

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

In re:

REVA MEDICAL, INC.,

Debtor.¹

Chapter 11

Case No. 20-10072 (JTD)

**MOTION OF THE DEBTOR FOR APPROVAL OF INTERIM AND FINAL AGREED
ORDERS (I) AUTHORIZING USE OF CASH COLLATERAL, (II) GRANTING
ADEQUATE PROTECTION, (III) MODIFYING THE AUTOMATIC STAY
AND (IV) SCHEDULING A FINAL HEARING**

REVA Medical, Inc. (the “Debtor” or “REVA”), by and through its proposed counsel, DLA Piper LLP (US), hereby submits this motion (the “Motion”) for entry of an interim agreed order (the “Interim Order”), substantially in the form attached hereto as **Exhibit A**, and a final agreed order (the “Final Order,” and collectively with the Interim Order, the “Orders”), (i) authorizing the Debtor to use cash collateral (as such term is defined in section 363(a) of the Bankruptcy Code, “Cash Collateral”) of Prepetition Secured Parties (as defined below); (ii) providing adequate protection to Goldman Sachs International (“GSI”) to the extent set forth herein; (iii) modifying the automatic stay imposed by section 362 of the Bankruptcy Code (the “Automatic Stay”) to the extent necessary to implement and effectuate the terms and provisions of the Orders; and (iv) scheduling a final hearing (the “Final Hearing”) to consider the entry of an order granting the relief requested in the Motion on a final basis and approving the form of notice with respect to the Final Hearing. In support of the Motion, the Debtor relies upon and incorporates by reference the *Declaration of Jeffrey Anderson in Support of Chapter 11 Filing and First Day Pleadings* (the

¹ The last four digits of the Debtor’s tax identification number are (0505). The Debtor’s mailing address is 5751 Copley Drive, Suite B, San Diego, CA 92111.

“First Day Declaration”),² filed contemporaneously with this Motion. In further support of this Motion, the Debtor respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this case, the Debtor, property of the Debtor’s estate and this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court of the District of Delaware (the “Local Rules”), the Debtor consents to the entry of a final judgment or order with respect to the Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

3. Venue of this chapter 11 case in this district is proper under 28 U.S.C. §§ 1408 and 1409

4. The statutory bases for the relief requested in this Motion are sections 105, 361, 362, 363 and 507 of Title 11 of the United States Code (the “Bankruptcy Code”), Rule 4001 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rule 4001-2.

BACKGROUND

5. The Debtor is a leading medical device company based in San Diego, California, focused on the development and commercialization of bioresorbable polymer technologies for three vascular applications – coronary artery disease (“CAD”), peripheral artery disease (“PAD”)

² Capitalized terms not otherwise defined in this Motion shall have the meanings given to them in the First Day Declaration.

and embolization therapy. Generally, scaffolds are inserted into blood vessels in order to expand the vessel and prevent blockage. Similarly, bioresorbable scaffolds are used to restore the flow of blood, support the artery through the healing process and then disappear from the body after a period of time.

6. Given the costs associated with the development and commercialization of its products, which are early in the commercialization stage, the Debtor has incurred significant operating losses since inception and relied on its ability to fund operations primarily through equity and debt financings. Amid headwinds that have affected developers of bioresorbable scaffolds, REVA began working with its key stakeholders to identify a solution that would deleverage the balance sheet and recapitalize the company in order to position REVA for long-term growth.

7. Over the course of the last few months, REVA entered into arm's-length negotiations with key stakeholders, which negotiations resulted in the entry into a restructuring support agreement among the Debtor, GSI and certain of its affiliates, Senrigan Master Fund and certain affiliates of Elliott Management Corporation, pursuant to which the Debtor would implement the transactions (the "Restructuring") set forth in the *Prepackaged Chapter 11 Plan of REVA Medical, Inc.* (the "Plan"), filed contemporaneously herewith. The Debtor commenced solicitation of Plan on January 13, 2020. On the date hereof (the "Petition Date"), the Debtor filed with this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code to seek confirmation of the Plan and consummation of the Restructuring.

8. The Debtor continues to be in possession of its assets and to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, no trustee, examiner, or official committee of unsecured

creditors has been appointed in the Debtor's chapter 11 case. No date has been set for a meeting pursuant to section 341 of the Bankruptcy Code.

9. Additional factual background regarding the Debtor, including its business operations, capital and debt structures and the events leading to the filing of this chapter 11 case, is set forth in detail in the First Day Declaration, which is fully incorporated into this Motion by reference.

A. Cash Collateral and Related Prepetition Obligations

10. As described more fully in the First Day Declaration, prior to the Petition Date the Debtors into that certain Credit and Guaranty Agreement (as amended, modified or otherwise supplemented from time to time prior to the date hereof, the "Senior Secured Credit Agreement," and the loans thereunder, the "Senior Secured Credit Facility," and, collectively with all agreements, documents, notes, mortgages, security agreements, pledges, guarantees, subordination agreements, deeds, instruments, indemnities, indemnity letters, fee letters, assignments, charges, amendments, and any other agreements delivered pursuant thereto or in connection therewith, each as amended, modified or otherwise supplemented from time to time prior to the Petition Date, the "Loan Documents") by and among REVA, various lenders party thereto (the "Senior Secured Lenders"), and GSI (together with the Senior Secured Lenders, the "Prepetition Secured Parties"), as administrative agent, collateral agent and lead arranger in the aggregate principal amount of \$3.6 million, which amount was increased by \$6.1 million through amendments to the Senior Secured Credit Agreement. As of the date hereof, approximately \$9.7 million is due and owing under the Senior Secured Credit Facility.

11. The Debtor's obligations under the Loan Documents (the "Prepetition Obligations") are secured by, among other things, first-priority liens in favor of the Prepetition

Secured Properties (the “Prepetition First Priority Liens”) in all of the Debtor’s assets (the “Prepetition Collateral”), including all of the Debtor’s inventory, intellectual property, accounts and accounts receivable, deposit accounts, contract rights and the proceeds of the foregoing, subject to certain customary exclusions and any other valid, perfected, and unavoidable lien or security interest otherwise existing as of the Petition Date that is senior to the Prepetition First Priority Liens of the Prepetition Secured Parties (collectively, the “Permitted Prior Liens” and each a “Permitted Prior Lien”).

12. Prior to the Petition Date, the Debtor maintained three bank accounts (the “Bank Accounts”) in which cash was deposited as more fully described in the Debtor’s motion for approval of its continued use of its cash management system, filed contemporaneously herewith. REVA historically operated out of a single checking account (the “BAML Account”), however, in connection with entry into the *Second Amendment to Credit and Guarantee Agreement* by and among REVA, as borrower, GSI, as administrative agent for the lenders, the other lenders party thereto and Goldman Sachs Specialty Lending Group, L.P., as a new lender, the Debtor established two additional bank accounts, one of which is intended to receive the proceeds of any future loans (the “Cash Collateral Account”), and the other is intended to operate exclusively as a payroll account (the “Payroll Account”). Currently, the Debtor operates almost entirely out of the Cash Collateral Account and the Payroll Account and will operate during the pendency of the case exclusively out of the Cash Collateral Account and the Payroll Account (in a manner consistent with prepetition operations). For the avoidance of doubt, the Cash Collateral Account (and the funds deposited therein) and the Payroll Account (and the funds deposited therein) constitute Prepetition Collateral.

RELIEF REQUESTED

13. The Debtor requests the entry of an order, substantially in the form attached as Exhibit A (the “Interim Order”) (a) authorizing the Debtor’s use of Cash Collateral; (b) providing adequate protection to the Prepetition Secured Parties to the extent set forth herein; (c) modifying the Automatic Stay to the extent necessary to implement and effectuate the terms and provisions of the Interim Order; and (d) scheduling, and approving the form of notice with respect to, the Final Hearing; and thereafter entering a Final Order granting the Motion. Following arm’s-length negotiations, the parties have reached an agreement with respect to the Debtor’s use of Cash Collateral and the additional relief requested herein, on the terms and conditions specified in the Interim Order.

14. The Debtor cannot meet its ongoing obligations without its continued use of Cash Collateral, as contemplated in the Interim Order. Other than the Cash Collateral, the Debtor does not have access to funds. The Debtor continues to generate new revenue, which constitutes collateral under the Loan Documents under section 552(b)(1) of the Bankruptcy Code. The Debtor’s ongoing obligations include obligations to obligations to its vendors and landlords required to continue its business operations postpetition and obligations existing under state and federal law.

15. For the foregoing reasons, the Debtor’s continued use of Cash Collateral is necessary to preserve the value of its estate and maximize its value for the benefit of all stakeholders. Under the Interim Order and Final Order, the Debtor’s use of Cash Collateral is subject to certain limitations, including that the Debtor may only use Cash Collateral in accordance with the budget attached as Exhibit 1 to the Interim Order, as may be modified from time to time upon agreement of the Debtor and GSI (the “Budget”).

SUMMARY OF PRINCIPAL TERMS

16. Pursuant to Rule 4001 of the Bankruptcy Rules and Rule 4001-2 of the Local Rules, the following are the principal terms of the proposed Interim Order are as follows:

Required Disclosure	Summary of Material Terms
Parties with an Interest in Cash Collateral <i>Bankruptcy Rule 4001(b)(1)(B)(i)</i>	GSI and the Prepetition Secured Parties
Purposes for the Use of Cash Collateral <i>Bankruptcy Rule 4001(b)(1)(B)(ii)</i> <i>Local Bankruptcy Rule 4001-2(a)(ii)</i>	To provide access to funds necessary for the Debtor to pay the administrative expenses incurred to administer the Debtor's chapter 11 case and working capital necessary to continue ordinary course operations, subject to the Budget.
Material Terms of the Use of Cash Collateral <i>Bankruptcy Rule 4001(b)(1)(B)(iii)</i> <i>Local Bankruptcy Rule 4001-2(a)(ii)</i>	Subject to the terms and conditions of the Interim Order and Final Order, at the times and for the purposes set forth in the Budget, the Debtor is authorized to use Cash Collateral until the earlier of (a) the effective date of a plan of reorganization confirmed in this chapter 11 case and (b) the day following written notice from GSI of the incurrence of a Termination Event (as defined in the Interim Order).
Adequate Protection <i>Bankruptcy Rules 4001(b)(1)(B)(iv)</i> <i>Local Bankruptcy Rule 4001-2(a)(ii)</i>	GSI is granted as adequate protection for the use of its Cash Collateral (a) valid, binding, enforceable, non-avoidable and automatically perfected additional and replacement security interests in, and liens on, all of the Debtor's presently owned or hereafter acquired property and assets (the " <u>Adequate Protection Lien</u> "), with priority junior to the liens held by GSI and other Permitted Liens under the Loan Documents but subject to the Carve Out (as defined below) and (b) an allowed superpriority administrative expense claim with priority over all other administrative claims, but subject to the Carve Out.
Professional Expense Carve-Out <i>Local Bankruptcy Rule 4001-2(a)(ii)</i>	As used in the Interim Order, the " <u>Carve Out</u> " means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the " <u>Allowed Professional Fees</u> ") incurred by persons or firms retained by the Debtor pursuant to section

	<p>327, 328, or 363 of the Bankruptcy Code and the Creditors' Committee pursuant to section 328 or 1103 of the Bankruptcy Code (collectively, the "<u>Professional Persons</u>") incurred in accordance with the Budget (including any Permitted Deviation) at any time before or on the first business day following delivery by GSI of a Carve Out Trigger Notice (as defined herein), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$50,000 incurred after the first business day following delivery by GSI of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise; <i>provided</i>, that, the Carve Out shall not include any bonus, transaction, success fees, completion fees, substantial contribution fees, or any other fees of similar import of any of the foregoing for Professional Persons; <i>provided further</i>, that nothing herein shall waive the right of any party to object to the allowance of any such fees and expenses.</p>
--	---

17. The Interim Order includes certain terms that constitute material provisions requiring explicit disclosure under the Local Rules. The provisions described in Rule 4001-2(a)(i) of the Local Rules, to the extent applicable, are set forth at the following sections of the Interim Order:³

- a. **Local Rule 4001-2(a)(i)(A) – Cross Collateralization.** Not applicable.
- b. **Local Rule 4001-2(a)(i)(B) – Validity, Perfection, and Amount of Prepetition Liens.** The Orders contain provisions or findings of fact that bind the estate with respect to the validity, perfection or amount of Prepetition Secured Parties' claims. Specifically, the representations, admissions, stipulations, agreements, releases, and waivers set forth in the Orders (collectively, the "Prepetition Lien and Claim Matters") are and shall be binding on the Debtor, its estate and any successors thereto (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for the Debtor), creditors, responsible persons, examiners with expanded powers, any other estate representative, and all parties in interest and all of their successors in interest and assigns, including, without limitation, any Creditors' Committee, unless, and solely to the extent that, a party in interest with standing and requisite authority (other than the Debtor, as to which any Challenge (as defined herein) is irrevocably waived and relinquished) (a) has timely filed the appropriate papers, and timely commenced the appropriate proceeding required under the Bankruptcy Code and Bankruptcy Rules, including, without limitation, as required pursuant to Part VII of the Bankruptcy Rules (in each case subject to the limitations set forth in the Orders), challenging the Prepetition Lien and Claim Matters (each such proceeding or appropriate pleading commencing a proceeding or other contested matter, a "Challenge") by no later

³ Capitalized terms used in this Paragraph 17 but not defined elsewhere in this Motion shall have the meaning ascribed to them in the Interim Order.

than the earlier of (x) the date of the hearing scheduled to consider confirmation of the Plan and (y) (i) with respect to parties in interest other than the Creditors' Committee, seventy-five (75) calendar days from the date of entry of the Interim Order and (ii) with respect to the Creditors' Committee, if any, sixty (60) calendar days from the appointment of the Creditors' Committee, if any, as the applicable period may be extended by the Court for good cause shown pursuant to an application filed by a party in interest before the expiration of the Challenge Period (as defined herein), or otherwise extended in writing from time to time in the sole discretion of GSI (with respect to the Senior Loan Documents) (as applicable for clauses (x) and (y), the "Challenge Period"); and (b) the Court enters judgment in favor of the plaintiff or movant in any such timely and property commenced Challenge proceeding, and any such judgment has become final and is not subject to any further review or appeal. Interim Order ¶ 4.

- c. **Local Rule 4001-2(a)(i)(C) – Section 506(c) Waiver.** Subject to entry of the Final Order, the Debtor proposes to waive its right to “surcharge” the Prepetition Secured Parties’ Prepetition Collateral and Collateral under section 506(c) of the Bankruptcy Code. The Prepetition Secured Parties required that the Debtor waives its rights under Bankruptcy Code section 506(c) as a condition to the consensual use of Cash Collateral. Interim Order ¶ 22. Moreover, the Prepetition Secured Parties extended valuable concessions to the Debtor in exchange for the proposed section 506(c) waiver, including the Carve-Out.
- d. **Local Rule 4001-2(a)(i)(D) – Liens on Avoidance Actions.** The proposed Interim Order contemplates that the Debtor will, subject to entry of the Final Order, grant the Prepetition Secured Parties first-priority (subject to the Carve-Out) Adequate Protection Liens on the proceeds of the Debtor’s Avoidance Actions (but not such Avoidance Actions themselves). Interim Order ¶ 8.a. The Prepetition Secured Parties have required Adequate Protection Liens on the proceeds of the Debtors’ Avoidance Actions as a condition to the consensual use of Cash Collateral.
- e. **Local Rule 4001-2(a)(i)(E) – Provisions Deeming Prepetition Debt to be Post-petition Debt.** Not applicable.
- f. **Local Rule 4001-2(a)(i)(F) – Disparate Treatment of Professionals Retained by the Committee.** Not applicable.
- g. **Local Rule 4001-2(a)(i)(G) – Non-Consensual Priming.** Not applicable.
- h. **Local Rule 4001-2(a)(i)(H) – Provisions Affecting the Court’s Power to Consider Equities of the Case.** The “equities of the case” provision of section 552(b) of the Bankruptcy Code is an equitable exception to the general rule that a secured creditor’s prepetition security interests extend to property of the debtor acquired after the petition date that constitutes proceeds of prepetition collateral. The proposed Interim Order provides that, upon entry of the Final Order, the

Prepetition Secured Parties shall each be entitled to all of the rights and benefits of Bankruptcy Code section 552(b) and the “equities of the case” exception under Bankruptcy Code section 552(b) shall not apply. Interim Order ¶ 21. The Prepetition Secured Parties required a waiver of the “equities of the case” exception as a condition to the consensual use of Cash Collateral.

BASIS FOR RELIEF

18. The Debtor submits that the relief requested herein is appropriate under the circumstances and in the best interests of the Debtor and its estate. Section 363(c)(2) of the Bankruptcy Code provides that a debtor may not use, sell or lease cash collateral unless “(a) each entity that has an interest in such cash collateral consents; or (b) the court, after notice and a hearing, authorizes such use, sale or lease in accordance with the provisions of this section.” 11 U.S.C. §363(c)(2). GSI is the only entity that possesses an interest in the Cash Collateral and consents to its use in accordance with the Interim Order and Budget.

19. The Debtor further submits that the adequate protection provided to GSI under the Interim Order is appropriate and sufficient. Section 363(e) of the Bankruptcy Code provides that “on request of an entity that has an interest in property ... proposed to be used, sold or leased, by the trustee, the court...shall prohibit or condition such use, sale or lease as is necessary to provide adequate protection of such interest.” 11 U.S.C. §363(e). Examples of adequate protection are provided in section 361 of the Bankruptcy Code and include, but are not limited to: (a) a lump sum or periodic cash payments to the extent that such use will result in a decrease in value of such entity’s interest in the property; (b) “additional or replacement lien[s]” to the extent that the use of cash collateral will cause a “decrease in the value of such entity’s interest in such property;” and (c) “granting such other relief...as will results in the realization by [the] entity of the indubitable equivalent of such entity’s interest in the property.” 11 U.S.C §361; *see also Resolution Tr. Corp.*

v. Swedeland Dev. Grp., Inc. (In re Swedeland Dev. Grp., Inc.), 16 F.3d 522, 564 (3d Cir. 1994)(“a determination of whether there is adequate protection is made on a case by case basis.”

20. The principal purpose of adequate protection is to safeguard the interest of the secured creditor in the particular collateral against diminution in the value of such interest. *See Swedeland*, 16 F.3d at 564 (“[T]he whole purpose of adequate protection for a creditor is to insure that the creditor receives the value for which he bargained prebankruptcy.”) (quoting *Mbank Dallas N.A. v. O’Connor (In re O’Connor)*, 808 F.2d 1393, 1396 (10 Cir. 1987); *Del. Tr. Co. v. Wilmington Tr., N.A. (In re Energy Future Holdings Corp.)*, 546 B.R. 566, 581 (Bankr. D. Del. 2016) (“The purpose of adequate protection ‘is to protect a secured creditor from diminution in the value of its interest in the particular collateral during the period of use by the debtor.’”)(quoting *In re Satcon Tech Corp.*, No. 12-12869, 2012 WL 6091160, at *6 (Bankr. D. Del. Dec. 7, 2012)).

21. As adequate protection for the Debtor’s use of Cash Collateral, the Debtor will grant to GSI, for the benefit of itself and the Senior Secured Lenders, (a) an additional and replacement valid, binding, enforceable, non-avoidable, and automatically perfected, *nunc pro tunc* to the Petition Date, postpetition security interest in and liens on (the “Adequate Protection Liens”), all of the Debtor’s presently owned or hereafter acquired property and assets, to the extent set forth in the Interim and Final Orders, subject or subordinate only to (1) the Carve Out, and (2) the Permitted Prior Liens, *provided that* the Prepetition First Priority Liens under the Loan Documents shall be subordinate solely with respect to the Adequate Protection Liens, but subject to the Carve Out; and (b) an allowed superpriority administrative expense claim (the “Superpriority Claim”), for the diminution in the value of the Prepetition Collateral, if any, subsequent to the Petition Date, junior only to the Carve Out, but senior to, and with priority over, all other administrative expenses pursuant to the Bankruptcy Code (including the kinds specified

in or arising or ordered pursuant to Bankruptcy Code sections 105(a), 326, 328, 330, 331, 503(b), 506(c) (subject to entry of the Final Order), 507, 546(c), 552(b), 726, and 1114 or otherwise, whether or not such expenses or claims may become secured by a judgment lien or other nonconsensual lien, levy, or attachment) and all other claims against the Debtor or its estate, at any time existing or arising, of any kind or nature whatsoever. The provision of these forms of adequate protection is appropriate.

22. The terms and conditions on which the Debtor may use Cash Collateral have been carefully designed to meet the dual goals of sections 361 and 363 of the Bankruptcy Code. If the Interim Order is entered, the Debtor will have working capital sufficient to fulfill its near term obligations and continue its efforts to reorganize. At the same time, GSI, for the benefit of itself and the Senior Secured Lenders, will be adequately protected in a manner that it has agreed in exchange for consenting to the Debtor's use of Cash Collateral. Therefore, the Debtor respectfully submits that the proposed Interim Order adequately protects GSI, is in the best interests of the Debtor, its estate, its creditors and all parties in interest and should be authorized by the Court.

23. The proposed Interim Order contemplates the modification of the Automatic Stay to the extent necessary to implement the provisions of the Interim Order, thereby permitting the Debtor to grant the Adequate Protection Liens described herein. Accordingly, the Debtor respectfully requests that this Court authorize the modification of the Automatic Stay in accordance with the terms set forth in the Interim Order.

REQUEST FOR INTERIM AND FINAL HEARINGS

24. Pursuant to Rule 4001(b) of the Bankruptcy Rules, the Debtor requests that the Court conduct an interim hearing and authorize the Debtor to use, on an interim basis, the Cash Collateral in accordance with the Budget (including any Permitted Deviation) and the terms and

provisions of the Interim Order. If the Debtor is unable to obtain immediate use of Cash Collateral, it would likely be unable to comply with its post-petition obligations or reorganize, causing irreparable harm to the estate and its creditors, including the Prepetition Secured Parties. Pursuant to Rule 4001(b)(2) of the Bankruptcy Rules, the Debtor requests that the Court set a date for the Final Hearing that is as soon as practicable and fix the date and time prior to the Final Hearing for parties in interest to file objections to the relief requested by this Motion.

NOTICE

25. Notice of this Motion will be provided to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the United States Attorney for the District of Delaware; (iii) the parties included on the Debtor's list of twenty (20) largest unsecured creditors; (iv) the Internal Revenue Service; (v) the Securities and Exchange Commission; (vi) the Debtor's secured creditors; (vii) the Debtor's taxing authorities; (viii) Weil, Gotshal & Manges LLP, counsel to Goldman Sachs International; (ix) Debevoise & Plimpton LLP, counsel to Elliott Management Corporation and its affiliates; (ix) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (x) any other party in interest entitled to notice of this Motion. As this Motion is seeking "first day" relief, notice of this Motion and any order entered in connection with this Motion will be served on all parties required by Local Rule 9013-1(m). Due to the urgency of the circumstances surrounding this Motion and the nature of the relief in it, the Debtor respectfully submits that no further notice of this Motion is required.

[Remainder of Page Intentionally Left Blank]

WHEREFORE, the Debtor respectfully requests that the Court enter the proposed Interim Order, substantially in the form attached hereto as **Exhibit A**, (i) granting the relief requested in this Motion, (ii) schedule a final hearing on the Motion, and (iii) grant such other and further relief as the Court may deem proper.

Dated: January 14, 2020
Wilmington, Delaware

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Stuart M. Brown

Stuart M. Brown (DE 4050)
1201 North Market Street, Suite 2100
Wilmington, Delaware 19801
Telephone: (302) 468-5700
Facsimile: (302) 394-2341
Email: stuart.brown@us.dlapiper.com

-and-

Thomas A. Califano (*pro hac vice* admission pending)
Jamila Justine Willis (*pro hac vice* admission pending)
1251 Avenue of the Americas
New York, New York 10020
Telephone: (212) 335-4500
Facsimile: (212) 335-4501
Email: thomas.califano@us.dlapiper.com
jamila.willis@us.dlapiper.com

Proposed Counsel to the Debtor

EXHIBIT A

Agreed Interim Order

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

In re:

REVA MEDICAL, INC.,

Debtor.¹

Chapter 11

Case No. 20-10072 (JTD)

Related Docket No. __

**INTERIM ORDER (I) AUTHORIZING USE OF CASH COLLATERAL,
(II) GRANTING ADEQUATE PROTECTION, (III) MODIFYING THE AUTOMATIC
STAY, AND (IV) SCHEDULING A FINAL HEARING**

Upon consideration of the motion (the "Motion") of REVA Medical, Inc. (the "Debtor" or "REVA") in the above-captioned case (the "Chapter 11 Case") for entry of interim (this "Interim Order") and final orders: (i) authorizing the Debtor to use cash collateral (as such term is defined in section 363(a) of the Bankruptcy Code, "Cash Collateral") of Prepetition Secured Parties (as defined below); (ii) providing adequate protection to the Prepetition Secured Parties to the extent set forth herein; (iii) modifying the automatic stay imposed by section 362 of the Bankruptcy Code (the "Automatic Stay") to the extent necessary to implement and effectuate the terms and provisions of the Interim Order and the Final Order (as defined below); and (iv) scheduling a final hearing (the "Final Hearing") to consider the entry of an order granting the relief requested in the Motion on a final basis (the "Final Order"); and an initial hearing on the Motion having been held by this Court on [__, 2020] (the "Interim Hearing"), and the Court having considered the Motion, *Declaration of Jeffrey Anderson in Support of Chapter 11 Filing and First Day Pleadings* (the "First Day Declaration") and the evidence submitted or adduced and the arguments of counsel made at the Interim Hearing; and notice of the Motion and the Interim Hearing having been given

¹ The last four digits of the Debtor's tax identification number are (0505). The Debtor's mailing address is 5751 Copley Drive, Suite B, San Diego, CA 92111.

in accordance with Bankruptcy Rules 2002, 4001(b), (c), and (d), and 9014; and the Interim Hearing to consider the interim relief requested in the Motion having been held and concluded; and all objections, if any, to the relief requested in the Motion on an interim basis having been withdrawn, resolved, or overruled by the Court; and it appearing to the Court that granting the relief requested is necessary to avoid immediate and irreparable harm to the Debtor and its estate pending the Final Hearing, and otherwise is fair and reasonable, in the best interests of the Debtor, its estate, creditors, and equity holders, and essential to maximize the value of the assets of the Debtor's business and estate; and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:²

A. Petition Date. On January 14, 2020 (the "Petition Date"), the Debtor filed a voluntary petition under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Court").

B. Debtor in Possession. The Debtor is continuing in the management and operation of its business and properties as a debtor in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. As of the date hereof, no trustee or examiner or official committee of unsecured creditors (the "Creditors' Committee") has been appointed in this Chapter 11 Case.

C. Jurisdiction and Venue. This Court has jurisdiction over the Debtor, the Debtor's estate, this proceeding, and the persons and properties affected hereby, pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court

² Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact pursuant to Fed. R. Bankr. P. 7052.

for the District of Delaware dated February 29, 2012. The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b). The Debtor has consented to entry of a final order by this Court. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

D. Debtor's Representations. Without prejudice to the rights of any other party, but in each case subject to the limitations contained in paragraph 4 below, the Debtor represents, admits, stipulates, and agrees (collectively, the "Debtor's Stipulations") as follows:

(i) *Senior Secured Credit Facility*. Prior to the Petition Date, the Debtor entered into that certain Credit and Guaranty Agreement (as amended, modified or otherwise supplemented from time to time prior to the Petition Date, the "Senior Secured Credit Agreement," and the loans thereunder, the "Senior Secured Credit Facility," and, collectively with all agreements, documents, notes, mortgages, security agreements, pledges, guarantees, subordination agreements, deeds, instruments, indemnities, indemnity letters, fee letters, assignments, charges, amendments, and any other agreements delivered pursuant thereto or in connection therewith, each as amended, modified or otherwise supplemented from time to time prior to the Petition Date, the "Loan Documents") by and among REVA, various lenders party thereto (the "Senior Secured Lenders"), and Goldman Sachs International, as administrative agent, collateral agent and lead arranger ("GSI" and together with the Senior Secured Lenders, the "Prepetition Secured Parties"). Each Loan Document is valid, binding, and, subject to applicable bankruptcy law, enforceable against the parties thereto in accordance with its terms. Prior to the Petition Date, the Prepetition Secured Parties made certain loans, advances, and other extensions of credit pursuant to the Loan Documents in the aggregate principal amount of \$9.7 million. As of the Petition Date, approximately \$9.7 million in principal amount plus accrued interest, costs, and fees is due and owing under the Senior Secured Credit Facility.

(ii) *Liens and Collateral.* Pursuant to and as more particularly described in the Loan Documents, the Debtor's obligations under the Loan Documents (the "Prepetition Obligations") are secured by, among other things, first priority liens in favor of the Prepetition Secured Parties (the "Prepetition First Priority Liens") in all of the Debtor's assets (the "Prepetition Collateral"), including all of the Debtor's inventory, intellectual property, accounts and accounts receivable, deposit accounts, contract rights and the proceeds of the foregoing, subject to certain customary exclusions and any other valid, perfected, and unavoidable lien or security interest otherwise existing as of the Petition Date that is senior to the Prepetition First Priority Liens of the Prepetition Secured Parties (collectively, the "Permitted Prior Liens" and each a "Permitted Prior Lien"). Prior to the Petition Date, the Debtor maintained three bank accounts (the "Bank Accounts") in which cash was deposited as more fully described in the Debtor's motion for approval of its continued use of its cash management system, filed contemporaneously with the Motion. REVA historically operated out of a single checking account (the "BAML Account"), however, in connection with entry into the *Second Amendment to Credit and Guarantee Agreement* by and among REVA, as borrower, GSI, as administrative agent for the lenders, the other lenders party thereto and Goldman Sachs Specialty Lending Group, L.P., as a new lender, the Debtor established two additional bank accounts, one of which is intended to receive the proceeds of any future loans (the "Cash Collateral Account"), and the other is intended to operate exclusively as a payroll account (the "Payroll Account"). The Debtor currently operates out of the Cash Collateral Account and the Payroll Account and will operate during the pendency of the case exclusively out of the Cash Collateral Account and the Payroll Account (in a manner consistent with prepetition practices). For the avoidance of doubt, the Cash Collateral Account

(and the funds deposited therein) and the Payroll Account (and the funds deposited therein) constitute Prepetition Collateral.

(iii) *Validity of Prepetition First Priority Liens and Prepetition Obligations.*

The Prepetition First Priority Liens are (a) valid, binding, perfected (other than with respect to the BAML Account and the Payroll Account), duly recorded and enforceable liens on, and security interests in, all of the Debtor's right, title, and interest in, and to, the Prepetition Collateral, and (b) not subject to, pursuant to the Bankruptcy Code or other applicable law (foreign or domestic), avoidance, disallowance, reduction, recharacterization, recovery, subordination (whether equitable, contractual, or otherwise), attachment, offset, recoupment, counterclaim, defense, "claim" (as defined in the Bankruptcy Code), impairment, or any other challenge of any kind by any person or entity, except only the Permitted Prior Liens. The Prepetition First Priority Liens were granted to the Prepetition Secured Parties for fair consideration and reasonably equivalent value, and were granted in consideration of the making and/or continued making of loans, commitments, and/or other financial accommodations under the Loan Documents. No portion of the Prepetition Obligations or any payments made to the Prepetition Secured Parties or applied to or paid on account of the obligations owing under the Loan Documents prior to the Petition Date is subject to any contest, attack, rejection, recovery, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance, or other claim, cause of action, or other challenge of any nature under the Bankruptcy Code or applicable nonbankruptcy law.

(iv) *Adequate Protection.* As a result of the authorization for the Debtor to use

Cash Collateral, the use, sale, or lease, loss or decline in market value of the Prepetition Collateral, and the imposition of the automatic stay, the Prepetition Secured Parties are entitled to receive adequate protection pursuant to Bankruptcy Code sections 361, 362, and 363 for any diminution

in the value, from and after the Petition Date, of their interests in the Prepetition Collateral (including the Cash Collateral) resulting from the automatic stay and/or from the Debtor's use, sale or lease of the Prepetition Collateral, or otherwise during the Chapter 11 Case. As adequate protection, the Prepetition Secured Parties will receive the adequate protection described in this Interim Order (including the adequate protection set forth in paragraph 8 hereof). In light of such adequate protection, the Prepetition Secured Parties have consented to the Debtor's use of Cash Collateral, solely on the terms and conditions set forth in this Interim Order. The adequate protection provided herein and other benefits and privileges contained herein are consistent with and authorized by the Bankruptcy Code and are necessary to obtain such consent.

E. *Section 552(b); Section 506(c)*. Subject to entry of the Final Order, Prepetition Secured Parties are entitled to a waiver of (a) any "equities of the case" exception under Bankruptcy Code section 552(b); and (b) the provisions of Bankruptcy Code section 506(c).

F. Necessity for Relief Requested; Immediate and Irreparable Harm. The Debtor requested the entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2). The Debtor has an immediate need to use Cash Collateral to, among other things, preserve and maximize the value of the Debtor's assets, absent which immediate and irreparable harm will result to the Debtor, its estate, and creditors. The preservation and maintenance of the Debtor's assets and business are necessary and appropriate to maximize values available for distribution to creditors. Absent the Debtor's ability to use Cash Collateral, the Debtor would not have sufficient available sources of working capital and would be unable to administer its estate, pay its operating expenses or maintain its assets, to the detriment of the Debtor's estate and creditors. Additionally, the use of Cash Collateral avoids the need for the Debtor to obtain debtor-in-possession financing, which may require the Debtor to, among other things, engage in a priming fight with the Prepetition Secured

Parties, incur fees in connection with such financing and otherwise will result in additional expense for the Debtor. Accordingly, the relief requested in the Motion and the terms herein are (i) critical to the Debtor's ability to maximize the value of its chapter 11 estate, (ii) in the best interests of the Debtor and its estate, and (iii) necessary, essential, and appropriate to avoid immediate and irreparable harm to the Debtor and its assets.

G. Good Cause. Good cause has been shown for entry of this Interim Order, and the entry of this Interim Order is in the best interests of the Debtor and its estate and creditors. Among other things, the relief granted herein will permit the Debtor to preserve and maintain the value of its assets. The stipulated terms of the Debtor's use of Cash Collateral and proposed adequate protection arrangements, as set forth in this Interim Order, are fair and reasonable under the circumstances, and reflect the Debtor's exercise of prudent business judgment consistent with its fiduciary duties.

H. Good Faith. The Debtor's use of Cash Collateral has been negotiated in good faith and at arms' length among the Debtor and the Prepetition Secured Parties and the Prepetition Secured Parties consent to the Debtor's use of Cash Collateral, and such use on the terms set forth herein shall be deemed to have been negotiated in "good faith."

I. Notice. The Debtor has caused notice of the Motion, the relief requested therein, and the Interim Hearing to be served by facsimile, email, overnight courier, or hand delivery on the following parties (collectively, the "Notice Parties"): (i) the Office of the U.S. Trustee for the District of Delaware; (ii) the holders of the 20 largest unsecured claims against the Debtor; (iii) GSI; (iv) counsel to GSI; (v) the United States Attorney's Office for the District of Delaware; (vi) the Internal Revenue Service; (vii) the Securities and Exchange Commission and any other federal, state or local governmental agency to the extent required by the Bankruptcy Code, the

Bankruptcy Rules, the Local Rules and orders of this Court; (viii) the state attorneys general for all states in which the Debtor conducts business; (ix) all parties who are known, after reasonable inquiry, to have asserted a lien, interest, encumbrance, or claim in the Prepetition Collateral, including Cash Collateral; (x) the Debtor's cash management banks; and (xi) any party that requested service pursuant to Bankruptcy Rule 2002. Under the circumstances, the notice given by the Debtor of the Motion, the relief requested therein, and of the Interim Hearing is sufficient and complies with Bankruptcy Rules 2002, 4001(b) and (d).

BASED UPON THE STIPULATED TERMS SET FORTH HEREIN, AND FINDINGS OF FACT AND CONCLUSIONS OF LAW, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. Motion Granted. The Motion is GRANTED to the extent provided herein on an interim basis. Any objection to the interim relief requested in the Motion to the extent not withdrawn or resolved is hereby overruled on the merits.

2. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, the Court hereby authorizes the Debtor to use existing and hereafter acquired Cash Collateral during the period beginning with the Petition Date and ending on the Termination Date (as defined herein) (such period, the "Budget Period"), for the disbursements set forth in the cash disbursements and receipts budget (which budget shall include a weekly forecast of transaction costs and capital expenditures) attached as **Exhibit 1** hereto (as such budget may be modified from time to time by the Debtor with the prior written consent of GSI as set forth in this paragraph and in paragraph 3(a) of this Interim Order (the "Budget"), and for no other purposes.

3. Budget.

(a) Subject to the deviation allowance(s) provided below (each a “Permitted Deviation”), the Debtor will not permit for any applicable Measurement Period (as defined herein) the actual disbursements during such Measurement Period to exceed one hundred ten percent (110%) of the projected disbursements set forth on the Budget for such Measurement Period. The Debtor shall be permitted to carry forward unused amounts to successive weeks for purposes of Budget testing set forth in this paragraph 3(a), with no carry-over surplus to a Subsequent Budget Period (as defined herein), if any, except to the extent agreed to in writing as set forth in this paragraph. GSI (or its duly appointed agent) may, in its sole discretion, agree in writing to use of Cash Collateral (i) in a manner or amount which does not conform to the Budget (other than Permitted Deviations) (each such approved non-conforming use of Cash Collateral, a “Non-Conforming Use”) or (ii) for the period following the extension of the Termination Date pursuant to paragraph 5 of this Interim Order (such period, the “Subsequent Budget Period”). If such written consent is given, the Debtor shall be authorized pursuant to this Interim Order to expend Cash Collateral for any such Non-Conforming Use or any such Subsequent Budget Period in accordance with a subsequent Budget (a “Subsequent Budget”) without further Court approval, and the Prepetition Secured Parties shall be entitled to all of the protections specified in this Interim Order for any such use of Cash Collateral; *provided* that each such permitted Non-Conforming Use shall be deemed a modification to the Budget for all testing purposes. The Debtor shall provide notice of any Non-Conforming Use, Subsequent Budget Period and Subsequent Budget to the United States Trustee and the Creditors’ Committee, if any.

(b) During any Remedies Notice Period (as defined herein), the Debtor may only use Cash Collateral to pay the following amounts and expenses solely in accordance with the

respective Budget line items: (i) the Carve Out (as defined herein); (ii) obligations for unpaid and accrued payroll and sales taxes; (iii) other expenses critical to keeping the business operating; and (iv) any such other obligations subject to the prior written consent of GSI.

(c) Notwithstanding anything to the contrary set forth in this Interim Order, the Cash Collateral and the Carve Out may not be used: (i) to investigate (except as expressly provided herein), initiate, prosecute, join, or finance the initiation or prosecution of any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, or other litigation of any type (A) against the Prepetition Secured Parties or seek relief that would impair the rights and remedies of the Prepetition Secured Parties under the Loan Documents or this Interim Order, including, without limitation, for the payment of any services rendered by the professionals retained by the Debtor or any Creditors' Committee in connection with the assertion of or joinder in any claim, counterclaim, action, proceeding, application, motion, objection, defense, or other contested matter, the purpose of which is to seek, or the result of which would be to obtain, any order, judgment, determination, declaration, or similar relief that would impair the ability of the Prepetition Secured Parties to recover on the Prepetition Obligations or seeking affirmative relief against the Prepetition Secured Parties; (B) invalidating, setting aside, avoiding, or subordinating, in whole or in part, the Prepetition Obligations or Prepetition First Priority Liens on the Prepetition Collateral; or (C) for monetary, injunctive, or other affirmative relief against the Prepetition Secured Parties or the Prepetition First Priority Liens on the Prepetition Collateral that would impair the ability of the Prepetition Secured Parties to assert or enforce any lien, claim, right, or security interest or to realize or recover on the Prepetition Obligations; (ii) for objecting to or challenging in any way the legality, validity, priority, perfection, or enforceability of the claims, lien, or interests (including the Prepetition First Priority Liens) held by the Prepetition Secured

Parties; (iii) for asserting, commencing, or prosecuting any claims or causes of action whatsoever, including, without limitation, any action commenced, or that may be commenced pursuant to chapter 5 of the Bankruptcy Code including sections 544, 545, 547, 548, 549, 550, or 551 of the Bankruptcy Code (such actions, “Avoidance Actions”), against the Prepetition Secured Parties; or (iv) for prosecuting an objection to, contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of the Prepetition First Priority Liens or any other rights or interests of the Prepetition Secured Parties; *provided, however*, an amount up to \$25,000 of Cash Collateral nevertheless may be used by any Creditors’ Committee solely to investigate the foregoing matters within the Challenge Period (as defined herein).

4. Effect of Stipulation on Third Parties.

(a) *Generally.* The representations, admissions, stipulations, agreements, releases, and waivers set forth in this Interim Order (collectively, the “Prepetition Lien and Claim Matters”) are and shall be binding on the Debtor, its estate and any successors thereto (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for the Debtor), creditors, responsible persons, examiners with expanded powers, any other estate representative, and all parties in interest and all of their successors in interest and assigns, including, without limitation, any Creditors’ Committee, unless, and solely to the extent that, a party in interest with standing and requisite authority (other than the Debtor, as to which any Challenge (as defined herein) is irrevocably waived and relinquished) (a) has timely filed the appropriate papers, and timely commenced the appropriate proceeding required under the Bankruptcy Code and Bankruptcy Rules, including, without limitation, as required pursuant to Part VII of the Bankruptcy Rules (in each case subject to the limitations set forth in paragraph 3(c) of this Interim Order), challenging the Prepetition Lien and Claim Matters (each such proceeding or appropriate pleading

commencing a proceeding or other contested matter, a “Challenge”) by no later than the earlier of (x) the date of the hearing scheduled to consider confirmation of the Plan and (y) (i) with respect to parties in interest other than the Creditors’ Committee, seventy-five (75) calendar days from the date of entry of this Interim Order and (ii) with respect to the Creditors’ Committee, if any, sixty (60) calendar days from the appointment of the Creditors’ Committee, if any, as the applicable period may be extended by the Court for good cause shown pursuant to an application filed by a party in interest before the expiration of the Challenge Period (as defined herein), or otherwise extended in writing from time to time without further order of the Court in the sole discretion of GSI (with respect to the Senior Loan Documents) (as applicable for clauses (x) and (y), the “Challenge Period”); and (b) the Court enters judgment in favor of the plaintiff or movant in any such timely and properly commenced Challenge proceeding, and any such judgment has become final and is not subject to any further review or appeal.

(b) *Binding Effect.* To the extent no Challenge is timely and properly commenced during the Challenge Period by a party with requisite standing, or to the extent such proceeding does not result in a final and non-appealable judgment or order of this Court that is inconsistent with the Prepetition Lien and Claim Matters, then, without further notice, motion, or application to, order of, or hearing before, this Court and without the need or requirement to file any proof of claim, the Prepetition Lien and Claim Matters shall, pursuant to this Interim Order, become binding, conclusive, and final on the Debtor, its estate, all creditors, any person, entity, or party in interest in the Chapter 11 Case, and their successors and assigns, and in any Successor Case (as defined herein) for all purposes and shall not be subject to challenge or objection by any party in interest, including, without limitation, a trustee, responsible individual, examiner with expanded powers, or other representative of the Debtor’s estate. More specifically, as to (i) any

parties in interest, including any Creditors' Committee, who fail to file a Challenge within the Challenge Period, or if any such Challenge is filed and overruled, or (ii) any and all matters that are not expressly the subject of a timely Challenge: (A) any and all such Challenges by any party (including, without limitation, any Creditors' Committee, any chapter 11 trustee, any examiner or any other estate representative appointed in the Chapter 11 Case, or any chapter 7 trustee, any examiner or any other estate representative appointed in any Successor Case), shall be deemed to be forever waived and barred, (B) all of the findings, Debtor's Stipulations, waivers, releases, affirmations, and other stipulations hereunder as to the priority, extent, validity, and enforceability as to the Prepetition Secured Parties' claims, liens, and interests shall be of full force and effect and forever binding upon the Debtor's bankruptcy estate and all creditors, interest holders, and other parties in interest in the Chapter 11 Case and any Successor Case, and (C) the Prepetition Secured Parties and each their respective agents, officers, directors, employees, attorneys, consultants, professionals, successors, and assigns shall be deemed released and discharged from all claims and causes of action arising out of or in any way relating to the Prepetition Lien and Claim Matters and shall not be subject to any further objection or challenge by any party at any time.

(c) *No Standing.* Nothing in this Interim Order vests or confers on any person (as defined in the Bankruptcy Code), including any Creditors' Committee, standing or authority to pursue any claim or cause of action belonging to the Debtor and/or its bankruptcy estate, including, without limitation, any Challenge with respect to the Loan Documents or the Prepetition Obligations.

5. Termination Date. The Debtor's authorization, and the Prepetition Parties' consent to use Cash Collateral in accordance with this Interim Order shall terminate on the earliest to occur

of (the “Termination Date”): (i) February 29, 2020, unless such date is extended pursuant to the written consent of GSI; (ii) the termination or non-consensual modification of this Interim Order or the failure of this Interim Order to be in full force and effect; (iii) the entry of an order of this Court terminating the Debtor’s right to use Cash Collateral; (iv) the dismissal of the Chapter 11 Case or the conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code (a “Successor Case”); (v) the appointment of a trustee or an examiner with expanded powers; (vi) the delivery of a Termination Date Declaration (as defined herein) by GSI, as set forth in paragraph 14 below; (vii) the first business day that is twenty-eight (28) business days after the Petition Date (unless such period is extended by GSI) if the Final Order, in form and substance acceptable to GSI, has not been entered by the Court on or before such date; and (viii) the consummation of the *Prepackaged Chapter 11 Plan of REVA Medical, Inc.* (the “Plan”) or an Acceptable Plan (as defined below).

6. Reporting Requirements/Access to Records. The Debtor shall provide GSI with all reporting and other information required to be provided to GSI under the Loan Documents, other than the projected cash flows and other reporting required by Section 5.1(c) of the Senior Secured Credit Agreement. In addition to, and without limiting, whatever rights to access GSI has under the Loan Documents, subject to existing confidentiality agreements, upon reasonable notice and to the extent reasonably requested, at reasonable times during normal business hours, the Debtor shall permit representatives, agents, and employees of GSI, respectively, to: (i) have access to and inspect the Debtor’s assets; (ii) examine the Debtor’s books and records, and (iii) discuss the Debtor’s affairs, finances, and condition with the Debtor’s officers, directors, attorneys, consultants, and financial advisors. In addition, the Debtor shall provide the following additional information to GSI:

(a) Weekly (or more or less frequently as may be agreed to between the Debtor and GSI) calls with GSI and its advisors;

(b) Presentations to the Prepetition Secured Parties at times and places as GSI may reasonably request;

(c) Beginning on the Thursday following the second full week following the Petition Date, and every other week thereafter, an updated rolling weekly cash flow forecast of the Debtor substantially in the form of the Budget (each, a “Proposed Budget”), which Proposed Budget, upon written approval by GSI, shall become the new Budget;

(d) Beginning on the Thursday following the second full week following the Petition Date, a weekly variance reconciliation report (a “Variance Report”) on the Thursday of each week setting forth on a weekly basis for the prior week and on a cumulative basis from the Petition Date through the fourth (4th) full week after the Petition Date and then on a rolling two (2) week basis at all times thereafter (each of the foregoing, a “Measurement Period”) the Debtor’s (i) total cash receipts and (ii) total disbursements, noting therein variances from amounts set forth for such periods in the Budget; and

(e) The Debtor shall provide copies of all substantive motions, applications, other pleadings, and proposed forms of order with respect thereto (all of which shall be in form and substance reasonably acceptable to GSI) to GSI at least three (3) business days prior to the filing of any such substantive motions, applications, other pleadings, and proposed forms of order with respect thereto with the Court.

7. Insurance. At all times, the Debtor shall maintain casualty and loss insurance coverage for the Prepetition Collateral and the Collateral (as defined herein) on substantially the same basis as maintained prior to the Petition Date.

8. Adequate Protection. In consideration for the Debtor's use of the Prepetition Collateral (including Cash Collateral), the Prepetition Secured Parties shall receive the following adequate protection:

(a) *Adequate Protection Liens*. Subject only to the Carve Out and Permitted Prior Liens and the terms of this Interim Order, pursuant to Bankruptcy Code sections 361, 363(e) and 364, and in consideration of the stipulations and consents set forth herein, as adequate protection for and solely to the extent of any diminution in the value, from and after the Petition Date, of the Prepetition Secured Parties' interests in the Prepetition Collateral (including Cash Collateral) resulting from: (i) the use, sale, or lease of the Prepetition Collateral; and (ii) the imposition of the automatic stay (together, the "Adequate Protection Obligations"), the Debtor hereby grants to GSI, for the benefit of itself and the Senior Secured Lenders, an additional and replacement valid, binding, enforceable, non-avoidable, and automatically perfected, *nunc pro tunc* to the Petition Date, postpetition security interest in and liens on (the "Adequate Protection Liens"), without the necessity of the execution by the Debtor (or recordation or other filing) of security agreements, control agreements, pledge agreements, financing statements, mortgages, or other similar documents, all of the rights, title and interest of the Debtor and its "estate" (as created pursuant to Bankruptcy Code section 541(a)) in, to, and under all present and after-acquired property and assets of the Debtor of any nature whatsoever, whether real or personal, tangible or intangible, wherever located, including, without limitation, all cash and Cash Collateral of the Debtor, and any investment of such cash and Cash Collateral, accounts receivable and other rights to payment, whether arising before or after the Petition Date, inventory, general intangibles, chattel paper, real property and leaseholds and proceeds thereof (*provided, however*, Adequate Protection Liens shall only be granted on the leaseholds if expressly permitted under the lease, and to the

extent that any lease prohibits the granting of a lien thereon, GSI, for the benefit of itself and the Senior Secured Lenders, shall be granted a lien only on the economic value of, proceeds of sale or other disposition of, and any other proceeds and products of such leasehold interests), plants, fixtures, machinery, equipment, commercial tort claims, deposit accounts, cash and cash equivalents, rights under letters of credit, capital stock and other equity or ownership interest held by the Debtor, including equity interests in subsidiaries and all other investment property, investments, patents, trademarks, trade names, copyrights, licenses, rights under license agreements and other intellectual property, inter-company notes or receivables due to the Debtor, all of the Collateral (as defined in the Senior Secured Credit Agreement), and, subject to entry of the Final Order, all proceeds from Avoidance Actions of the Debtor or its estate, and as to all of the foregoing, all rents, issues, products, proceeds and profits generated by any of the foregoing (collectively, the "Collateral"). The Adequate Protection Liens are subject or subordinate only to (1) the Carve Out, and (2) the Permitted Prior Liens. Moreover, the Adequate Protection Liens shall not be subject or subordinate to or made *pari passu* with (x) any lien or security interest that is avoided and preserved for the benefit of the Debtor's estate under Bankruptcy Code section 551, or (y) any other lien or security interest under Bankruptcy Code sections 361, 363, or 364 or otherwise except as expressly provided in this Interim Order. The Prepetition First Priority Liens under the Loan Documents shall be subordinate solely with respect to the Adequate Protection Liens, and the Prepetition First Priority Liens and the Adequate Protection Liens shall be subject to the Carve Out and the Permitted Prior Liens.

(b) *Superpriority Claims.* Pursuant to Bankruptcy Code section 507(b), GSI, for the benefit of itself and the Senior Secured Lenders, effective as of the entry of this Interim Order, are hereby further granted an allowed superpriority administrative expense claim

(the “Superpriority Claim”) in the Chapter 11 Case or any Successor Case, for the diminution in the value (as determined under applicable bankruptcy law) of the Prepetition Collateral, if any, subsequent to the Petition Date, which claims shall be junior only to the Carve Out, but shall be senior to and have priority over all other administrative expenses pursuant to the Bankruptcy Code (including the kinds specified in or arising or ordered pursuant to Bankruptcy Code sections 105(a), 326, 328, 330, 331, 503(b), 506(c) (subject to entry of the Final Order), 507, 546(c), 552(b), 726, and 1114 or otherwise, whether or not such expenses or claims may become secured by a judgment lien or other nonconsensual lien, levy, or attachment) and all other claims against the Debtor or its estate in the Chapter 11 Case or any Successor Case, at any time existing or arising, of any kind or nature whatsoever. The Superpriority Claim shall be payable from and have recourse to all assets and properties of the Debtor. Except for the Carve Out, the Superpriority Claim shall not be made subject to, or *pari passu* with, any claim heretofore or hereinafter granted or created in the Chapter 11 Case or any Successor Case, shall be valid and enforceable against the Debtor, its estate, and any successors or assigns thereto, including, without limitation, any trustee appointed in the Chapter 11 Case or any Successor Case.

(c) *Adequate Protection Reservation.* The receipt by the Prepetition Secured Parties of the adequate protection provided herein shall not be deemed an admission that the interests of the Prepetition Secured Parties are adequately protected. Further, this Interim Order shall not prejudice or limit the rights of the Prepetition Secured Parties to seek additional relief with respect to the use of Cash Collateral or for additional adequate protection.

9. Modification of Automatic Stay. The automatic stay under Bankruptcy Code section 362(a) is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtor to provide the adequate

protection provided herein; (b) permit the Debtor to perform such acts as GSI may reasonably request to assure the perfection and priority of the Adequate Protection Liens granted herein; and (c) authorize the Debtor to make payments in accordance with the terms of this Interim Order.

10. Cash Management. The Debtor shall maintain its cash management arrangements in a manner consistent with the interim order granting the *Motion of the Debtor for Interim and Final Orders (i) Authorizing Continued Use of Existing Cash Management System, Bank Accounts, and Business Forms and Payment of Related Prepetition Obligations; and (ii) Waiving Certain Deposit Requirements* entered or to be entered substantially contemporaneously herewith. The Debtor shall not use, sell or lease any material assets outside the ordinary course of business, or seek authority of this Court to do any of the foregoing, without the prior written consent of GSI.

11. Disposition of Collateral. The Debtor shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the Prepetition Collateral or the Collateral outside of the ordinary course of business without the prior written consent of GSI, unless such sale, transfer, lease, encumbrance or other disposition is approved by the Court and results in the indefeasible payment in full in cash of the Prepetition Obligations and, with respect to any letters of credit, either replacement thereof or the posting of Cash Collateral in the amount of 105% of such letters of credit.

12. Milestones. The Prepetition Secured Parties have conditioned the Debtor's use of Cash Collateral on compliance with the following requirements by the applicable date set forth below (together, the "Milestones"):

(a) entry by the Court of the Final Order within twenty-eight (28) business days after the Petition Date; and

(b) the occurrence of the Effective Date of the Plan (as defined in the Plan) within forty-five (45) days after the Petition Date.

13. Events of Default. The occurrence of any of the following events, unless waived in writing by GSI, shall constitute an event of default (each, an “Event of Default”):

(a) the Debtor’s continued use of Cash Collateral after the Termination Date without the written consent of GSI, except during the Remedies Notice Period;

(b) the Debtor’s failure to (i) comply with the Budget, as required by paragraph 3(a) hereof, and related reporting and covenant requirements, as required by paragraph 6 hereof, or (ii) perform, in any material respect, any of their obligations under this Interim Order, dispose of Prepetition Collateral or Collateral in compliance with paragraph 11 hereof, or comply with the Milestones under paragraph 12 hereof;

(c) the Debtor obtaining postpetition credit or incurring postpetition indebtedness that is (i) secured by a security interest, mortgage or lien on all or any portion of the Prepetition Collateral or Collateral which is equal to or senior to, any security interest, mortgage or lien of the Prepetition Secured Parties in the Prepetition Collateral or the Adequate Protection Liens in the Collateral, or (ii) entitled to priority administrative status which is equal to or senior to the Superpriority Claims;

(d) any lien or security interest purported to be created under the Loan Documents shall cease to be, shall be asserted by the Debtor not to be, or shall otherwise be determined by the Court not to be a valid and perfected lien on or security interest in any Prepetition Collateral, with the priority required by the Loan Documents or herein;

(e) the failure by the Debtor to deliver to GSI any of the documents or other information required to be delivered pursuant to this Interim Order when due or any such documents or other information contains a material misrepresentation;

(f) dismissal of the Chapter 11 Case, conversion of the Chapter 11 Case to chapter 7, or the appointment of a chapter 11 trustee or examiner with expanded powers in the Chapter 11 Case;

(g) entry of an order staying, reversing, vacating, amending, or rescinding any of the terms of this Interim Order without the consent of GSI;

(h) the filing by the Debtor of any motion, pleading, application or adversary proceeding challenging the validity, enforceability, perfection or priority of the liens securing the Prepetition Obligations or asserting any other cause of action against and/or with respect to the Prepetition Obligations, the Prepetition Collateral securing the Prepetition Obligations or any of the Senior Secured Lenders (or if the Debtor supports any such motion, pleading, application or adversary proceeding commenced by any third party);

(i) the entry of an order or judgment by this Court or any other court: (i) modifying, limiting, subordinating, or avoiding the priority of the obligations of the Debtor under this Interim Order, the obligations of the Debtor under the Loan Documents, or the perfection, priority, or validity of the Prepetition First Priority Liens or the Adequate Protection Liens; (ii) imposing, surcharging, or assessing against the Prepetition Secured Parties' claims or the Prepetition Collateral or the Collateral, any costs or expenses, whether pursuant to Bankruptcy Code section 506(c) or otherwise; (iii) impairing any of the Prepetition Secured Parties' right to credit bid; and (iv) authorizing the obtaining of postpetition credit or the incurrence of postpetition indebtedness that is secured by a security interest, mortgage, or other lien on all or any portion of

the Prepetition Collateral or Collateral which is equal to or senior to any security interest, mortgage, or other lien of Prepetition Secured Parties, or granted herein or entitled to administrative expense priority status which is equal or senior to that granted to the Prepetition Secured Parties herein;

(j) the sale of the Debtor's assets outside the ordinary course of business without the prior written consent of GSI;

(k) the filing of a chapter 11 plan (other than the Plan) which does not provide for the indefeasible payment in full of the Prepetition Obligations on the effective date of such plan (an "Acceptable Plan"); or

(l) any Cash Collateral or the Carve Out is used, whether or not pursuant to Court order, in a manner not permitted by this Interim Order, including paragraph 3 hereof.

14. Exercise of Remedies. Upon the occurrence and at any time during the continuation of an Event of Default, the Debtor shall immediately cease using Cash Collateral (except to the extent permitted by paragraph 3(b) hereof) and GSI may, upon five (5) business days' (the "Remedies Notice Period") written notice to counsel to the Debtor, counsel to the Creditors' Committee, if any, and the U.S. Trustee (which such notice may be by electronic mail) (a "Termination Date Declaration") and in accordance with the terms and conditions of this Interim Order, exercise the rights and remedies available under the Loan Documents, this Interim Order or applicable law, including, without limitation, foreclosing upon and selling all or a portion of the Prepetition Collateral or Collateral in order to collect any amounts payable to the Prepetition Secured Parties pursuant to this Interim Order and apply the same to such obligations. The automatic stay under section 362 of the Bankruptcy Code shall be deemed immediately modified and vacated to the extent necessary to permit such actions. The Debtor shall be entitled to seek

an emergency hearing with the Court during the Remedies Notice Period for the sole purpose of contesting whether an Event of Default has occurred and/or is continuing, and such other matters as the Court may wish to consider. Upon the expiration of the Remedies Notice Period, the Prepetition Secured Parties shall be permitted to exercise all remedies set forth herein, in the Loan Documents, and as otherwise available at law without further order of or application or motion to the Court. Any delay or failure of the Prepetition Secured Parties to exercise rights under any Loan Documents or this Interim Order shall not constitute a waiver of their respective rights hereunder, thereunder or otherwise. Notwithstanding the occurrence of the Termination Date or anything herein, all of the rights, remedies, benefits and protections provided to the Prepetition Secured Parties under this Interim Order shall survive the Termination Date.

15. Carve Out; Payment of Estate Professionals.

(a) *Generally.* As used in this Interim Order, the “Carve Out” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtor pursuant to section 327, 328, or 363 of the Bankruptcy Code (including but not limited to Bankruptcy Management Solutions, Inc. d/b/a Stretto, DLA Piper LLP (US) and Ernst & Young LLP) and the Creditors’ Committee pursuant to section 328 or 1103 of the Bankruptcy Code (collectively, the “Professional Persons”) incurred in accordance with the Budget (including any Permitted Deviation) at any time before or on the first

business day following delivery by GSI of a Carve Out Trigger Notice (as defined herein), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$50,000 incurred after the first business day following delivery by GSI of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise; *provided*, that, the Carve Out shall not include any bonus, transaction, success fees, completion fees, substantial contribution fees, or any other fees of similar import of any of the foregoing for Professional Persons; *provided further*, that nothing herein shall waive the right of any party to object to the allowance of any such fees and expenses. For purposes of the foregoing, “Carve Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by GSI to the Debtor, the Debtor’s lead restructuring counsel, the U.S. Trustee, and counsel to the Creditors’ Committee, if any, which notice may be delivered following the occurrence and during the continuation of an Event of Default and upon termination of the Debtor’s right to use Cash Collateral.

(b) *Reservation of Rights.* The Prepetition Secured Parties reserve their rights to object to the allowance of any fees and expenses, including any fees and expenses sought that are not provided for in the Budget. The payment of any fees or expenses of the Professional Persons pursuant to the Carve Out shall not, and shall not be deemed to, (i) reduce the Debtor’s obligations owed to any of the Prepetition Secured Parties, or (ii) modify, alter, or otherwise affect any of the liens and security interests of such parties in the Collateral or Prepetition Collateral (or their respective claims against the Debtor).

(c) *Payment of Allowed Professional Fees Prior to the Termination Declaration Date.* Any payment or reimbursement made prior to the day on which a Carve Out Trigger Notice is given by GSI to the Debtor with a copy to counsel to the Creditors’ Committee

(if any) (the “Termination Declaration Date”) in respect of any Allowed Professional Fees shall not reduce the Carve Out.

(d) *No Direct Obligation To Pay Allowed Professional Fees.* None of the Prepetition Secured Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Chapter 11 Case or any successor case under any chapter of the Bankruptcy Code. Nothing in this Interim Order or otherwise shall be construed to obligate the Prepetition Secured Parties, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtor has sufficient funds to pay such compensation or reimbursement. For the avoidance of doubt, nothing in this paragraph 15(d) shall negate or nullify the Carve-Out.

(e) *Payment of Carve Out On or After the Termination Declaration Date.* Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for-dollar basis.

16. Release. Subject to entry of the Final Order, and subject to paragraph 4 of this Interim Order, the Debtor on behalf of itself and its estate (including any successor trustee or other estate representative in the Chapter 11 Case or any Successor Case) and any party acting by, or through, the Debtor or its estate, hereby, to the maximum extent permitted by applicable law, unconditionally, irrevocably and fully, forever waives and releases the Prepetition Secured Parties, and each of their respective former or current officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, and predecessors in interest of any and all “claims” (as defined in section 101(5) of the Bankruptcy Code), counterclaims, causes of action,

defenses or setoff rights that exist on the date hereof relating to any of the Prepetition Collateral and any of the Loan Documents or the transactions contemplated under such documents, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending or threatened, arising at law or in equity, including, without limitation, any so-called “lender liability,” recharacterization, subordination, Avoidance Action or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state or federal law and any and all claims and causes of action regarding the validity, priority, perfection or avoidability of the liens or the claims of the Prepetition Secured Parties.

17. Reversal, Modification, Vacatur, or Stay. Any reversal, modification, vacatur, or stay of any or all of the provisions of this Interim Order shall not affect the validity or enforceability of any Adequate Protection Liens, or any claim, lien, security interest, or priority authorized or created hereby with respect to any Adequate Protection Obligations, incurred prior to the effective date of such reversal, modification, vacatur, or stay. Notwithstanding any reversal, modification, vacatur, or stay (a) this Interim Order shall govern, in all respects, any use of Cash Collateral and the Adequate Protection Liens and Superpriority Claims incurred by the Debtor prior to the effective date of such reversal, modification, vacatur, or stay, and (b) the Prepetition Secured Parties shall be entitled to all the benefits and protections granted by this Interim Order with respect to any such use of Cash Collateral or such Adequate Protection Liens or Superpriority Claims incurred by the Debtor.

18. Reservation of Rights. Notwithstanding anything to the contrary herein, the entry of this Interim Order and the transactions contemplated hereby shall not constitute an admission nor be deemed an admission by the Prepetition Secured Parties that absent their consent to the

Debtor's use of Cash Collateral under this Interim Order their interest in the Prepetition Collateral would be adequately protected. Except as otherwise expressly set forth herein, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair: (a) the Prepetition Secured Parties' rights to seek any other or supplemental relief in respect of the Debtor, including the right to seek additional adequate protection; (b) any of the Prepetition Secured Parties' rights under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the rights of the Prepetition Secured Parties to (i) request modification of the automatic stay of Bankruptcy Code section 362, (ii) request dismissal of the Chapter 11 Case, conversion of the Chapter 11 Case to a case under chapter 7, or appointment of a chapter 11 trustee or examiner with expanded powers, (iii) seek to propose, subject to the provisions of Bankruptcy Code section 1121, a chapter 11 plan or plans; or (c) any other rights, claims, or privileges (whether legal, equitable, or otherwise) of the Prepetition Secured Parties.

19. No Waiver for Failure to Seek Relief. The failure or delay of the Prepetition Secured Parties to seek relief or otherwise exercise any of their rights and remedies under this Interim Order, the Loan Documents, or applicable law, as the case may be, shall not constitute a waiver of any rights hereunder, thereunder, or otherwise, by the Prepetition Secured Parties.

20. Section 507(b) Reservation. Nothing herein shall impair or modify the application of Bankruptcy Code section 507(b) in the event that the adequate protection provided to the Prepetition Secured Parties hereunder is insufficient to compensate for the Adequate Protection Obligations during the Chapter 11 Case, except with respect to the priority of the Carve Out any claim entitled to priority under section 507(b) shall be subordinate to the Carve Out. Nothing contained herein shall be deemed a finding by the Court, or an acknowledgment by the Prepetition Secured Parties, that the adequate protection granted herein does in fact adequately protect the

Prepetition Secured Parties against any diminution in value of their interests in and against the Prepetition Collateral (including the Cash Collateral).

21. Section 552(b) Waiver. Subject to entry of the Final Order, the Prepetition Secured Parties shall be entitled to all of the rights and benefits of Bankruptcy Code section 552(b) and the “equities of the case” exception shall not apply.

22. Section 506(c) Waiver. Subject to entry of the Final Order, the Debtor and its estate waive any claim under Bankruptcy Code section 506(c) for any costs and expenses incurred in connection with the preservation, protection or enhancement of, or realization the Prepetition Secured Parties upon the Prepetition Collateral or Collateral.

23. No Marshalling/Application of Proceeds. Subject to the entry of the Final Order, in no event shall the Prepetition Secured Parties be subject to the equitable doctrine of “marshalling” or any other similar doctrine with respect to any of the Prepetition Collateral or Collateral or any proceeds thereof.

24. Good Faith. Based on the findings set forth in this Interim Order and the record made during the Interim Hearing, pursuant to Bankruptcy Code sections 105, 361, 363, and 364, the Debtor and the Prepetition Secured Parties are hereby found to be entities that have acted in “good faith” in connection with the negotiation and entry of this Interim Order and are entitled to the protections afforded by Bankruptcy Code section 363(m).

25. No Third Party Rights. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect, or incidental beneficiary.

26. No Liability to Third Parties. In permitting the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order, the

Prepetition Secured Parties shall not be deemed to be in control of the operations of the Debtor or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtor (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 et seq. as amended, or any similar federal or state statute), nor shall they owe any fiduciary duty to the Debtor, its creditors or estate, or shall constitute or be deemed to constitute a joint venture or partnership with the Debtor. Furthermore, nothing in this Interim Order shall in any way be construed or interpreted to impose upon the Prepetition Secured Parties any liability for any claims arising from the prepetition or postpetition activities of the Debtor (as defined in Bankruptcy Code section 101(2)).

27. Master Proof of Claim. The Prepetition Secured Parties shall not be required to file proofs of claim in the Chapter 11 Case or any Successor Case, and the Debtor’s Stipulations shall be deemed to constitute a timely filed proof of claim against the Debtor. Notwithstanding the foregoing, GSI (on behalf of itself and the other Senior Secured Lenders) is hereby authorized and entitled, but not required, in its sole discretion, to file (and amend and/or supplement, as it sees fit) a master proof of claim for any claims of the Prepetition Secured Parties arising from the applicable Loan Documents; *provided* that nothing herein shall waive the right of any Prepetition Secured Party to file its own proofs of claim against the Debtor.

28. Binding Effect of Interim Order. The provisions of this Interim Order shall be binding upon all parties in interest in the Chapter 11 Case, including the Prepetition Secured Parties, any statutory committees that may be appointed in the Chapter 11 Case, and the Debtor and their respective successors and assigns and shall inure to the benefit of the Prepetition Secured Parties, the Debtor and their respective successors and assigns. This Interim Order shall bind any

trustee hereafter appointed or elected for the Debtor's estate whether in the Chapter 11 Case or in the event of the conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code. Such binding effect is a benefit of the Prepetition Secured Parties' bargain in connection with the Debtor's use of Cash Collateral and is an integral part of this Interim Order. Any payments to be made by the Debtor under any order (including any "First Day" order) shall be made in accordance with this Interim Order and the Budget.

29. Survival. The provisions of this Interim Order and any actions taken pursuant hereto shall survive the entry of any order: (i) confirming any chapter 11 plan, (ii) converting the Chapter 11 Case to a chapter 7 case, or (iii) dismissing the Chapter 11 Case. The terms and provisions of this Interim Order, including, for the avoidance of doubt, the provisions in paragraph 4 hereof, as well as the adequate protection granted pursuant to this Interim Order shall continue in full force and effect notwithstanding the entry of any of the foregoing orders, and such claims and liens shall maintain their priority as provided by this Interim Order, the Loan Documents until all of the Prepetition Obligations are indefeasibly paid and satisfied in full in cash.

30. Effect of Dismissal. If the Chapter 11 Case is dismissed or converted, then neither the entry of this Interim Order nor the dismissal or conversion of the Chapter 11 Case shall affect the rights of the Prepetition Secured Parties (to the extent of the adequate protection provided hereunder) under the Loan Documents or this Interim Order, and all rights and remedies thereunder of the Prepetition Secured Parties (to the extent of adequate protection provided hereunder and remain subject to the Carve Out) shall remain in full force and effect as if the Chapter 11 Case had not been dismissed or converted. If an order dismissing the Chapter 11 Case is entered, the Debtor agrees to propose an order that shall provide (in accordance with Bankruptcy Code sections 105 and 349) that (i) the adequate protection granted to and conferred upon the Prepetition Secured

Parties shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until the Adequate Protection Obligations have been satisfied, and (ii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purpose of enforcing the adequate protection provided for herein. The provisions of this Interim Order, and any actions taken pursuant hereto, shall survive the entry of and shall govern with respect to any conflict with any order that may be entered confirming any chapter 11 plan, dismissing the Chapter 11 Case or converting the Chapter 11 Case from chapter 11 to chapter 7.

31. Findings of Fact and Conclusions of Law. This Interim Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon the entry thereof. To the extent that any findings of fact are determined to be conclusions of law, such findings of fact shall be adopted as such; and to the extent that any conclusions of law are determined to be findings of fact, such conclusions of law shall be adopted as such.

32. Order Effective upon Entry. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

33. Retention of Jurisdiction. The Court has and will retain jurisdiction and power to enforce this Interim Order in accordance with its terms and to adjudicate any and all matters arising from or related to the interpretation or implementation of this Interim Order.

34. Final Hearing. A hearing on the Debtor's request for a Final Order approving the Motion is scheduled for _____, 2020, at ___:___ a.m./p.m. (prevailing Eastern time) before this Court. Within three (3) business days after entry of this Interim Order, the Debtor shall serve, or cause to be served, by first class mail or other appropriate method of service, a copy

of the Motion (to the extent the Motion was not previously served on a party) and this Interim Order on (i) the Notice Parties (as defined herein), and (ii) counsel to any Creditors' Committee. Any responses or objections to the Motion shall be made in writing, conform to the applicable Bankruptcy Rules and Local Rules, be filed with the Court, set forth the name of the objecting party, the basis for the objection, and the specific grounds therefor, and be served by no later than _____, 2020, at 4:00 p.m. (prevailing Eastern time) by the following parties: (i) the Debtor, REVA Medical, Inc., 5751 Copley Drive, Suite B, San Diego, CA 92111, Attn: Jeffrey Anderson and Leigh Elkolli; (ii) proposed counsel to the Debtor, DLA Piper LLP (US), 1201 North Market Street, Suite 2100, Wilmington, Delaware 19801, Attn: Stuart M. Brown, and DLA Piper LLP (US), 1251 Avenue of the Americas, New York, New York 10020, Attn: Thomas A. Califano and Jamila J. Willis; (iii) the Office of The United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey, Esq.; (iv) counsel to any statutory committee appointed in the Chapter 11 Case; and (v) counsel to GSI, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: David N. Griffiths and Kevin Bostel, and (b) Richards, Layton & Finger, P.A., 920 N. King Street, Wilmington Delaware 19801, Attn: Zachary I. Shapiro.

EXHIBIT 1

Budget

REVA Medical, Inc.
Cash Flow Forecast (USD)

\$ in 000s

<u>Week Ended</u>	<u>Forecast</u> <u>1/17/2020</u>	<u>Forecast</u> <u>1/24/2020</u>	<u>Forecast</u> <u>1/31/2020</u>	<u>Forecast</u> <u>2/7/2020</u>	<u>Forecast</u> <u>2/14/2020</u>	<u>1/17 - 2/14</u> <u>Total</u>
Operating Cash Flow						
Receipts	\$ 8	\$ -	\$ 3	\$ 8	\$ 3	\$ 21
Disbursements						
Payroll and Benefits	(106)	-	(106)	(33)	(106)	\$ (352)
Rent and Utilities	(31)	(5)	-	(17)	(18)	(71)
Manufacturing & Clinical	(106)	(48)	(26)	(45)	(99)	(324)
SG&A	(28)	(70)	(30)	(41)	(54)	(223)
Operating Disbursements	\$ (271)	\$ (123)	\$ (162)	\$ (136)	\$ (277)	\$ (970)
Operating Cash Flow	\$ (263)	\$ (123)	\$ (160)	\$ (128)	\$ (275)	\$ (949)
Non-Operating Disbursements						
Pre-Petition AP Past Due	-	(400)	(426)	-	-	(826)
D&O/Corp Insurance Tail Policies	-	-	-	-	-	-
Total Non-Operating Disbursements	\$ -	\$ (400)	\$ (426)	\$ -	\$ -	\$ (826)
Restructuring Costs						
Interest and Fees	-	-	-	-	-	-
Utility Deposits	-	-	-	-	-	-
UST / Court Fees	(10)	-	-	-	-	(10)
Professional Fees	-	-	-	-	-	-
Total Restructuring Costs	\$ (10)	\$ -	\$ -	\$ -	\$ -	\$ (10)
Total Other Disbursements	\$ (10)	\$ (400)	\$ (426)	\$ -	\$ -	\$ (836)
Net Cash Flow	\$ (273)	\$ (523)	\$ (586)	\$ (128)	\$ (275)	\$ (1,785)
Beginning Cash Balance	\$ 2,929	\$ 2,656	\$ 2,133	\$ 1,547	\$ 1,419	\$ 2,929
Net Cash Flow	(273)	(523)	(586)	(128)	(275)	(1,785)
Loan Proceeds	-	-	-	-	-	-
Ending Cash Balance	\$ 2,656	\$ 2,133	\$ 1,547	\$ 1,419	\$ 1,144	\$ 1,144
Availability						
Ending Cash	2,656	2,133	1,547	1,419	1,144	1,144
Minimum Cash Need	(100)	(100)	(100)	(100)	(100)	(100)
Accrued Payroll	(53)	(106)	(53)	(106)	(53)	(53)
Accrued Post-Petition AP	(257)	(369)	(389)	(377)	(270)	(270)
Accrued Prof & UST Fees	(252)	(380)	(484)	(582)	(682)	(682)
Total Availability	\$ 1,994	\$ 1,177	\$ 521	\$ 253	\$ 39	\$ 39