business for ensuring the safety of the funds;

g. the debtor's ability to reorganize in the face of a failure of one or more of the financial institutions;

h. the benefit to the debtor;

i. the harm, if any, to the debtor;

j. the harm, if any, to the estate; and

k. the reasonableness of the debtor's request for relief from section 345(b) requirements in light of the overall circumstances of the case.

See In re Serv. Merch. Co., Inc., 240 B.R. 894, 896 (Bankr. M.D. Tenn. 1999).

52. Because the Bank Accounts are vital to the Cash Management System, requiring the Debtors to transfer funds to other banks would be unduly burdensome to the Debtors' operations and potentially cause severe tax consequences to the detriment of the Debtors' estates. The Bank Accounts are maintained at a well-capitalized, highly rated bank, insured by the FDIC, and/or are otherwise necessary for the Debtors to transact in certain jurisdictions. Therefore, cause exists to waive the requirements of section 345(b) of the Bankruptcy Code and allow the Debtors to continue to maintain the Bank Accounts in the ordinary course of business.

Processing of Checks and Electronic Fund Transfers Should Be Authorized

53. The Debtors have sufficient funds to pay the amounts described in this motion in the ordinary course of business by virtue of access to cash on hand and anticipated access to cash collateral and debtor-in-possession financing. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to any authorized payment in respect of the relief requested herein. Accordingly, the Debtors do not believe that checks or wire transfer requests, other than those relating to authorized payments, will be inadvertently honored. Therefore, the Debtors request authority, but not direction, to authorize all applicable financial institutions, when requested by the Debtors, to receive, process,

honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this motion.

The Requirements of Bankruptcy Rule 6003(b) Are Satisfied

54. Bankruptcy Rule 6003 empowers a court to grant certain relief within the first twenty-one days after the petition date only "to the extent that relief is necessary to avoid immediate and irreparable harm." For the reasons discussed above, the Debtors believe an immediate and orderly transition into chapter 11 is critical, and the failure to receive the requested relief during the first twenty-one days of these chapter 11 cases could impact the Debtors' operations at this important juncture. The requested relief is necessary for the Debtors to operate their businesses in the ordinary course, preserve the ongoing value of their operations, and maximize value of their estates for the benefit of all stakeholders. The Debtors have demonstrated that the requested relief is "necessary to avoid immediate and irreparable harm," as contemplated by Bankruptcy Rule 6003, and the Court should grant the requested relief.

Reservation of Rights

55. Nothing contained in this motion or any order granting the relief requested in this motion, and no action taken by the Debtors pursuant to the relief requested or granted (including any payment made in accordance with any such order), is intended as or shall be construed or deemed to be: (a) an admission as to the amount of, basis for, priority or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's rights to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in this motion or any order granting the relief requested by this motion; (e) a request or authorization to assume, adopt or reject any agreement, contract,

or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority enforceability or perfection of any lien on, security interest in or other encumbrance on property of the Debtors' estates; or (g) a waiver or limitation of any claims, causes of action or other rights of the Debtors or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law. If the 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, priority or amount of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

56. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

Notice

57. The Debtors will provide notice of this motion to: (a) the United States Trustee for the District of Delaware; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the office of the attorney general for each of the states in which the Debtors operate; (d) the United States Attorney's Office for the District of Delaware; (e) the Internal Revenue Service; (f) the United States Securities and Exchange Commission; (g) counsel to the 1L Ad Hoc Group; (h) the agent of the DIP Facility and counsel thereto; (i) the agent of the First Lien Credit Agreement and counsel thereto; (j) the Second Lien Credit Agreement Agent and counsel thereto; (k) the agent of the First Lien Notes and counsel thereto; (l) the Cash Management Bank; and (m) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this motion is seeking "first day" relief, the Debtors will serve copies of this motion and any order entered in respect to this motion as required by Local Rule 9013 1(m).

The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

[*Reminder of page intentionally left blank*]

WHEREFORE, the Debtors request entry of the Interim Order and Final Order, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, (a) granting the relief requested herein and (b) granting such other relief as the Court deems appropriate under the circumstances.

Dated: June 10, 2024
Wilmington, Delaware

/s/ Patrick J. Reilley

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Proposed Co-Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THE CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED THERETO, (C) MAINTAIN EXISTING BUSINESS FORMS, (D) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of an interim order (this "Interim Order"), (a) authorizing the Debtors to (i) continue to operate the Cash Management System, (ii) honor certain prepetition or postpetition obligations related thereto, (iii) maintain existing Business Forms in the ordinary course of business, and (iv) continue to perform Intercompany Transactions consistent with historical practices, and granting administrative expense status to postpetition intercompany balances, (b) scheduling a final hearing to consider approval of the Motion on a final basis, and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and the United States District Court for the District of Delaware has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, which was referred to the Court under

[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.

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

28 U.S.C. § 157 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT::

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

2. The final hearing (the "Final Hearing") on the Motion shall be held on _________, 2024, at__:__ _.m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., prevailing Eastern Time, on _________, 2024 and shall be served on: (a) the Debtors, 26125 North Riverwoods Boulevard, Mettawa, Illinois, USA 60045, Attn.: Charles Braley (cbraley@alixpartners.com); (b) proposed co-counsel to the Debtors (i) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn.: Joshua A. Sussberg, P.C. (joshua.sussberg@kirkland.com), Chris Ceresa (chris.ceresa@kirkland.com), and Tiffani Chanroo (tiffani.chanroo@kirkland.com), (ii) Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, Illinois, 60654, Attn.: Spencer A. Winters

(spencer.winters@kirkland.com), Yusuf U. Salloum (yusuf.salloum@kirkland.com), and Rebecca Marston (rebecca.marston@kirkland.com), (iii) Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, Delaware 19801, Attn.: Patrick J. Reilley, Esq. (preilley@coleschotz.com), Stacy L. Newman (snewman@coleschotz.com), Michael E. Fitzpatrick, Esq. (mfitzpatrick@coleschotz.com), and Jack M. Dougherty, Esq. (jdougherty@coleschotz.com), and (iv) Cole Schotz P.C., Court Plaza North, 25 Main Street, Hackensack, New Jersey 07601, Attn.: Michael D. Sirota, Esq. (msirota@coleschotz.com) and Warren A. Usatine, Esq. (wusatine@coleschotz.com); (c) counsel to the 1L Ad Hoc Group, (i) Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166-0193, Attn.: Scott J. Greenberg (SGreenberg@gibsondunn.com), Jason Zachary Goldstein (JGoldstein@gibsondunn.com), Joshua Brody (JBrody@gibsondunn.com), and Kevin Liang (KLiang@gibsondunn.com) and (ii) Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, Wilmington, DE 19801, Attn.: Laura Davis Jones (ljones@pszjlaw.com); (d) the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn.: Benjamin A. Hackman (Benjamin.A.Hackman@usdoj.gov); and (e) any statutory committee appointed in these chapter 11 cases.

3. The Debtors are authorized, but not directed, to, on an interim basis, subject to any modifications set forth herein: (a) continue operating the Cash Management System, substantially as identified on **Exhibit 1** attached hereto and as described in the Motion; (b) honor their prepetition obligations related thereto; (c) use, in their present form, all correspondence and Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, without reference to the Debtors' status as debtors in possession; (d) continue to perform Intercompany Transactions consistent with historical practice,

and granting administrative expense status to postpetition intercompany balances; (e) continue to use, with the same account numbers, the Bank Accounts in existence as of the Petition Date, including those accounts identified on **Exhibit 2** attached hereto without the need to comply with certain guidelines set forth in the U.S. Trustee Operating Guidelines; (f) treat the Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; (g) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, wire transfers, and other debits; (h) open new debtor-in-possession Bank Accounts; (i) pay the prepetition Bank Fees; and (j) pay any Bank Fees incurred in the ordinary course in connection with the Bank Accounts, and to otherwise perform their obligations under the documents governing the Bank Accounts; *provided* that once the Debtors' preprinted Business Forms have been exhausted, the Debtors shall, when reordering their Business Forms, add the designation "Debtor in Possession" and corresponding bankruptcy case number thereon; *provided*, *further*, that within ten business days of the entry of this Interim Order, the Debtors will update any electronically produced checks to reflect their status as debtors in possession. Any postpetition fees, costs, charges, and expenses, including Bank Fees, or charge-backs payable to the banks that are not so paid shall be entitled to priority as administrative expenses pursuant to section 503(b)(1) of the Bankruptcy Code.

4. The Cash Management Bank is authorized to continue to maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course and in a manner consistent with prepetition practices, and to receive, process, honor, and pay, to the extent of available funds, any and all checks, drafts, wires, credit card payments, and ACH transfers issued and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be. No bank shall incur, and each bank is hereby released from, any liability for relying upon any Debtor's instruction as to which

checks, drafts, wire transfers or ACH transfers should be honored or dishonored or for such bank's inadvertence in honoring any check, draft, wire transfer or ACH transfer at variance from a Debtor's instructions, unless such inadvertence constituted gross negligence or willful misconduct on the part of such bank. Each Debtor and the Cash Management Bank are authorized to continue to perform pursuant to the terms of any prepetition agreement that exists between them relating to any Bank Accounts or other cash management services except to the extent otherwise expressly provided in this Interim Order, and the parties to such agreements shall continue to enjoy the rights, benefits, liens, offset rights, privileges and remedies afforded them under such agreement. The Debtors and the Cash Management Bank may, without further order of this Court, agree to and implement changes to the Cash Management System and procedures related thereto in the ordinary course of business, including the closing of any Bank Account or the opening of new bank accounts.

5. Notwithstanding anything to the contrary contained herein, any payment to be made hereunder, and any authorization contained herein, shall be subject to any interim and final orders, as applicable, approving the use of such cash collateral and/or the Debtors' entry into any postpetition financing facilities or credit agreement, and any budgets in connection therewith governing any such postpetition financing and/or use of cash collateral (each such order, a "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

6. The Debtors are authorized, but not directed, in the ordinary course of business and consistent with historical practices, and after consultation with the Required DIP Lenders (as defined in the DIP Orders), to open any new bank account or close any existing Bank Account and enter into any ancillary agreements, including deposit control agreements, related to the foregoing,

as they may deem necessary and appropriate; *provided* that the Debtors shall give notice within 15 days to the U.S. Trustee and any statutory committee appointed in these chapter 11 cases of the opening of any new bank account or closing any existing Bank Account; *provided*, *further*, that the Debtors shall open any such new bank accounts only at banks that have executed a UDA (as defined below) with the U.S. Trustee, or at such banks that are willing to immediately execute such agreement. The relief granted in this Interim Order is extended to any new bank account opened by the Debtors after the date hereof, which account shall be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Cash Management Bank.

7. All banks provided with notice of this Interim Order maintaining any of the Bank Accounts shall not honor or pay any bank payments drawn on the listed Bank Accounts or otherwise issued before the Petition Date for which the Debtors specifically issue stop payment orders in accordance with the documents governing such Bank Accounts.

8. In the course of providing cash management services to the Debtors, each of the banks at which the Bank Accounts are maintained is authorized, without further order of this Court and consistent with prepetition practices, to deduct the applicable fees (whether arising prior to or after the Petition Date) from the appropriate accounts of the Debtors, and further, to charge back to the appropriate accounts of the Debtors any amounts resulting from returned checks or other returned items, including returned items that result from ACH transactions, wire transfers, or other electronic transfers of any kind, regardless of whether such items were deposited or transferred prepetition or postpetition and regardless of whether the returned items relate to prepetition or postpetition items or transfers. Any such fees arising after the Petition Date that are charged by

the Banks consistent with established practice are entitled to administrative expense priority status pursuant to section 503(b) of the Bankruptcy Code.

9. Any banks, including the Cash Management Bank, are further authorized to honor the Debtors' directions with respect to the opening and closing of any Bank Account and accept and hold, or invest, the Debtors' funds in accordance with the Debtors' instructions; *provided* that the Cash Management Bank shall not have any liability to any party for relying on such representations to the extent such reliance otherwise complies with applicable law.

10. As soon as possible after entry of this Interim Order, the Debtors shall contact the Cash Management Bank as a party to a Uniform Depository Agreement ("UDA") with the U.S. Trustee and: (a) provide the Cash Management Bank with the Debtors' employer identification number and lead case number for these chapter 11 cases; (b) identify each of their bank accounts as being held by a debtor in possession; and (c) serve a copy of this Interim Order on the Cash Management Bank.

11. Notwithstanding any other provision of this Interim Order, the Cash Management Bank may rely upon the representations of the Debtors, without a duty of inquiry, with respect to whether any check, draft, wire, or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to any order of this Court (but such check, draft, wire or other transfer shall only be honored to the extent of available funds), and no bank that honors a prepetition check or other item drawn on any account that is the subject of this Interim Order (a) at the direction of the Debtors or (b) in a good-faith belief that this Court has authorized such prepetition check or item to be honored shall be deemed to be nor shall be liable to the Debtors or their estates or any other person or entity on account of such prepetition check or other item being honored postpetition, or otherwise deemed to be in violation of this Interim Order.

12. To the extent any of the Debtor Bank Accounts are not in compliance with section 345(b) of the Bankruptcy Code or any of the U.S. Trustee's requirements or guidelines, the Debtors shall have until a date that is 30 days from the date of this Interim Order, without prejudice to seeking an additional extension, to either come into compliance with section 345(b) of the Bankruptcy Code and any of the U.S. Trustee's requirements or guidelines or to make such other arrangements as are agreed to by the U.S. Trustee or approved by the Court.

13. The Debtors are authorized, but not directed, to continue using the Corporate Credit Cards, Purchasing Credit Cards, and Virtual Credit Card in the ordinary course of business and consistent with prepetition practices, including by paying to American Express Company prepetition and postpetition credit card obligations outstanding with respect thereto, subject to the limitations of this Interim Order and any other applicable interim and/or final orders of this Court.

14. Notwithstanding anything to the contrary set forth herein, but subject to the terms of the DIP Orders, the Debtors are authorized to continue Intercompany Transactions arising from or related to the operation of their business in the ordinary course during these chapter 11 cases and settle, in cash, any prepetition Intercompany Claims; *provided* that, for the avoidance of doubt, the Debtors shall not be authorized by this Interim Order to undertake any Intercompany Transactions that are materially inconsistent with the Debtors' ordinary course practices during the prepetition period. All postpetition payments from a Debtor under any postpetition Intercompany Transactions authorized hereunder are hereby accorded administrative expense status under section 503(b) of the Bankruptcy Code. Any and all Intercompany Transactions will be undertaken in accordance with the DIP Credit Agreement (as defined in the DIP Orders) and any and all subordination or other requirements included therein. In connection with the Intercompany Transactions, the Debtors shall continue to maintain, current, accurate, and detailed

records with respect to all transfers of cash so that all Intercompany Transactions may be readily ascertained, traced, and properly recorded on intercompany accounts; *provided* that such records shall distinguish between prepetition and postpetition transactions.

15. Nothing contained in the Motion or this Interim Order shall be construed to (a) create or perfect, in favor of any person or entity, any interest in cash of a Debtor that did not exist as of the Petition Date or (b) alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

16. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

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

18. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized 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 Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

19. Nothing contained in the Motion or this Interim Order, and no action taken pursuant to the relief requested or granted (including any payment made in accordance with this Interim Order), is intended as or shall be construed or deemed to be: (a) an admission as to the amount,

validity or priority of, or basis for any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in the Motion or this Interim Order; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver or limitation of any claims, causes of action or other rights of the Debtors or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law.

20. Nothing in the Motion or this Interim Order waives or modifies the requirements of the Restructuring Support Agreement, including, without limitation, the consent and consultation rights contained therein.

21. The Debtors have agreed with the Office of the United States Trustee that (i) cash will only be maintained or pooled in the JPM Account ending in 6750; and (ii) all remaining Bank Accounts, including without limitation those identified on **Exhibit 1** to this Interim Order, will only be used for the temporary collection and disbursement of funds, as reasonably practicable and necessary to meet the Debtors' operational needs (including with respect to projected transfers in accordance with the DIP Budget) and to ensure proper and effective collections and disbursements in and from such Bank Accounts.

22. The Debtors shall not enter into any new intercompany loans to non-Debtor entities absent further court order.

23. The Debtors have demonstrated that the requested relief is "necessary to avoid immediate and irreparable harm," as contemplated by Bankruptcy Rule 6003.

24. Nothing in this Interim Order authorizes the Debtors to accelerate any payments not otherwise due prior to the date of the Final Hearing.

25. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

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

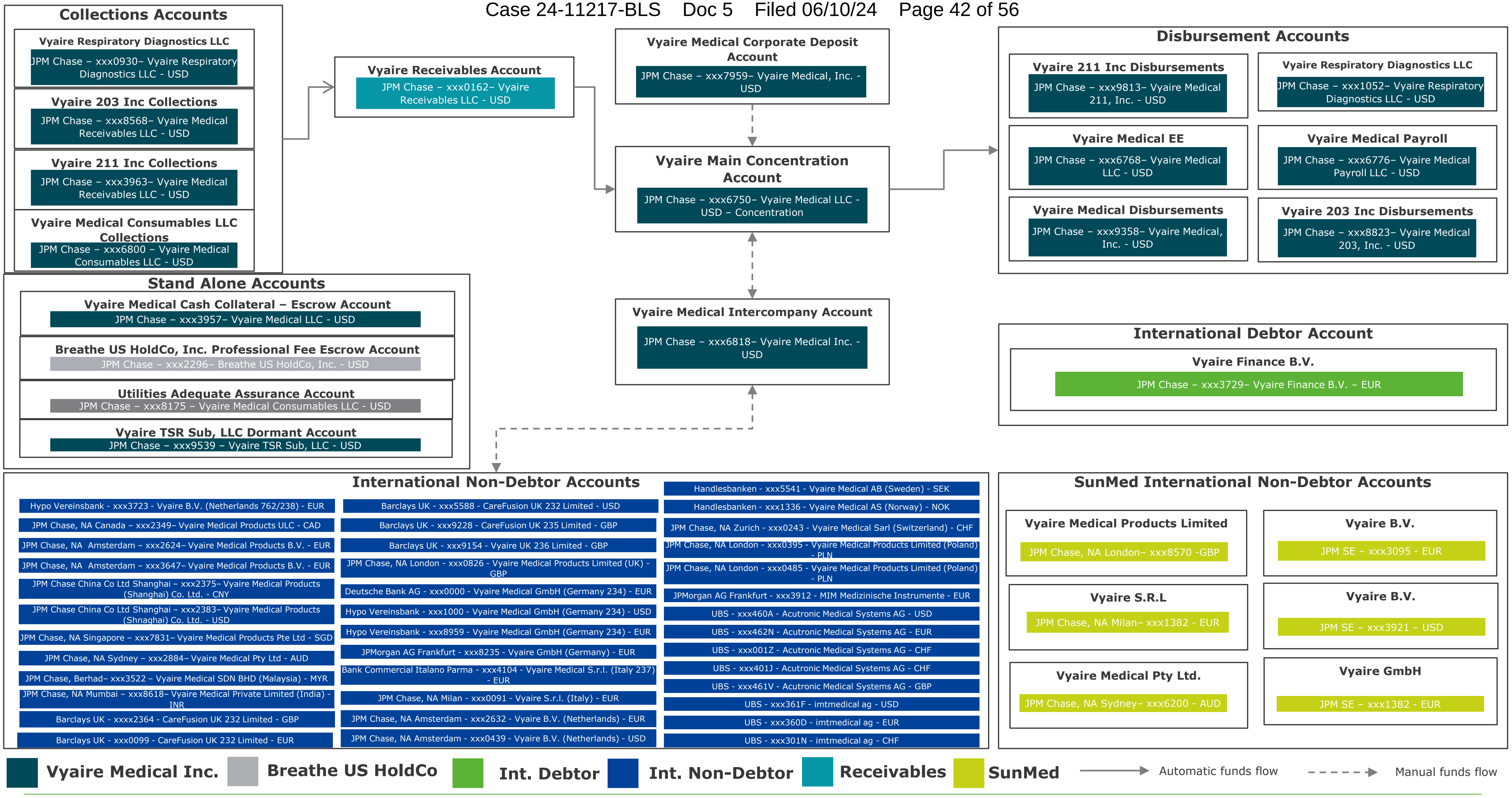
27. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

28. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

29. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Exhibit 1

Cash Management Schematic


Collections Accounts
Vyaire Respiratory Diagnostics LLC
JPM Chase – xxx0930– Vyaire Respiratory Diagnostics LLC - USD
Vyaire 203 Inc Collections
JPM Chase – xxx8568– Vyaire Medical Receivables LLC - USD
Vyaire 211 Inc Collections
JPM Chase – xxx3963– Vyaire Medical Receivables LLC - USD
Vyaire Medical Consumables LLC Collections
JPM Chase – xxx6800 – Vyaire Medical Consumables LLC - USD
Vyaire Receivables Account
JPM Chase – xxx0162– Vyaire Receivables LLC - USD
Vyaire Medical Corporate Deposit Account
JPM Chase – xxx7959– Vyaire Medical, Inc. - USD
Vyaire Main Concentration Account
JPM Chase – xxx6750– Vyaire Medical LLC - USD – Concentration
Vyaire Medical Intercompany Account
JPM Chase – xxx6818– Vyaire Medical Inc. - USD
Disbursement Accounts
Vyaire 211 Inc Disbursements
JPM Chase – xxx9813– Vyaire Medical 211, Inc. - USD
Vyaire Respiratory Diagnostics LLC
JPM Chase – xxx1052– Vyaire Respiratory Diagnostics LLC - USD
Vyaire Medical EE
JPM Chase – xxx6768– Vyaire Medical LLC - USD
Vyaire Medical Payroll
JPM Chase – xxx6776– Vyaire Medical Payroll LLC - USD
Vyaire Medical Disbursements
JPM Chase – xxx9358– Vyaire Medical, Inc. - USD
Vyaire 203 Inc Disbursements
JPM Chase – xxx8823– Vyaire Medical 203, Inc. - USD
Stand Alone Accounts
Vyaire Medical Cash Collateral – Escrow Account
JPM Chase – xxx3957– Vyaire Medical LLC - USD
Breathe US HoldCo, Inc. Professional Fee Escrow Account
JPM Chase – xxx2296– Breathe US HoldCo, Inc. - USD
Utilities Adequate Assurance Account
JPM Chase – xxx8175 – Vyaire Medical Consumables LLC - USD
Vyaire TSR Sub, LLC Dormant Account
JPM Chase – xxx9539 – Vyaire TSR Sub, LLC - USD
International Debtor Account
Vyaire Finance B.V.
JPM Chase – xxx3729– Vyaire Finance B.V. – EUR
International Non-Debtor Accounts
Hypo Vereinsbank - xxx3723 - Vyaire B.V. (Netherlands 762/238) - EUR
JPM Chase, NA Canada – xxx2349– Vyaire Medical Products ULC - CAD
JPM Chase, NA Amsterdam – xxx2624– Vyaire Medical Products B.V. - EUR
JPM Chase, NA Amsterdam – xxx3647– Vyaire Medical Products B.V. - EUR
JPM Chase China Co Ltd Shanghai – xxx2375– Vyaire Medical Products (Shanghai) Co. Ltd. - CNY
JPM Chase China Co Ltd Shanghai – xxx2383– Vyaire Medical Products (Shnaghai) Co. Ltd. - USD
JPM Chase, NA Singapore – xxx7831– Vyaire Medical Products Pte Ltd - SGD
JPM Chase, NA Sydney – xxx2884– Vyaire Medical Pty Ltd - AUD
JPM Chase, Berhad– xxx3522 – Vyaire Medical SDN BHD (Malaysia) - MYR
JPM Chase, NA Mumbai – xxx8618– Vyaire Medical Private Limited (India) - INR
Barclays UK - xxxx2364 - CareFusion UK 232 Limited - GBP
Barclays UK - xxx0099 - CareFusion UK 232 Limited - EUR
Barclays UK - xxx5588 - CareFusion UK 232 Limited - USD
Barclays UK - xxx9228 - CareFusion UK 235 Limited - GBP
Barclays UK - xxx9154 - Vyaire UK 236 Limited - GBP
JPM Chase, NA London - xxx0826 - Vyaire Medical Products Limited (UK) - GBP
Deutsche Bank AG - xxx0000 - Vyaire Medical GmbH (Germany 234) - EUR
Hypo Vereinsbank - xxx1000 - Vyaire Medical GmbH (Germany 234) - USD
Hypo Vereinsbank - xxx8959 - Vyaire Medical GmbH (Germany 234) - EUR
JPMorgan AG Frankfurt - xxx8235 - Vyaire GmbH (Germany) - EUR
Bank Commercial Italano Parma - xxx4104 - Vyaire Medical S.r.l. (Italy 237) - EUR
JPM Chase, NA Milan - xxx0091 - Vyaire S.r.l. (Italy) - EUR
JPM Chase, NA Amsterdam - xxx2632 - Vyaire B.V. (Netherlands) - EUR
JPM Chase, NA Amsterdam - xxx0439 - Vyaire B.V. (Netherlands) - USD
Handlesbanken - xxx5541 - Vyaire Medical AB (Sweden) - SEK
Handlesbanken - xxx1336 - Vyaire Medical AS (Norway) - NOK
JPM Chase, NA Zurich - xxx0243 - Vyaire Medical Sarl (Switzerland) - CHF
JPM Chase, NA London - xxx0395 - Vyaire Medical Products Limited (Poland) - PLN
JPM Chase, NA London - xxx0485 - Vyaire Medical Products Limited (Poland) - PLN
JPMorgan AG Frankfurt - xxx3912 - MIM Medizinische Instrumente - EUR
UBS - xxx460A - Acutronic Medical Systems AG - USD
UBS - xxx462N - Acutronic Medical Systems AG - EUR
UBS - xxx001Z - Acutronic Medical Systems AG - CHF
UBS - xxx401J - Acutronic Medical Systems AG - CHF
UBS - xxx461V - Acutronic Medical Systems AG - GBP
UBS - xxx361F - imtmedical ag - USD
UBS - xxx360D - imtmedical ag - EUR
UBS - xxx301N - imtmedical ag - CHF
SunMed International Non-Debtor Accounts
Vyaire Medical Products Limited
JPM Chase, NA London– xxx8570 -GBP
Vyaire B.V.
JPM SE – xxx3095 - EUR
Vyaire S.R.L
JPM Chase, NA Milan– xxx1382 - EUR
Vyaire B.V.
JPM SE – xxx3921 – USD
Vyaire Medical Pty Ltd.
JPM Chase, NA Sydney– xxx6200 - AUD
Vyaire GmbH
JPM SE – xxx1382 - EUR
Vyaire Medical Inc.
Breathe US HoldCo
Int. Debtor
Int. Non-Debtor
Receivables
SunMed
Automatic funds flow
Manual funds flow

<u>Exhibit 2</u>

Debtor Bank Accounts

Account #	**Bank**	**Legal Entity**	**Type**
Ending x3957	JPMorgan Chase, N.A.	Vyaire Medical LLC	Escrow Account
Ending x2296	JPMorgan Chase, N.A.	Breathe US HoldCo, Inc.	Professional Fee Escrow Account
Ending x6818	JPMorgan Chase, N.A.	Vyaire Medical, Inc.	Medical Intercompany Account
Ending x6750	JPMorgan Chase, N.A.	Vyaire Medical LLC	Main Concentration Account
Ending x6768	JPMorgan Chase, N.A.	Vyaire Medical LLC	Disbursement Account
Ending x6776	JPMorgan Chase, N.A.	Vyaire Medical Payroll LLC	Disbursement Account
Ending x9358	JPMorgan Chase, N.A.	Vyaire Medical, Inc.	Disbursement Account
Ending x8823	JPMorgan Chase, N.A.	Vyaire Medical 203, Inc.	Disbursement Account
Ending x9813	JPMorgan Chase, N.A.	Vyaire Medical 211, Inc.	Disbursement Account
Ending x1052	JPMorgan Chase, N.A.	Vyaire Respiratory Diagnostics LLC	Disbursement Account
Ending x8568	JP Morgan Chase, NA	Vyaire Medical Receivables LLC	Collections Account
Ending x3963	JPMorgan Chase, N.A.	Vyaire Medical Receivables LLC	Collections Account
Ending x 0930	JPMorgan Chase, N.A.	Vyaire Respiratory Diagnostics LLC	Collections Account
Ending x6800	JPMorgan Chase, N.A.	Vyaire Medical Consumables LLC	Collections Account
Ending x0162	JPMorgan Chase, N.A.	Vyaire Receivables LLC	Receivables Account
Ending x3729	JPMorgan Chase, N.A.	Vyaire Finance B.V.	International Account
Ending x7959	JPMorgan Chase, N.A.	Vyaire Medical, Inc.	Corporate Deposit Account
Ending x8175	JPMorgan Chase, N.A.	Vyaire Medical Consumables LLC	Utilities Adequate Assurance Account
Ending x9539	JPMorgan Chase, N.A.	Vyaire TSR Sub, LLC	Dormant Account

Exhibit B

Proposed Final Order

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 (___)
Debtors.	)	(Joint Administration Requested)
	)	**Re: Docket No. __**

FINAL ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THE CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED THERETO, (C) MAINTAIN EXISTING BUSINESS FORMS, (D) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of a final order (this "Final Order"), (a) authorizing the Debtors to (i) continue to operate the Cash Management System, (ii) honor certain prepetition or postpetition obligations related thereto, (iii) maintain existing Business Forms in the ordinary course of business, and (iv) continue to perform intercompany transactions consistent with historical practices, and granting administrative expense status to postpetition intercompany balances, and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and the United States District Court for the District of Delaware has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, which was referred to the Court under 28 U.S.C. § 157 and the *Amended Standing Order of Reference* from the United States District

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.

2 Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

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

2. The Debtors are authorized, but not directed, to: (a) continue operating the Cash Management System, substantially as identified on **Exhibit 1** attached hereto described in the Motion; (b) honor their prepetition obligations related thereto; (c) use, in their present form, all correspondence and Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, without reference to the Debtors' status as debtors in possession; (d) continue to perform Intercompany Transactions consistent with historical practice, and granting administrative expense status to postpetition intercompany balances; (e) continue to use, with the same account numbers, the Bank Accounts in existence as of the Petition Date, including those accounts identified on **Exhibit 2** attached hereto without the

need to comply with certain guidelines set forth in the U.S. Trustee Operating Guidelines; (f) treat the Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; (g) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, wire transfers, and other debits; (h) open new debtor-in-possession Bank Accounts; and (i) pay the Bank Fees, including any prepetition amounts, and to otherwise perform their obligations under the documents governing the Bank Accounts. To the extent the Debtors print any new checks during the pendency of these chapter 11 cases, they will include the designation "Debtor in Possession" and the corresponding bankruptcy case number. Any postpetition fees, costs, charges, and expenses, including Bank Fees, or charge-backs payable to the banks that are not so paid shall be entitled to priority as administrative expenses pursuant to section 503(b)(1) of the Bankruptcy Code.

3. The Cash Management Bank is authorized to continue to maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course and in a manner consistent with prepetition practices, and to receive, process, honor, and pay, to the extent of available funds, any and all checks, drafts, wires, credit card payments, and ACH transfers issued and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be. The Debtors and the Cash Management Bank may, without further order of this Court, agree to and implement changes to the Cash Management System and procedures related thereto in the ordinary course of business, including the closing of any Bank Account or the opening of new bank account.

4. Notwithstanding anything to the contrary contained herein, any payment to be made hereunder, and any authorization contained herein, shall be subject to any interim and final orders, as applicable, approving the use of such cash collateral and/or the Debtors' entry into any

postpetition financing facilities or credit agreement, and any budgets in connection therewith governing any such postpetition financing and/or use of cash collateral (each such order, a "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

5. The Debtors are authorized, but not directed, in the ordinary course of business and consistent with historical practices, and after consultation with the Required DIP Lenders (as defined in the DIP Orders), to open any new bank account or close any existing Bank Account and enter into any ancillary agreements, including deposit control agreements, related to the foregoing, as they may deem necessary and appropriate; *provided* that the Debtors shall give notice within 15 days to the U.S. Trustee and any statutory committee appointed in these chapter 11 cases of the opening of any new bank account or closing any existing Bank Account; *provided*, *further*, that the Debtors shall open any such new bank accounts only at banks that have executed a Uniform Depository Agreement with the U.S. Trustee, or at such banks that are willing to immediately execute such agreement. The relief granted in this Final Order is extended to any new bank account opened by the Debtors after the date hereof, which account shall be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Cash Management Bank.

6. All banks provided with notice of this Final Order maintaining any of the Bank Accounts shall not honor or pay any bank payments drawn on the listed Bank Accounts or otherwise issued before the Petition Date for which the Debtors specifically issue stop payment orders in accordance with the documents governing such Bank Accounts.

7. In the course of providing cash management services to the Debtors, each of the banks at which the Bank Accounts are maintained is authorized, without further order of this Court

and consistent with prepetition practices, to deduct the applicable fees (whether arising prior to or after the Petition Date) from the appropriate accounts of the Debtors, and further, to charge back to the appropriate accounts of the Debtors any amounts resulting from returned checks or other returned items, including returned items that result from ACH transactions, wire transfers, or other electronic transfers of any kind, regardless of whether such items were deposited or transferred prepetition or postpetition and regardless of whether the returned items relate to prepetition or postpetition items or transfers. Any such fees arising after the Petition Date that are charged by the Banks consistent with established practice are entitled to administrative expense priority status pursuant to section 503(b) of the Bankruptcy Code.

8. Any banks, including the Cash Management Bank, are further authorized to honor the Debtors' directions with respect to the opening and closing of any Bank Account and accept and hold, or invest, the Debtors' funds in accordance with the Debtors' instructions; *provided* that the Cash Management Bank shall not have any liability to any party for relying on such representations to the extent such reliance otherwise complies with applicable law.

9. Notwithstanding any other provision of this Final Order, the Cash Management Bank may rely upon the representations of the Debtors, without a duty of inquiry, with respect to whether any check, draft, wire, or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to any order of this Court (but such check, draft, wire or other transfer shall only be honored to the extent of available funds), and no bank that honors a prepetition check or other item drawn on any account that is the subject of this Final Order (a) at the direction of the Debtors or (b) in a good-faith belief that this Court has authorized such prepetition check or item to be honored shall be deemed to be nor shall be liable to the Debtors or

their estates or any other person or entity on account of such prepetition check or other item being honored postpetition, or otherwise deemed to be in violation of this Final Order.

10. To the extent any of the Debtor Bank Accounts are not in compliance with section 345(b) of the Bankruptcy Code or any of the U.S. Trustee's requirements or guidelines, the Debtors shall have until a date that is 45 days from the date of this Final Order, without prejudice to seeking an additional extension, to either come into compliance with section 345(b) of the Bankruptcy Code and any of the U.S. Trustee's requirements or guidelines or to make such other arrangements as are agreed to by the U.S. Trustee or approved by the Court.

11. Notwithstanding anything to the contrary set forth herein, but subject to the terms of the DIP Orders, the Debtors are authorized to continue Intercompany Transactions arising from or related to the operation of their business in the ordinary course during these chapter 11 cases and settle, in cash, any prepetition Intercompany Claims; *provided* that, for the avoidance of doubt, the Debtors shall not be authorized by this Final Order to undertake any Intercompany Transactions that are materially inconsistent with the Debtors' ordinary course practices during the prepetition period. All postpetition payments from a Debtor under any postpetition Intercompany Transaction authorized hereunder are hereby accorded administrative expense status under section 503(b) of the Bankruptcy Code. Any and all Intercompany Transactions will be undertaken in accordance with the DIP Credit Agreement (as defined in the DIP Orders) and any and all subordination or other requirements included therein. In connection with the Intercompany Transactions, the Debtors shall continue to maintain current, accurate, and detailed records with respect to all transfers of cash so that all Intercompany Transactions may be readily ascertained, traced, and properly recorded on intercompany accounts; *provided* that such records shall distinguish between prepetition and postpetition transactions.

12. The Debtors are authorized, but not directed, to continue using the Corporate Credit Cards, Purchasing Credit Cards, and Virtual Credit Card in the ordinary course of business and consistent with prepetition practices, including by paying to American Express Company prepetition and postpetition credit card obligations outstanding with respect thereto, subject to the limitations of this Final Order and any other applicable interim and/or final orders of this Court.

13. Nothing contained in the Motion or this Final Order shall be construed to (a) create or perfect, in favor of any person or entity, any interest in cash of a Debtor that did not exist as of the Petition Date or (b) alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

14. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

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

16. Notwithstanding anything to the contrary contained herein, (a) any payment to be made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any orders regarding the use of cash collateral approved by this Court in these chapter 11 cases (including with respect to any budgets governing or relating to such use) and (b) to the extent there is any inconsistency between the terms of such cash collateral orders and any action taken or proposed to be taken hereunder, the terms of such cash collateral orders shall control.

17. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized 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 Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

18. Notwithstanding anything to the contrary in this Final Order, any payment made, or authorization contained, hereunder, shall be subject to the "Approved Budget" as defined in the order of the Court approving debtor-in-possession financing in these chapter 11 cases.

19. Nothing contained in the Motion or this Final Order, and no action taken pursuant to the relief requested or granted (including any payment made in accordance with this Final Order), is intended as or shall be construed or deemed to be: (a) an admission as to the amount, validity or priority of, or basis for any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in the Motion or this Final Order; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver or limitation of any claims, causes of action or other rights of the Debtors or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law.

20. Nothing in the Motion or this Final Order waives or modifies the requirements of the Restructuring Support Agreement, including, without limitation, the consent and consultation rights contained therein.

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

22. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

23. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

24. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Exhibit 1

Cash Management Schematic

Collections Accounts

Vyaire Respiratory Diagnostics LLC
JPM Chase – xxx0930– Vyaire Respiratory Diagnostics LLC - USD

Vyaire 203 Inc Collections
JPM Chase – xxx8568– Vyaire Medical Receivables LLC - USD

Vyaire 211 Inc Collections
JPM Chase – xxx3963– Vyaire Medical Receivables LLC - USD

Vyaire Medical Consumables LLC Collections
JPM Chase – xxx6800 – Vyaire Medical Consumables LLC - USD

Vyaire Receivables Account

JPM Chase – xxx0162– Vyaire Receivables LLC - USD

Vyaire Medical Corporate Deposit Account

JPM Chase – xxx7959– Vyaire Medical, Inc. - USD

Vyaire Main Concentration Account

JPM Chase – xxx6750– Vyaire Medical LLC - USD – Concentration

Vyaire Medical Intercompany Account

JPM Chase – xxx6818– Vyaire Medical Inc. - USD

Disbursement Accounts

Vyaire 211 Inc Disbursements
JPM Chase – xxx9813– Vyaire Medical 211, Inc. - USD

Vyaire Respiratory Diagnostics LLC
JPM Chase – xxx1052– Vyaire Respiratory Diagnostics LLC - USD

Vyaire Medical EE
JPM Chase – xxx6768– Vyaire Medical LLC - USD

Vyaire Medical Payroll
JPM Chase – xxx6776– Vyaire Medical Payroll LLC - USD

Vyaire Medical Disbursements
JPM Chase – xxx9358– Vyaire Medical, Inc. - USD

Vyaire 203 Inc Disbursements
JPM Chase – xxx8823– Vyaire Medical 203, Inc. - USD

Stand Alone Accounts

Vyaire Medical Cash Collateral – Escrow Account
JPM Chase – xxx3957– Vyaire Medical LLC - USD

Breathe US HoldCo, Inc. Professional Fee Escrow Account
JPM Chase – xxx2296– Breathe US HoldCo, Inc. - USD

Utilities Adequate Assurance Account
JPM Chase – xxx8175 – Vyaire Medical Consumables LLC - USD

Vyaire TSR Sub, LLC Dormant Account
JPM Chase – xxx9539 – Vyaire TSR Sub, LLC - USD

International Debtor Account

Vyaire Finance B.V.
JPM Chase – xxx3729– Vyaire Finance B.V. – EUR

International Non-Debtor Accounts

- Hypo Vereinsbank - xxx3723 - Vyaire B.V. (Netherlands 762/238) - EUR
- JPM Chase, NA Canada – xxx2349– Vyaire Medical Products ULC - CAD
- JPM Chase, NA Amsterdam – xxx2624– Vyaire Medical Products B.V. - EUR
- JPM Chase, NA Amsterdam – xxx3647– Vyaire Medical Products B.V. - EUR
- JPM Chase China Co Ltd Shanghai – xxx2375– Vyaire Medical Products (Shanghai) Co. Ltd. - CNY
- JPM Chase China Co Ltd Shanghai – xxx2383– Vyaire Medical Products (Shnaghai) Co. Ltd. - USD
- JPM Chase, NA Singapore – xxx7831– Vyaire Medical Products Pte Ltd - SGD
- JPM Chase, NA Sydney – xxx2884– Vyaire Medical Pty Ltd - AUD
- JPM Chase, Berhad– xxx3522 – Vyaire Medical SDN BHD (Malaysia) - MYR
- JPM Chase, NA Mumbai – xxx8618– Vyaire Medical Private Limited (India) - INR
- Barclays UK - xxxx2364 - CareFusion UK 232 Limited - GBP
- Barclays UK - xxx0099 - CareFusion UK 232 Limited - EUR
- Barclays UK - xxx5588 - CareFusion UK 232 Limited - USD
- Barclays UK - xxx9228 - CareFusion UK 235 Limited - GBP
- Barclays UK - xxx9154 - Vyaire UK 236 Limited - GBP
- JPM Chase, NA London - xxx0826 - Vyaire Medical Products Limited (UK) - GBP
- Deutsche Bank AG - xxx0000 - Vyaire Medical GmbH (Germany 234) - EUR
- Hypo Vereinsbank - xxx1000 - Vyaire Medical GmbH (Germany 234) - USD
- Hypo Vereinsbank - xxx8959 - Vyaire Medical GmbH (Germany 234) - EUR
- JPMorgan AG Frankfurt - xxx8235 - Vyaire GmbH (Germany) - EUR
- Bank Commercial Italano Parma - xxx4104 - Vyaire Medical S.r.l. (Italy 237) - EUR
- JPM Chase, NA Milan - xxx0091 - Vyaire S.r.l. (Italy) - EUR
- JPM Chase, NA Amsterdam - xxx2632 - Vyaire B.V. (Netherlands) - EUR
- JPM Chase, NA Amsterdam - xxx0439 - Vyaire B.V. (Netherlands) - USD
- Handlesbanken - xxx5541 - Vyaire Medical AB (Sweden) - SEK
- Handlesbanken - xxx1336 - Vyaire Medical AS (Norway) - NOK
- JPM Chase, NA Zurich - xxx0243 - Vyaire Medical Sarl (Switzerland) - CHF
- JPM Chase, NA London - xxx0395 - Vyaire Medical Products Limited (Poland) - PLN
- JPM Chase, NA London - xxx0485 - Vyaire Medical Products Limited (Poland) - PLN
- JPMorgan AG Frankfurt - xxx3912 - MIM Medizinische Instrumente - EUR
- UBS - xxx460A - Acutronic Medical Systems AG - USD
- UBS - xxx462N - Acutronic Medical Systems AG - EUR
- UBS - xxx001Z - Acutronic Medical Systems AG - CHF
- UBS - xxx401J - Acutronic Medical Systems AG - CHF
- UBS - xxx461V - Acutronic Medical Systems AG - GBP
- UBS - xxx361F - imtmedical ag - USD
- UBS - xxx360D - imtmedical ag - EUR
- UBS - xxx301N - imtmedical ag - CHF

SunMed International Non-Debtor Accounts

Vyaire Medical Products Limited
JPM Chase, NA London– xxx8570 -GBP

Vyaire B.V.
JPM SE – xxx3095 - EUR

Vyaire S.R.L
JPM Chase, NA Milan– xxx1382 - EUR

Vyaire B.V.
JPM SE – xxx3921 – USD

Vyaire Medical Pty Ltd.
JPM Chase, NA Sydney– xxx6200 - AUD

Vyaire GmbH
JPM SE – xxx1382 - EUR

Vyaire Medical Inc. | Breathe US HoldCo | Int. Debtor | Int. Non-Debtor | Receivables | SunMed | Automatic funds flow | Manual funds flow

Exhibit 2

Debtor Bank Accounts

Account #	Bank	Legal Entity	Type
Ending x3957	JPMorgan Chase, N.A.	Vyaire Medical LLC	Escrow Account
Ending x2296	JPMorgan Chase, N.A.	Breathe US HoldCo, Inc.	Professional Fee Escrow Account
Ending x6818	JPMorgan Chase, N.A.	Vyaire Medical, Inc.	Medical Intercompany Account
Ending x6750	JPMorgan Chase, N.A.	Vyaire Medical LLC	Main Concentration Account
Ending x6768	JPMorgan Chase, N.A.	Vyaire Medical LLC	Disbursement Account
Ending x6776	JPMorgan Chase, N.A.	Vyaire Medical Payroll LLC	Disbursement Account
Ending x9358	JPMorgan Chase, N.A.	Vyaire Medical, Inc.	Disbursement Account
Ending x8823	JPMorgan Chase, N.A.	Vyaire Medical 203, Inc.	Disbursement Account
Ending x9813	JPMorgan Chase, N.A.	Vyaire Medical 211, Inc.	Disbursement Account
Ending x1052	JPMorgan Chase, N.A.	Vyaire Respiratory Diagnostics LLC	Disbursement Account
Ending x8568	JP Morgan Chase, NA	Vyaire Medical Receivables LLC	Collections Account
Ending x3963	JPMorgan Chase, N.A.	Vyaire Medical Receivables LLC	Collections Account
Ending x 0930	JPMorgan Chase, N.A.	Vyaire Respiratory Diagnostics LLC	Collections Account
Ending x6800	JPMorgan Chase, N.A.	Vyaire Medical Consumables LLC	Collections Account
Ending x0162	JPMorgan Chase, N.A.	Vyaire Receivables LLC	Receivables Account
Ending x3729	JPMorgan Chase, N.A.	Vyaire Finance B.V.	International Account
Ending x7959	JPMorgan Chase, N.A.	Vyaire Medical, Inc.	Corporate Deposit Account
Ending x8175	JPMorgan Chase, N.A.	Vyaire Medical Consumables LLC	Utilities Adequate Assurance Account
Ending x9539	JPMorgan Chase, N.A.	Vyaire TSR Sub, LLC	Dormant Account