

**EXHIBIT A**

[Proposed Interim Order]

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

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In re:	:	Chapter 11
	:	
NovaSom, Inc.,	:	Case No. 19-11734 (BLS)
	:	
Debtor.	:	
	:	

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**INTERIM ORDER (A) AUTHORIZING THE DEBTOR TO USE CASH COLLATERAL  
OF PRIMARY LENDERS AND GRANTING  
ADEQUATE PROTECTION FOR ITS USE AND (B) PRESCRIBING THE FORM  
AND MANNER OF NOTICE AND SETTING THE TIME FOR THE FINAL HEARING**

This matter came before the Court on the motion (the “Motion”) of the above-captioned debtor (the “Debtor”) for interim and final orders pursuant to 11 U.S.C. §§ 105, 361 and 363 and Fed. R. Bankr. P. 4001 and 9014, (a) authorizing the Debtor to use the cash collateral of its Primary Lenders and granting adequate protection to the Primary Lenders for the use of their cash collateral and (b) prescribing the form and manner of notice and setting the time for the final hearing (the “Final Hearing”) on the Motion. Upon review of the Motion and the [First Day Declaration<sup>1</sup>] and based upon the evidence presented to this Court at the interim hearing (the “Interim Hearing”) on the Motion, the Court hereby makes the following findings of fact and conclusions of law:

A. Adequate and sufficient notice of the Motion and the Interim Hearing has been provided to all persons entitled thereto pursuant to Rules 2002 and 4001 of the Bankruptcy Rules. No further notice of the Motion is necessary.

B. This matter constitutes a “core proceeding” within the meaning of 28

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

U.S.C. § 157.

C. This Court has jurisdiction over the parties and the subject matter of this proceeding pursuant to 28 U.S.C. §§ 1334 and 157.

D. On the Petition Date, the Debtor commenced this voluntary case (the “Case”) by the filing of a petition for relief under chapter 11 of the Bankruptcy Code.

E. The Debtor continues in possession of its properties and continues to operate its business as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

F. The only parties known to assert an interest in the Debtor’s cash collateral are East West and the Subordinated Noteholders (collectively, the “Primary Lenders”).

G. The Debtor’s credit facilities with the Primary Lenders consist of the following loans (collectively, the “Loans”):

- (i) East West extended (a) a term loan in the original principal amount of \$8.5 million and (b) a revolving line of credit to the Debtor pursuant to that certain Loan and Security Agreement dated on or about January 25, 2018, as such agreement has been amended (the “East West Loan”);
- (ii) The Subordinated Noteholders made various loans to the Debtor in the period from May 22, 2014 to the present (the Subordinated Noteholder Loans”), which loans were memorialized by, *inter alia*, promissory notes issued by the Debtor. The original principal amount of the loans made by the Subordinated Noteholders totals \$15,554,500. The Subordinated Noteholders originally asserted a first priority lien in certain collateral, including but not limited to accounts. The Subordinated Noteholders later executed a subordination agreement by which their liens on the Debtor’s property were subordinated to East West Bank.

H. East West asserts that the East West Loan is secured by first priority liens on and security interests in and to all personal property of the Debtor (subject to purchase money security interest liens of third party equipment lenders), wherever located, including but not limited to all accounts, chattel paper, deposit accounts, certain intellectual property, and proceeds

thereof. The Subordinated Noteholders assert that the Subordinated Noteholder Loans are secured by all of the Debtor's assets of every kind, including but not limited to accounts, chattel paper, equipment, inventory, and the proceeds thereof (the collateral securing the East West Loan and the collateral securing the Subordinated Noteholder Loans is collectively referred to herein as the "Collateral").

The Debtor's Need to Use Cash Collateral

I. Pursuant to sections 363(a) and 552(b) of the Bankruptcy Code, the Collateral held by the Debtor as of the Petition Date may constitute "cash collateral" within the meaning of section 363(a) of the Bankruptcy Code (the "Cash Collateral"). The Primary Lenders assert that they have an interest in the Cash Collateral within the meaning of sections 363(c)(2) and 363(e) of the Bankruptcy Code.

J. The Debtor has an immediate need to use Cash Collateral on an interim basis through the date of expiration of this Interim Order to, among other things, fund its payroll obligations and pay other operating expenses, in accordance with the Budget attached hereto as **Exhibit 1**.

K. Good cause has been shown for entry of this interim cash collateral order (the "Interim Order"), as an immediate and critical need exists for the Debtor to be permitted access to funds to continue to operate its business.

L. Absent the ability to use Cash Collateral, the Debtor will not be able to pay insurance, wages, rent, utility charges, and other critical operating expenses (all as reflected in the Budget). Consequently, without access to Cash Collateral, the Debtor will not be able to maintain its business operations and continue its restructuring efforts.

M. The record adequately demonstrates that without the use of such funds, the

Debtor's estate would be immediately and irreparably harmed.

N. The Debtor seeks to use Cash Collateral existing on or after the Petition Date that may be subject to the Primary Lenders' liens, for the purposes and in the amounts set forth in the Budget.

O. Subject to compliance with the terms of this Interim Order, the Debtor is authorized to use the Cash Collateral during the period and in the amounts set forth herein.

P. All conclusions of law that are or may be deemed to be findings of fact are hereby incorporated as findings of fact.

Q. This Interim Order is entered pursuant to, and shall be construed and be consistent with sections 361 and 363 of the Bankruptcy Code and Bankruptcy Rule 4001(b).

ACCORDINGLY, THE COURT HEREBY CONCLUDES THAT:

Good cause has been shown for the entry of this Interim Order and the authorizations herein. Among other things, the entry of this Interim Order pending a final hearing (the "Final Hearing") will enable the Debtor to continue operating, avoid immediate and irreparable harm to the Debtor's estate and otherwise is in the best interests of the Debtor, its creditors and its estate.

This Interim Order is immediately valid and fully effective upon its entry.

All findings of fact that are or may be deemed to be conclusions of law are incorporated herein as conclusions of law.

ACCORDINGLY, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. Pending expiration of this Interim Order, the Debtor is permitted to use Cash Collateral, in accordance with the Budget, for, among other things, working capital purposes, the payment of certain obligations in accordance with relief authorized by the Court and other obligations as set forth in the Budget. The Budget may be updated and modified through the

date of the Final Hearing by: (i) consensual agreement between the Debtor and East West or (ii) by further order of the Court.

2. The Debtor shall be, and hereby is, authorized to use Cash Collateral on the terms and conditions set forth in this Interim Order in accordance with the Budget; provided, however, that the Debtor may exceed any line item in the Budget by up to ten percent (10%) in any week, so long as the aggregate amount of the variance from the Budget for any week on a rolling net basis is not exceeded by more than ten percent (10%). Further, the Debtor may use Cash Collateral for any particular line item in any given period under the Budget up to the aggregate amount set forth for that line item from the beginning of the period of the Budget through such applicable date.

3. The Debtor's right to use Cash Collateral under the Interim Order shall commence on the date of entry of the Interim Order and expire on the earlier of: (a) the entry of a subsequent interim cash collateral order, or (b) the entry of a Final Order.

4. As adequate protection: (i) to protect the Primary Lenders' interests, if any, in the Cash Collateral pursuant to sections 361 and 363(e) of the Bankruptcy Code, (ii) for any diminution in value from the use of the Collateral, and (iii) for the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code, the Court hereby grants the Primary Lenders replacement security interests in and replacement liens (the "Replacement Liens") on the Debtor's personal property, whether such property was acquired before or after the Petition Date, but only to the extent: (i) that the type of personal property is currently part of the Collateral as of the Petition Date; (ii) that the Primary Lenders' prepetition security interests in the Collateral are valid, properly perfected and not subject to avoidance pursuant to sections 544, 545, 547, 548, 549, 550, 553(b) or 724(a) of the Bankruptcy Code; and (iii) of the amount of any

diminution in value of the Collateral.

5. Such replacement liens shall be equal to the aggregate diminution in value, if any, after the Petition Date of the Collateral. The Replacement Liens shall be of the same validity and priority as the liens of the Primary Lenders on the Collateral.

6. Subject to the foregoing paragraph, the Replacement Liens shall constitute valid and duly perfected security interests and liens as of the Petition Date. The Primary Lenders shall not be required to file or serve financing statements, notices of lien or similar interests which otherwise may be required under federal or state law in any jurisdiction, or take any action, including taking possession, to validate and perfect such Replacement Liens.

7. The Replacement Liens shall be subject and subordinate to fees payable to the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6) and the Clerk of the Bankruptcy Court.

8. The Debtor is directed to keep its books and records of original entry current and updated, so that all business activity is posted to them in the ordinary course of the Debtor's business. The Debtor shall provide to the Primary Lenders the operating reports, if any, required to be provided by the respective prepetition agreements at the same time and in the same manner as set forth therein. In addition, upon request by the Primary Lenders, the Debtor shall be required to provide a budget compliance report.

9. The Debtor shall promptly serve by first-class mail a copy of this Interim Order upon the parties having been given notice of the Interim Hearing, and to any other party that has filed a request for notices with this Court and to any official creditors' committee after the same has been appointed, or such committee's counsel, if the same shall have been appointed.

10. The Final Hearing to consider the entry of a Final Order authorizing and approving use of Cash Collateral and providing adequate protection is hereby scheduled for

\_\_\_\_\_, 2019, at \_\_\_\_:\_\_\_\_ \_\_.m.

11. Any party in interest objecting to the relief sought at the Final Hearing shall serve and file a written objection upon the following parties: (a) counsel for the Debtor, Kurtzman|Steady, Attn: Jeffrey Kurtzman, (b) co-counsel for the Debtor, Dilworth Paxson LLP, Attn: Peter C. Hughes, (c) the Office of the United States Trustee for the District of Delaware, (d) David Weitman, K&L Gates LLP, 1717 Main Street, suite 2800, Dallas, Texas 75201, counsel to the Stalking Horse Purchaser, (e) the Primary Lenders , and (f) the Debtor’s twenty (20) largest unsecured creditors, as identified in the Debtor’s chapter 11 petition. All objections to the entry of such Final Order shall be filed with the Clerk of the United States Bankruptcy Court, District of Delaware, in each case to allow actual receipt by the foregoing notice parties no later than \_\_\_\_\_ \_\_, 2019, at 4:00 p.m. prevailing Eastern Time (the “Objection Deadline”).

12. This Interim Order shall be fully effective upon its entry.

SO ORDERED, ADJUDGED AND DECREED, this \_\_\_\_ day of \_\_\_\_\_, 2019.

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UNITED STATES BANKRUPTCY JUDGE



**EXHIBIT 1**  
**[Budget]**

**NovaSom, Inc.**

Debtor-in-Possession Budget

Petition Date: August 2, 2019

	← Pre-Bankruptcy	Post-Bankruptcy →								
	W/B: 29-Jul	5-Aug	12-Aug	19-Aug	26-Aug	2-Sep	9-Sep	16-Sep	23-Sep	
	W/E: 2-Aug	9-Aug	16-Aug	23-Aug	30-Aug	6-Sep	13-Sep	20-Sep	27-Sep	TERMINAL
Week no.	0	1	2	3	4	5	6	7	8	
NOTES										
	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast
<b>BEGINNING CASH</b>	\$ 514,400	\$ 60,550	\$ 125,833	\$ 168,233	\$ 119,533	\$ 110,433	\$ 160,433	\$ 136,833	\$ 50,233	\$ 212,633
<b>I. RECEIPTS</b>										
Customer Payments	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	450,000	-
<b>TOTAL CASH RECEIPTS</b>	<b>\$ 450,000</b>	<b>\$ 450,000</b>	<b>\$ 450,000</b>	<b>\$ 450,000</b>	<b>\$ 450,000</b>	<b>\$ 450,000</b>	<b>\$ 450,000</b>	<b>\$ 450,000</b>	<b>\$ 450,000</b>	<b>\$ -</b>
<b>II. DISBURSEMENTS</b>										
<b>Personnel</b>										
Payroll w/payroll taxes & commissions	501,000	221,500	221,500	221,500	221,500	250,500	250,500	250,500	125,000	
Payroll Reserve	125,000									(250,000)
401K Plan Withholding	-	-	25,000		20,000		20,000	10,000	-	-
Health Insurance	-	-		134,000				134,000	-	-
Dental and Vision Benefits	5,000	-	-	-	5,000	-	-	-	-	-
PTO accrued pre-2017, including taxes	-	-	-	-	-	-	-	-	-	77,000
<b>Total Personnel Disbursements</b>	<b>\$ 631,000</b>	<b>\$ 221,500</b>	<b>\$ 246,500</b>	<b>\$ 355,500</b>	<b>\$ 246,500</b>	<b>\$ 250,500</b>	<b>\$ 270,500</b>	<b>\$ 394,500</b>	<b>\$ 125,000</b>	<b>\$ (173,000)</b>
<b>Operations</b>										
Billing and Collection Fees	-	16,875	16,875	16,875	16,875	16,875	16,875	16,875	16,875	-
Vendor 1	-	325	325	325	325	325	325	325	325	-
Vendor 2	26,000	-	44,000	-	26,000	-	44,000	-	26,000	-
Parts/Supplies	-	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	-
Parts/Supplies	18,000	18,000	18,000	18,000	18,000	18,000	18,000	18,000	18,000	-
Parts/Supplies	-	-	-	-	-	-	-	-	-	-
Postage	400	500	500	500	500	500	500	500	500	-
Order Processing	-	-	-	25,000	-	-	-	25,000	-	-
Shipping	-	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	-
<u>AccuSom related expenses</u>										
Leases	-	-	-	-	-	-	-	-	-	-
Support	-	1,250	1,250	1,250	1,250	1,250	1,250	1,250	1,250	-
Support	-	2,375	2,375	2,375	2,375	2,375	2,375	2,375	2,375	-
Supplies	-	375	375	375	375	375	375	375	375	-
Services	-	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	-
Patient Refunds	-	1,250	1,250	1,250	1,250	1,250	1,250	1,250	1,250	-
<b>Total Operating Disbursements</b>	<b>\$ 44,400</b>	<b>\$ 95,950</b>	<b>\$ 139,950</b>	<b>\$ 120,950</b>	<b>\$ 121,950</b>	<b>\$ 95,950</b>	<b>\$ 139,950</b>	<b>\$ 120,950</b>	<b>\$ 121,950</b>	<b>\$ -</b>
<b>General and Administrative</b>										
<b>Rent</b>										
Maryland Office	-	32,400	-	-	-	32,400	-	-	-	-
New Jersey Satellite Office	-	-	-	1,100	-	-	-	-	-	-
Utilities	7,000	8,750	8,750	8,750	8,750	8,750	8,750	8,750	8,750	-
Legal	30,000	-	-	-	-	-	-	-	-	-
Consultants	10,000	-	-	-	-	-	-	-	-	-

**NovaSom, Inc.**

Debtor-in-Possession Budget

Petition Date: August 2, 2019

	← Pre-Bankruptcy	Post-Bankruptcy →								
	W/B: 29-Jul	5-Aug	12-Aug	19-Aug	26-Aug	2-Sep	9-Sep	16-Sep	23-Sep	
	W/E: 2-Aug	9-Aug	16-Aug	23-Aug	30-Aug	6-Sep	13-Sep	20-Sep	27-Sep	TERMINAL
	Week no. 0	1	2	3	4	5	6	7	8	
<b>IT/Server Hosting/Internet</b>										
IT Hosting	-	12,000	-	-	-	-	12,000	-	-	-
IT Support	-	-	-	-	2,500	-	-	-	2,500	-
SSI	250	250	250	250	250	250	250	250	250	-
Information Systems	-	2,750	2,750	2,750	2,750	2,750	2,750	2,750	2,750	-
Other IT support	-	900	900	900	900	900	900	900	900	-
Insurance	8,000	-	-	-	17,000	-	-	-	17,000	-
Taxes and Statutory Compliance	1,200	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	-
American Express Corp. Card	5,000	-	-	-	-	-	-	-	-	-
Miscellaneous	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	-
<b>Total General and Administrative Disbursements</b>	<b>\$ 66,450</b>	<b>\$ 63,550</b>	<b>\$ 19,150</b>	<b>\$ 20,250</b>	<b>\$ 38,650</b>	<b>\$ 51,550</b>	<b>\$ 31,150</b>	<b>\$ 19,150</b>	<b>\$ 38,650</b>	<b>\$ -</b>
<b>Wind-Down Disbursements</b>										
Tax Returns Preparation	-	-	-	-	-	-	-	-	-	10,000
Tail Insurance/Med Malpractice	-	-	-	-	-	-	-	-	-	100,000
401K Plan Wind-down	-	-	-	-	-	-	-	-	-	7,000
Premises clean-up	-	-	-	-	-	-	-	-	-	5,000
<b>Total Wind-Down Disbursements</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>122,000</b>
<b>Professional/Bankruptcy Fees</b>										
FA: Sherwood Partners, Inc.	60,000	-	-	-	-	-	-	-	-	20,000
BK Counsel: Kurtzman Steady LLC	35,000	-	-	-	-	-	-	-	-	20,000
BK Counsel: Dilworth Paxson LLP	65,000	-	-	-	-	-	-	-	-	-
Unsecured Creditors Committee Professionals	-	-	-	-	50,000	-	-	-	-	-
Noticing/Claims Agent	-	-	-	-	-	-	30,000	-	-	-
US Trustee Quarterly Fees	-	-	-	-	-	-	-	-	-	40,000
US Bankruptcy Chapter 11 Filing Fee	-	1,717	-	-	-	-	-	-	-	-
Other Reimbursable Costs	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	-
<b>Total Professional/Bankruptcy Fees</b>	<b>162,000</b>	<b>3,717</b>	<b>2,000</b>	<b>2,000</b>	<b>52,000</b>	<b>2,000</b>	<b>32,000</b>	<b>2,000</b>	<b>2,000</b>	<b>80,000</b>
<b>TOTAL DISBURSEMENTS</b>	<b>903,850</b>	<b>384,717</b>	<b>407,600</b>	<b>498,700</b>	<b>459,100</b>	<b>400,000</b>	<b>473,600</b>	<b>536,600</b>	<b>287,600</b>	<b>29,000</b>
<b>NET CHANGE IN CASH</b>	<b>(453,850)</b>	<b>65,283</b>	<b>42,400</b>	<b>(48,700)</b>	<b>(9,100)</b>	<b>50,000</b>	<b>(23,600)</b>	<b>(86,600)</b>	<b>162,400</b>	<b>(29,000)</b>
<b>ENDING CASH BALANCE</b>	<b>\$ 60,550</b>	<b>\$ 125,833</b>	<b>\$ 168,233</b>	<b>\$ 119,533</b>	<b>\$ 110,433</b>	<b>\$ 160,433</b>	<b>\$ 136,833</b>	<b>\$ 50,233</b>	<b>\$ 212,633</b>	<b>\$ 183,633</b>