

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

In re:

UBIOME, INC.,¹

Debtor.

Chapter 11

Case No. 19-____ (____)

**DEBTOR’S MOTION FOR INTERIM AND FINAL ORDERS AUTHORIZING
(A) THE MAINTENANCE OF THE CASH MANAGEMENT SYSTEM;
(B) MAINTENANCE OF THE EXISTING BANK ACCOUNTS; (C) CONTINUED
USE OF EXISTING BUSINESS FORMS; (D) CONTINUED PERFORMANCE OF
INTERCOMPANY TRANSACTIONS IN THE ORDINARY COURSE OF BUSINESS
AND GRANT OF ADMINISTRATIVE EXPENSE STATUS FOR POSTPETITION
INTERCOMPANY CLAIMS; AND (E) GRANTING RELATED RELIEF**

uBiome, Inc., the debtor and debtor in possession in the above-captioned chapter 11 case (the “Debtor”), hereby moves the Court (this “Motion”) for entry of interim and final orders, substantially in the forms attached hereto as Exhibits C (the “Proposed Interim Order”) and D (the “Proposed Final Order”) and together with the Proposed Interim Order, the “Proposed Orders”), respectively, pursuant to sections 105(a), 345(b), 363(c)(1), 364(a), 364(b) and 503(b)(1) of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”), Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 2015-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), (i) authorizing the Debtor to use its existing cash management system as described in the diagram attached hereto as Exhibit B, (ii) authorizing and directing banks and financial institutions to honor and process checks and transfers, (iii) authorizing the continuation and satisfaction of Intercompany Transactions (as defined below), (iv) granting an interim suspension of the deposit and

¹ The Debtor and the last four digits of its taxpayer identification number is: uBiome, Inc. (0019). The Debtor’s headquarters is located at 360 Langton Street, Suite 301, San Francisco, CA 94103.

investment requirements of section 345(b) of the Bankruptcy Code, (v) authorizing the Debtor to use its existing bank accounts and existing business forms, and (vi) granting such other and further relief as the Court deems just and proper. In support of this Motion, the Debtor relies upon the *Declaration of Curtis G. Solsvig III In Support of the Debtor's Chapter 11 Petition and First Day Relief* (the "First Day Declaration"), which was filed concurrently herewith.² In further support of this Motion, the Debtor respectfully represents as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334(b), 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 pursuant to 28 U.S.C. § 157(b) and, pursuant to Local Rule 9013-1(f), the Debtor consents to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief sought herein are pursuant to sections 105(a), 345(b), 363(c)(1), 364(a), 364(b) and 503(b)(1) of title 11 of the Bankruptcy, Bankruptcy Rules 6003 and 6004, and Local Rule 2015-2.

BACKGROUND

A. General Background

2. On the date hereof (the "Petition Date"), the Debtor commenced a voluntary case (this "Chapter 11 Case") under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor is continuing to manage its financial affairs as

² All capitalized terms used, but not otherwise defined, have the meanings ascribed to them in the First Day Declaration.

debtor in possession. No trustee, examiner, or official committee of unsecured creditors has been appointed in this Chapter 11 Case.

3. Additional information regarding the Debtor's history and business operations, capital structure and primary secured indebtedness, and the events leading up to the commencement of this Chapter 11 Case, can be found in the First Day Declaration.

B. The Cash Management System

4. In the ordinary course of business, the Debtor maintains a cash management system that provides well-established mechanisms for the collection, concentration, and disbursement of funds used in its operations (the "Cash Management System"). The Cash Management System is similar to those commonly employed by corporate enterprises comparable to the Debtor in economic scope and geographic reach. Indeed, such systems are employed because of the numerous benefits provided, including the ability to (a) quickly create status reports on the location and amount of funds, thereby allowing management to track and control corporate funds, (b) ensure cash availability, and (c) reduce administrative expenses by facilitating the movement of funds. For the reasons outlined herein, the Debtor submits that being granted authority to continue using the Cash Management System will facilitate a smooth transition into this Chapter 11 Case.

5. The Cash Management System is operated through seven bank accounts (collectively, the "Bank Accounts") and a PayPal account. Exhibit A hereto lists each Bank Account maintained by the Debtor with the corresponding bank (collectively, the "Cash Management Banks") at which such Bank Account is maintained.

6. The Debtor maintains six bank accounts with Silicon Valley Bank (“SVB”), which are organized as follows:

(i) A concentration account (account number ending 2936) (the “Concentration Account”), which the Debtor uses to aggregate cash;

(ii) A sweep account (account number ending 3483) (the “Sweep Account”), which is an investment account where funds from the Concentration Account are swept overnight; such funds are invested in a mutual fund that holds at least 99.5% of total assets in cash, treasury bills, or other obligations issued or guaranteed as to principal and interest by the U.S. Treasury;³

(iii) A zero balance payroll account (account number ending 3468) (the “Payroll Account”), which is used to make payroll disbursements to the Debtor’s employees;

(iv) A zero balance disbursement account (account number ending 8732) (the “Disbursement Account”), which is used to make disbursements to satisfy the Debtor’s financial obligations (other than through the Payroll Account);

(v) A collections only, zero balance customer deposit account (account number ending 6144) (the “Consumer Deposits Account”), which is used to receive customer payments; and

(vi) A collections only, clinical deposits account (account number ending 4408) (the “Clinical Deposits Account”), which is used to receive and hold clinical payments.

7. In addition, the Debtor maintains one PayPal account (the “PayPal Account”), which funds the Consumer Deposits Account, and one account with Chase Bank, N.A. (account number ending 3889) (“Chase”). With respect to the PayPal Account, the Debtor will use reasonable good faith efforts to ensure that the daily balance in the account does not exceed \$20,000. The Debtor will also provide to the U.S. Trustee, on a bi-weekly basis, statements showing the daily balances in the PayPal Account. With respect to the Chase account, this is a dormant account which historically served as a clinical deposit account for certain payers. The

³ This arrangement yields for the Debtor a higher interest on the Concentration Account balance than would otherwise be available.

Debtor intends to repurpose this account as an adequate assurance account for the Debtor's utility providers.

8. The Cash Management System is organized around the Concentration Account. As illustrated on the schematic attached hereto as Exhibit B, the Concentration Account receives funds from the Consumer Deposits Account, which is swept daily, and the Clinical Deposits Account, which is swept manually.⁴ Proceeds from sales on the Debtor's ecommerce platform are deposited by third-party processors, net of certain customer returns, chargebacks, and fees, directly into the Customer Deposits Account. The Concentration Account funds the Disbursement Account on an as needed basis, which, in turn, is used make distributions on account of the Debtor's financial obligations (other than payroll) through checks, ACH, and outgoing wires. In addition, the Concentration Account funds the Payroll Account on an as needed basis to fund the Debtor's payroll. Balances in the Concentration Account over \$500,000 are swept nightly into the Sweep Account.

9. The Debtor understands that both SVB and Chase are parties to the Uniform Depository Agreements with the Office of the United States Trustee for the District of Delaware. However, the Sweep Account is an investment account, and thus, the Debtor requests an interim suspension of section 345(b) of the Bankruptcy Code.

10. In the ordinary course of business, SVB, PayPal, and Chase charge, and the Debtor pays, honors or allows to be deducted from the appropriate accounts, certain service charges and other fees, costs and expenses charged (collectively, the "Service Charges"). The Service Charges currently average approximately \$320 per month in the aggregate. The Debtor

⁴ Given that the Debtor is not currently selling its clinical products, there are limited receipts in this account.

estimates that no more than \$1,000 in accrued but unpaid Service Charges are owed as of the Petition Date.

C. The Debtor's Existing Business Forms and Check Stock

11. To minimize expenses to its estate and to avoid unnecessarily confusing its employees, customers, and suppliers, the Debtor believes it is appropriate to continue to use all checks, correspondence, and other business forms (including, without limitation, letterhead, purchase orders, and invoices) (collectively, the "Business Forms") as such forms were in existence immediately before the Petition Date—without reference to the Debtor's status as a debtor in possession—rather than requiring the Debtor to incur the expense and delay of ordering entirely new business forms. With respect to checks, the Debtor will, as a debtor in possession, use the existing check stock until depleted and then reorder checks with a reference to the Debtor's status as a debtor in possession and bankruptcy case as soon as it is reasonably practicable to do so.

D. The Debtor's Intercompany Transactions

12. In the ordinary course of its business, the Debtor engages in intercompany transactions and transfers amongst itself and its non-debtor affiliates (the "Intercompany Transactions") related to, among other things, the expenses of conducting its business operations in South America. The non-debtor foreign affiliates, uBiome Argentina SAS and uBiome Chile SpA, provide services critical to the Debtor's business and submit monthly budgets to the Debtor. The majority of expenses are related to salaries, taxes, and employee-related benefits and are charged to the Debtor at cost plus a 5% surcharge.⁵ Once the budget is approved, the funds are transferred to uBiome Argentina SAS and uBiome Chile SpA. These Intercompany

⁵ uBiome Chile SpA has not been charging the surcharge.

Transactions are recorded as expenses of the Debtor. Twice a month, prior to remittance of any payments, the non-debtor foreign affiliates will provide a payment run with supporting vendor invoices, to be approved by the Debtor's Controller and Chief Financial Officer. Any funds that remain unspent at the end of the month, including the 5% surcharge, are netted against the next month's budget.

13. Postpetition, the Debtor intends to continue to engage in Intercompany Transactions. Discontinuing the Intercompany Transactions would disrupt the Debtor's business operations, harming its creditors and other parties in interest. The Debtor will continue to retain records of these Intercompany Transactions, which will be reconciled at intervals and properly maintained. As a result, the Debtor will be able to account for all Intercompany Transactions. Accordingly, the Debtor seeks authority to continue the Intercompany Transactions, and requests, pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, that postpetition Intercompany Claims resulting from ordinary course Intercompany Transactions, if any, be accorded administrative priority.

RELIEF REQUESTED

14. The Debtor seeks entry of the Proposed Orders, pursuant to sections 105, 345, 363, 364(b), 503(b), 1107(a), and 1108 of the Bankruptcy Code, Bankruptcy Rules 6003 and 6004, and Local Rule 2015-2, (a) authorizing the Debtor to (i) continue to use its Cash Management System, (ii) maintain its existing Bank Accounts, (iii) continue to use existing Business Forms, (iv) continue to implement the Intercompany Transactions, and related thereto, granting administrative expense status for postpetition Intercompany Claims, if any, (v) pay any Service Charges and related fees, (vi) close or otherwise modify the terms of certain of the Bank Accounts and open new debtor-in-possession accounts as may be necessary to facilitate this

Chapter 11 Case and its business operations, or as may otherwise be necessary to comply with the requirements of any debtor in possession financing and/or cash collateral order entered in this Chapter 11 Case, and (vii) deposit funds in and withdraw funds from all Bank Accounts, subject to the same access rights and limitations existing prior to the Petition Date, including, but not limited to, checks, wire transfers, automated clearinghouse transfers, electronic funds transfers, and other debits and to treat the Bank Accounts for all purposes as debtor in possession accounts and (b) granting an interim suspension of the deposit and investment requirements of section 345(b) of the Bankruptcy Code.

15. To enable the Debtor to carry out the relief requested, the Debtor also requests that the Court authorize the Cash Management Banks to continue to service and administer the Bank Accounts as accounts of the Debtor as a debtor in possession without interruption and in the usual and ordinary course, and to receive, process, honor, and pay any and all checks and drafts drawn on, or electronic transfer requests made on, the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be, in accordance with the orders of the Court.

BASIS FOR RELIEF

A The Court Should Authorize the Debtor to Maintain Its Existing Bank Accounts and Existing Cash Management System and Grant a Waiver of Any Requirement to Close Existing Accounts

16. Although the Debtor maintains its Bank Accounts as part of an established Cash Management System, the District of Delaware Operating Guidelines for chapter 11 cases (“U.S. Trustee Guidelines”) require that debtors in possession take certain actions with respect to prepetition bank accounts in order for the U.S. Trustee to supervise the administration of chapter 11 cases. As described in the U.S. Trustee Guidelines, the requirements are designed to draw a

clear line of demarcation between prepetition and postpetition transactions and operations and prevent the inadvertent postpetition payment of prepetition claims. Here, however, the Debtor submits that a waiver of certain requirements is warranted given the controls that have been established to ensure a clear line of demarcation between prepetition and postpetition transactions.

17. The Bank Accounts are with SVB and Chase, both of which are approved depositories for chapter 11 cases pending in this District. To protect against the unauthorized payment of prepetition obligations, the Debtor represents that, if it is authorized to continue to use the Bank Accounts, it will not pay, and will not instruct SVB and Chase to pay, any debts incurred before the Petition Date, other than as authorized by the Court.

18. Moreover, any new account that the Debtor opens will be (a) with a bank that is (i) organized under the laws of the United States of America or any state therein and (ii) has executed, or is willing to immediately execute, a Uniform Depository Agreement with the U.S. Trustee; and (b) designated a “Debtor in Possession” account by the relevant bank. Additionally, the Debtor will provide the U.S. Trustee with notice of any new accounts that are opened within 15 days after doing so.

19. Strict enforcement of the U.S. Trustee’s requirements here would impair the Debtor’s business operations and its ongoing sale efforts. The Cash Management System is highly automated and computerized, which allows the Debtor, with the assistance of its professional advisors, to manage cash flow needs and includes the necessary accounting controls to enable the Debtor, as well as creditors and the Court, to trace funds through the system and ensure that all transactions are adequately documented and readily ascertainable. While this

Chapter 11 Case is pending, the Debtor, with the assistance of its advisors, will continue to maintain and administer detailed records reflecting all transfers of funds.

20. Accordingly, to avoid delays in payments to administrative creditors, and to ensure as smooth a transition into chapter 11 as possible, the Debtor submits that it should be permitted to continue to maintain its existing Bank Accounts and open new and close existing accounts as needed, subject to the requirements noted above.

21. Allowing the Debtor to utilize its prepetition Cash Management System and engage in related routine transactions is consistent with the applicable provisions of the Bankruptcy Code and is customary relief in chapter 11 cases of similar size and scope. In particular, section 363(c)(1) of the Bankruptcy Code authorizes a debtor in possession to “use property of the estate in the ordinary course of business without notice or a hearing.” The purpose of section 363(c)(1) is to provide a debtor in possession with the flexibility to engage in the ordinary transactions required to operate its business without unneeded oversight by its creditors or the court.⁶ Included within the purview of section 363(c) is a debtor’s ability to continue the “routine transactions” necessitated by a debtor’s cash management system.⁷

22. The Cash Management System constitutes an ordinary course and essential business practice that is fully integrated into the Debtor’s operations and provides significant benefits to the Debtor, including, among other things, the ability to (a) control corporate funds, (b) ensure the maximum availability of funds when and where necessary, and (c) reduce

⁶ See, e.g., *In re Roth Am., Inc.*, 975 F.2d 949, 952 (3d Cir. 1992) (“The framework of section 363 is designed to allow a trustee (or debtor-in-possession) the flexibility to engage in ordinary transactions without unnecessary creditor and bankruptcy court oversight, while protecting creditors by giving them an opportunity to be heard when transactions are not ordinary.”); *Med. Malpractice Ins. Ass’n v. Hirsch (In re Lavigne)*, 114 F.3d 379, 384 (2d Cir. 1997); *In re Nellson Nutraceutical, Inc.*, 369 B.R. 787, 796 (Bankr. D. Del. 2007).

⁷ *Amdura Nat’l Distrib. Co. v. Amdura Corp. (In re Amdura Corp.)*, 75 F.3d 1447, 1453 (10th Cir. 1996).

administrative expenses by facilitating the movement of funds and the development of more timely and accurate account balance information.

23. Further, the existing Cash Management System is the most effective mechanism for managing receipts and disbursements between the Debtor and third parties. As a practical matter, because the Cash Management System interconnects the Debtor's domestic and international operations, it would be extremely difficult, expensive, and time-consuming to establish and maintain a different cash management system, if not logistically prohibitive under the circumstances.

24. Lastly, the Court may exercise its equitable powers to grant the relief requested herein. Section 105(a) of the Bankruptcy Code empowers the Court to "issue any order, process, or judgment that is necessary to carry out the provisions of this title." Continuing the Cash Management System without interruption is vital to the efficient and economic administration of this Chapter 11 Case. Therefore, it is within the Court's equitable power under section 105(a) to approve the continued use of the Cash Management System. Based on the foregoing, the Debtor submits that maintenance of the existing Cash Management System is in the best interests of the Debtor's estate and all parties in interest.

B Suspending the Requirements of Section 345 of the Bankruptcy Code is Warranted

25. The Debtor requests that the Court suspend the requirements of section 345(b) of the Bankruptcy Code on an interim basis and permit it to maintain deposits in its accounts in accordance with existing deposit practices until such time as the Debtor obtains the Court's approval to deviate from the guidelines imposed under section 345(b) of the Bankruptcy Code on a final basis, to the extent necessary.

26. Section 345(a) of the Bankruptcy Code authorizes deposits or investments of money of a bankruptcy estate, such as cash, in a manner that will “yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment.” 11 U.S.C. § 345(a). For deposits or investments that are not “insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States,” section 345(b) of the Bankruptcy Code provides that the estate must require from the entity with which the money is deposited or invested a bond in favor of the United States secured by the undertaking of an adequate corporate surety. 11 U.S.C. § 345(b).

27. A court may, however, relieve a debtor in possession of the restrictions imposed by section 345(b) of the Bankruptcy Code for “cause.” 11 U.S.C. § 345(b). Local Rule 2015-2(b) provides that if a motion for a suspension of the restrictions imposed by section 345(b) “is filed on the first day of a chapter 11 case in which there are more than 200 creditors, the Court may grant an interim suspension until a hearing on the debtor’s motion can be held.” Del. Bankr. L.R. 2015-2(b). As this Motion is being filed on the Petition Date and the Debtor has in excess of 200 creditors, the Debtor requests that the Court enter the Proposed Interim Order suspending, on an interim basis, for a period of forty-five (45) days from the date of entry of the Proposed Interim Order, the requirements of section 345(b) of the Bankruptcy Code.

28. As set forth above, the Debtor believes that it is in substantial compliance with the requirements of section 345(b) of the Bankruptcy Code. Each Bank Account is maintained with a bank on the U.S. Trustee’s list of authorized depositories for the District of Delaware. Moreover, each existing Bank Account is insured by the United States, through the Federal Deposit Insurance Corporation, up to \$250,000.00 per federal tax identification number.

29. The Debtor requests an interim suspension of the requirements of section 345(b) of the Bankruptcy Code to the extent such requirements are inconsistent with the Debtor's current practices. Given the complexity of the Debtor's Cash Management System and the security of the Cash Management System, the Debtor submits that cause exists to grant an interim suspension of the requirements of section 345(b) in the manner requested herein.

C. Maintenance of the Debtor's Existing Business Forms is Warranted

30. Local Rule 2015-2(a) provides:

Where the debtor uses pre-printed checks, upon motion of the debtor, the Court may, without notice and hearing, permit the debtor to use its existing checks without the designation "Debtor-in-Possession" and use its existing bank accounts. However, once the debtor's existing checks have been used, the debtor shall, when reordering checks, require the designation "Debtor-in-Possession" and the corresponding bankruptcy number on all such checks.⁸

31. The Debtor uses numerous Business Forms in the ordinary course of its business. In order to minimize expenses to its estate, the Debtor requests authority to continue using its existing prepetition Business Forms without reference to its status as a debtor in possession or any other alteration.

32. It is essential that the Debtor be authorized to continue using its existing Business Forms because it routinely deals with a large number of vendors and customers, and changing business forms would impose a substantial burden without a corresponding benefit. Furthermore, most parties doing business with the Debtor undoubtedly will be aware of the Debtor's status as a debtor in possession as a result of the publicity surrounding this Chapter 11 Case, targeted communications from the Debtor to key vendors and customers, and the notice of commencement of this Chapter 11 Case will be provided to parties in interest. As with the existing Cash Management System, requiring the Debtor to change its existing Business Forms

⁸ Del. Bankr. L.R. 2015-2(a).

would unnecessarily distract the Debtor from its sale efforts and impose needless expenses on the estate.

33. With respect to checks, the Debtor proposes using the existing check stock until depleted and then reorder postpetition checks with the legend “Debtor in Possession” and the case number for this Chapter 11 Case in accordance with Local Rule 2015-2(a).

D. The Court Should Authorize the Debtor and the Cash Management Banks to Honor Certain Prepetition Obligations Related to the Cash Management System

34. The Debtor requests that the Court authorize and direct the Cash Management Banks on which checks are drawn or electronic funds are transferred in the ordinary course of the Debtor’s business to receive, process, honor, and pay, to the extent of funds on deposit, any and all such checks or electronic transfers, whether such checks or transfers were issued before or after the Petition Date, upon the receipt by each such bank of notice of such authorization without further order of the Court.

35. Further, the Debtor also requests that the Court authorize the Cash Management Banks to rely on the representations of the Debtor as to which checks are issued and authorized to be paid in accordance with this Motion without any duty of further inquiry and without liability for following the Debtor’s instructions. Given the necessity of maintaining the Cash Management System, the Debtor respectfully submits that this relief is necessary and warranted.

36. Moreover, in connection with the Cash Management System, the Debtor may incur fees and other charges (collectively, all such fees and charges, the “Bank Account Claims”) in connection with (a) Service Charges, (b) checks deposited with banks which have been dishonored or returned for insufficient funds in the applicable amount, and (c) any reimbursement or other payment obligations, such as overdrafts, arising under any agreements

governing the Bank Accounts, including, without limitation, any prepetition cash management agreements or treasury services agreements (the “Bank Account Agreements”).

37. As with the Cash Management System, payment of the Bank Account Claims will minimize disruption to the Debtor’s operations and is therefore in the best interests of its estate. Absent payment of the Bank Account Claims, the Cash Management Banks might assert setoff rights against the funds in the Bank Accounts on account of the Bank Account Claims, freeze the Bank Accounts, and/or refuse to provide banking services to the Debtor. The payment of Bank Account Claims generally will not prejudice unsecured creditors given that, as noted above, the Cash Management Banks may have setoff rights with respect to the Bank Account Claims. Accordingly, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtor seeks authority, in its sole discretion, to pay and/or reimburse the Cash Management Banks in the ordinary course of business for any Bank Account Claims arising prior to or after the Petition Date.

E. The Court Should Authorize the Debtor to Continue the Intercompany Transactions in the Ordinary Course of Business

38. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, debtors in possession are fiduciaries “holding the bankruptcy estate and operating the business for the benefit of its creditors and (if the value justifies) equity owners.”⁹ Implicit in the fiduciary duties of any debtor in possession is the obligation to “protect and preserve the estate, including an operating business’s going-concern value.”¹⁰

39. Here, authorizing the Debtor, in its business judgment, to continue to engage in Intercompany Transactions will assist the Debtor in fulfilling its fiduciary obligations to

⁹ *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002).

¹⁰ *Id.*

maximize the value of the estate for all creditors and thus is a valid exercise of sound business judgment. As noted above, the Intercompany Transactions are essential to the continued going-concern value and survival of the Debtor's operations. The Intercompany Transactions provide necessary funding for the Debtor's operations in South America, which are pivotal to the Debtor's business and go-forward viability. Accordingly, to preserve the value of these international operations and including its analytical and scientific capabilities during this critical early stage of this Chapter 11 Case, the Debtor should be authorized, in its discretion, to continue the Intercompany Transactions, if any.

40. Furthermore, authorizing the Debtor to continue the Intercompany Transactions is appropriate under sections 363(b) or 363(c) of the Bankruptcy Code and is an appropriate exercise of the Court's equitable powers under section 105(a) of the Bankruptcy Code.¹¹

41. To ensure that the Debtor does not fund the operations of an affiliated entity without a right to repayment, the Debtor respectfully requests that, pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all intercompany obligations arising after the Petition Date be accorded administrative expense priority. If intercompany obligations are accorded administrative expense priority, each entity utilizing funds flowing through the Cash Management System should continue to bear ultimate repayment responsibility for such ordinary course transactions.

42. Accordingly, the Debtor requests that the Court authorize the Debtor to continue engaging in Intercompany Transactions in connection with funding operating expenses for the

¹¹ See, e.g., *In re Gen. Growth Props.*, 412 B.R. 609, 610 (Bankr. S.D.N.Y. 2009) (holding that debtors were authorized to continue prepetition cash management practices, including intercompany transactions, pursuant to Bankruptcy Code sections 105(a) and 363(c)); *Charter Co. v. Prudential Ins. Co. of Am. (In re Charter Co.)*, 778 F.2d 617, 621 (indicating that order authorizing continued use of cash management system that involved funds transfers to non-debtor affiliates was "entirely consistent" with section 363(c)(1) because the practice was "usual and customary in the past").

non-debtor affiliates, as provided for in the budget approved by the Debtor's postpetition financing facility. Additionally, pursuant to sections 105(a) and 503(b) of the Bankruptcy Code, the Debtor requests that claims arising from postpetition Intercompany Transactions be granted administrative expense priority status.

REQUIREMENTS OF BANKRUPTCY RULE 6003

43. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the Petition Date "to the extent that relief is necessary to avoid immediate and irreparable harm." The Debtor submits that the facts described herein demonstrate that the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtor's business operations and the value of the Debtor's estate, and that Bankruptcy Rule 6003 has thus been satisfied, to the extent applicable.

WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(h)

44. Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As set forth throughout this Motion, any delay in allowing the Debtor to utilize its existing Cash Management System would cause irreparable harm to the Debtor, its estate and all stakeholders, as the Debtor's ability to manage and run its business without any unexpected or inopportune interruptions requires the maintenance and use of the Cash Management System without delay. For this reason and those set forth above, the Debtor submits that ample cause exists to justify a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h), to the extent applicable.

RESERVATION OF RIGHTS

45. Nothing in the Proposed Orders or this Motion (i) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtor and its estate in this Chapter 11 Case, (ii) shall impair, prejudice, waive or otherwise affect the rights of the Debtor and its estate with respect to the validity, priority or amount of any claim against the Debtor and its estate, or (iii) shall be construed as a promise to pay a claim.

NOTICE

46. Notice of this Motion has been provided to: (a) the Office of the United States Trustee for the District of Delaware; (b) holders of the 30 largest unsecured claims against the Debtor; (c) counsel to the DIP Financing Parties; (d) the Cash Management Banks; and (e) all parties that have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. Notice of this Motion and any order entered hereon will be served in accordance with Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Debtor submits that no other or further notice is necessary.

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CONCLUSION

WHEREFORE, the Debtor requests entry of the Proposed Orders, granting the relief requested herein and such other and further relief as is just and proper.

Dated: Wilmington, Delaware
September 4, 2019

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Andrew L. Magaziner

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Proposed Counsel to the Debtor and Debtor in Possession

EXHIBIT A**DEBTOR BANK ACCOUNTS**

Bank Name	Type of Account	Account No.
Chase Bank, N.A.	Depository	xxx3889
Silicon Valley Bank	Cash Sweep	xxx3483
Silicon Valley Bank	Concentration	xxx2936
Silicon Valley Bank	Depository	xxx4408
Silicon Valley Bank	Depository	xxx6144
Silicon Valley Bank	Payroll Disbursement	xxx3468
Silicon Valley Bank	Disbursement	xxx8732

EXHIBIT B

CASH FLOW DIAGRAM

uBiome Account Schematic 08/23/19

Silicon Valley Bank Accounts

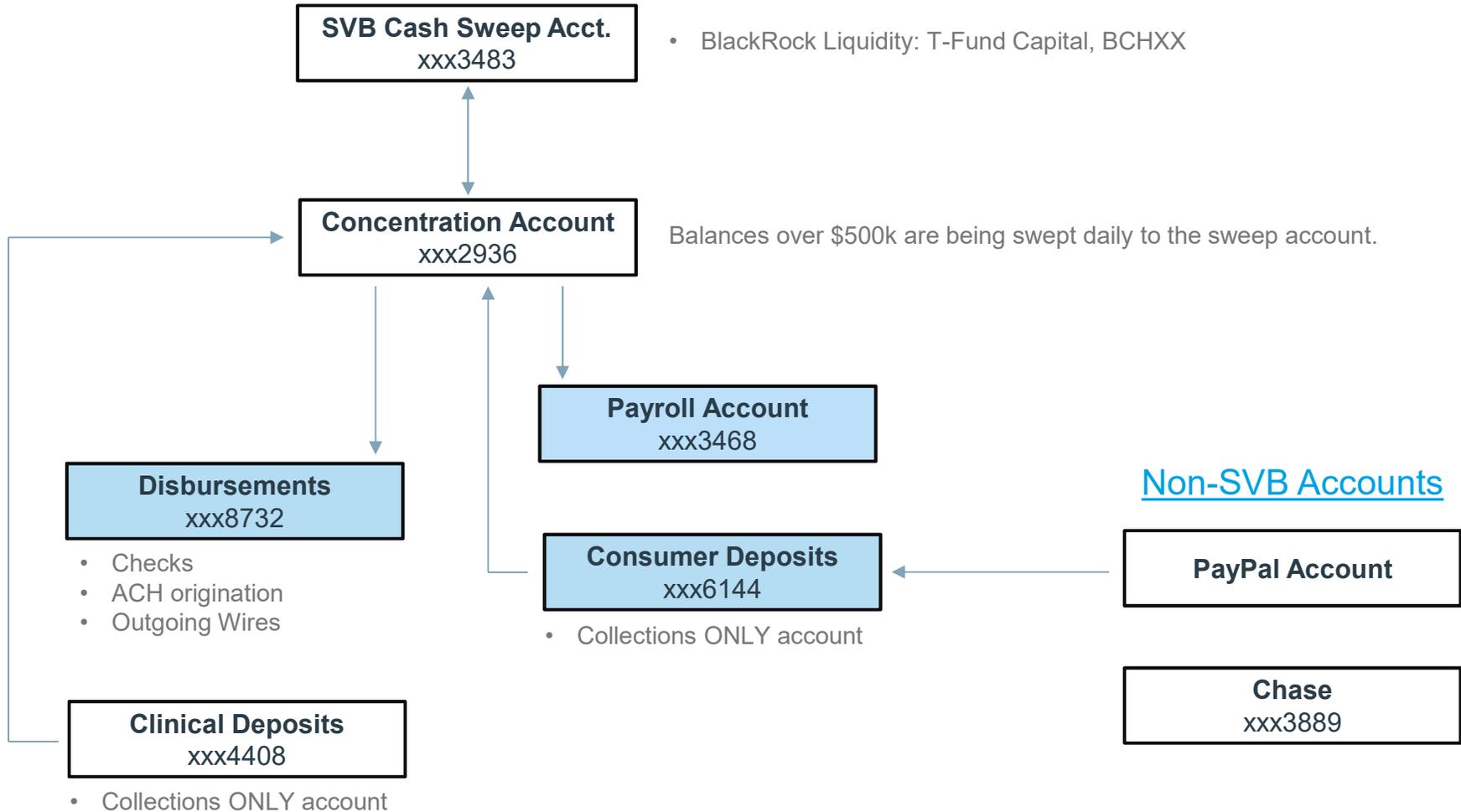


EXHIBIT C

PROPOSED INTERIM ORDER

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

In re:

UBIOME, INC.,¹

Debtor.

Chapter 11

Case No. 19-____ (____)

Ref. Docket No. ____

INTERIM ORDER AUTHORIZING (A) THE MAINTENANCE OF THE CASH MANAGEMENT SYSTEM; (B) MAINTENANCE OF THE EXISTING BANK ACCOUNTS; (C) CONTINUED USE OF EXISTING BUSINESS FORMS; (D) CONTINUED PERFORMANCE OF INTERCOMPANY TRANSACTIONS IN THE ORDINARY COURSE OF BUSINESS AND GRANT OF ADMINISTRATIVE EXPENSE STATUS FOR POSTPETITION INTERCOMPANY CLAIMS; AND (E) GRANTING RELATED RELIEF

Upon the *Debtor's Motion for Interim and Final Orders Authorizing (A) the Maintenance of the Cash Management System; (B) Maintenance of the Existing Bank Accounts; (C) Continued Use of Existing Business Forms; (D) Continued Performance of Intercompany Transactions in the Ordinary Course of Business and Grant of Administrative Expense Status for Postpetition Intercompany Claims; and (E) Granting Related Relief* (the "Motion")² filed by the above-captioned debtor and debtor in possession (the "Debtor"); and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012; and this Court having found that venue of this Chapter 11 Case and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that notice of the Motion has been given as set forth in the Motion and that such notice is adequate and no other or further notice need be given; and this Court having

¹ The Debtor and the last four digits of its taxpayer identification number is: uBiome, Inc. (0019). The Debtor's headquarters is located at 360 Langton Street, Suite 301, San Francisco, CA 94103.

determined that it may enter a final order consistent with Article III of the United States Constitution; and upon consideration of the First Day Declaration; and a hearing having been held to consider the relief requested in the Motion; and upon the record of the hearing and all of the proceedings had before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtor, its estate, its creditors and all other parties in interest; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein on an interim basis until such time as the Court conducts a final hearing on this matter (the "Final Hearing").

2. The Final Hearing shall take place on _____, 2019 at __:__ .m. (prevailing Eastern Time). Any objections or responses to the Motion shall be filed on or before 4:00 p.m. (prevailing Eastern Time) _____, 2019 and served on (i) proposed counsel for the Debtor, Young Conaway Stargatt and Taylor, LLP, 1000 N. King Street, Wilmington, Delaware 19801 (Attn: Andrew L. Magaziner (email: amagaziner@ycst.com)); (ii) the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801, Attn: Jane M. Leamy, Esq. (Jane.M.Leamy@usdoj.gov); (iii) counsel for the DIP Financing Parties, (A) Morrison & Foerster LLP, 200 Clarendon St., Boston, MA 02116 (Attn: Alex Rheaume) (arheaume@mfo.com), and (B) Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166-0193 (Attn: Jason Goldstein) (jgoldstein@gibsondunn.com); and (d) counsel to any statutory committee appointed in the Chapter 11 Case The Debtor is authorized and empowered

² All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Motion.

to continue to manage its cash using its existing Cash Management System, and to collect, concentrate, and disburse cash in accordance with such Cash Management System.

3. The Debtor is authorized to (a) designate, maintain, and use any or all of the Bank Accounts in existence as of the Petition Date, including the Bank Accounts listed on Exhibit A annexed to the Motion, (b) deposit funds into and withdraw funds from such Bank Accounts by all usual means, including checks, wire transfers, automated transfers, and other debits, and (d) treat its prepetition Bank Accounts for all purposes as debtor in possession accounts.

4. The Cash Management Banks are authorized and directed to continue to treat, service, and administer such Bank Accounts as accounts of the respective Debtor as a debtor in possession account without interruption and in the usual and ordinary course, and to receive, process, honor and pay any and all checks, drafts, wires, or ACH transfers drawn on the Bank Accounts by the holders or makers thereof, as the case may be.

5. Notwithstanding anything to the contrary in any other order of this Court, the Cash Management Banks (a) are authorized to accept and honor all representations from the Debtor as to which checks, drafts, wires, or ACH transfers should be honored or dishonored, consistent with any orders of this Court and governing law, whether such checks, drafts, wires, or ACH transfers are dated prior to, on, or subsequent to the Petition Date, and whether the Cash Management Banks believe the payment is or is not authorized by an order of this Court, (b) have no duty to inquire as to whether such payments are authorized by an order of this Court, and (c) such Cash Management Banks shall not have any liability to any party for relying on such representations by the Debtor as provided for herein.

6. The Cash Management Banks shall not be liable to any party on account of (a) following the Debtor's instructions or representations as to any order of this Court, (b) the

honoring of any prepetition check or item in a good faith belief that this Court has authorized such prepetition check or item to be honored, or (c) an innocent mistake made despite implementation of reasonable item handling procedures.

7. Nothing contained herein shall prevent the Debtor from closing any of its Bank Accounts or opening any additional bank accounts (which shall be deemed Bank Accounts under this Interim Order), provided such new Bank Accounts are with a bank is a party to a Uniform Depository Agreement with the U.S. Trustee, and any relevant bank is authorized to honor the Debtor's request to close or open such Bank Accounts or additional bank accounts, as the case may be; provided, however, that the Debtor shall give notice within fifteen (15) days of an account opening or closure to the U.S. Trustee and any statutory committee appointed in this Chapter 11 Case of the opening of any additional bank accounts or the closing of any Bank Accounts and shall report the opening or closing of any Bank Account on the monthly operating report next submitted to the U.S. Trustee.

8. The Cash Management Banks, in accordance with current practice and the agreement governing the Bank Accounts, are authorized to "charge back" to the Debtor accounts any amounts incurred by the Cash Management Banks resulting from returned checks or other returned items, and the Debtor is authorized to pay any fees and expenses owed to the Cash Management Banks, in each case regardless of whether such items were deposited prepetition or postpetition or relate to prepetition or postpetition items. Each Cash Management Bank is authorized to debit the Debtor's accounts in the ordinary course of business without the need for further order of this Court for: (a) all checks drawn on the Debtor's Bank Accounts which are cashed at such Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Petition Date; (b) all checks or other items deposited in one of Debtor's Bank Accounts with

such Cash Management Bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to the Petition Date; and (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Cash Management Bank as Service Charges for the maintenance of the Cash Management System.

9. The Debtor is authorized to pay any fees and expenses owed to the Cash Management Banks, including, but not limited to, Bank Account Claims, regardless of whether such fees and expenses were incurred prior to or following the Petition Date.

10. Any existing deposit agreements between the Debtor and the Cash Management Banks continue to govern the postpetition cash management relationship between the Debtor and such Cash Management Bank, and all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect.

11. The automatic stay is hereby lifted to permit SVB to apply and/or liquidate funds or securities held as collateral for the Debtor's reimbursement obligations to SVB, as applicable.

12. The Debtor's time to comply with section 345(b) of the Bankruptcy Code is hereby extended pursuant to Local Rule 2015-2(b) for a period of forty five (45) days from the date hereof, without prejudice to its right to see a further extension without further order of this Court.

13. The Debtor shall not make any Intercompany Transactions to any of its non-debtor affiliates, except in connection with funding operating expenses as provided for in the budget approved by the Debtor's postpetition financing facility, absent further order of this Court.

14. The Debtor shall continue to maintain records with respect to all transfers of cash or property (including pursuant to such transactions) so that all allowed Intercompany Transactions may be readily ascertained, traced, and recorded properly on applicable intercompany accounts.

15. Any claim arising from postpetition Intercompany Transactions shall be given administrative expense priority in accordance with sections 503(b) and 507(a)(2) of the Bankruptcy Code.

16. For all Cash Management Banks that are party to a Uniform Depository Agreement with the U.S. Trustee, within fifteen days of the date of entry of this Interim Order, the Debtor shall (a) contact such Cash Management Bank, (b) provide the Cash Management Bank with each of the Debtor's tax identification numbers, and (c) identify each of its Bank Accounts held at such Cash Management Banks as being held by a debtor in possession in a bankruptcy case.

17. For Cash Management Banks that are not party to a Uniform Depository Agreement with the U.S. Trustee, if any, the Debtor shall use its good-faith efforts to cause the bank to execute a Uniform Depository agreement in a form prescribed by the U.S. Trustee within forty-five (45) days of the date of entry of this Interim Order.

18. The Debtor is authorized to use its existing Business Forms; *provided*, that once the Debtor's existing checks have been used, the Debtor shall, when reordering checks, require the designation "Debtor in Possession" and the corresponding bankruptcy case number on all checks; *provided further* that, with respect to checks which the Debtor or its agents print themselves, the Debtor shall begin printing the "Debtor in Possession" legend on such items within ten (10) days of the date of entry of this Order.

19. For the PayPal account maintained by the Debtor, the Debtor shall use reasonable good faith efforts to ensure that the daily balance in the account does not exceed \$20,000. The Debtor shall provide to the U.S. Trustee, on a bi-weekly basis, statements showing the daily balances in the PayPal account.

20. Nothing in the Motion or this Interim Order, nor as a result of any payment made pursuant to this Interim Order, shall be deemed or construed as an admission as to the validity or priority of any claim against the Debtor or an approval or assumption of any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code.

21. Rule 6003(b) of the Bankruptcy Rules has been satisfied because the relief requested in the Motion, as granted hereby, is necessary to avoid immediate and irreparable harm to the Debtor and its estate.

22. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

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

24. This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the Motion or the implementation of this Interim Order.

Dated: _____, 2019
Wilmington, Delaware

United States Bankruptcy Judge

EXHIBIT D

PROPOSED FINAL ORDER

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

In re:

UBIOME, INC.,¹

Debtor.

Chapter 11

Case No. 19-____ (____)

Ref. Docket Nos. ____ & ____

FINAL ORDER AUTHORIZING (A) THE MAINTENANCE OF THE CASH MANAGEMENT SYSTEM; (B) MAINTENANCE OF THE EXISTING BANK ACCOUNTS; (C) CONTINUED USE OF EXISTING BUSINESS FORMS; (D) CONTINUED PERFORMANCE OF INTERCOMPANY TRANSACTIONS IN THE ORDINARY COURSE OF BUSINESS AND GRANT OF ADMINISTRATIVE EXPENSE STATUS FOR POSTPETITION INTERCOMPANY CLAIMS; AND (E) GRANTING RELATED RELIEF

Upon the *Debtor's Motion for Interim and Final Orders Authorizing (A) the Maintenance of the Cash Management System; (B) Maintenance of the Existing Bank Accounts; (C) Continued Use of Existing Business Forms; (D) Continued Performance of Intercompany Transactions in the Ordinary Course of Business and Grant of Administrative Expense Status for Postpetition Intercompany Claims; and (E) Granting Related Relief* (the "Motion")² filed by the above-captioned debtor and debtor in possession (the "Debtor"); and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012; and this Court having found that venue of this Chapter 11 Case and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that notice of the Motion has been given as set forth in the Motion and that such notice is adequate and no other or further notice need be given; and this Court having

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determined that it may enter a final order consistent with Article III of the United States Constitution; and upon consideration of the First Day Declaration; and the *Interim Order Authorizing (A) the Maintenance of the Cash Management System; (B) Maintenance of the Existing Bank Accounts; (C) Continued Use of Existing Business Forms; (D) Continued Performance of Intercompany Transactions in the Ordinary Course of Business and Grant of Administrative Expense Status for Postpetition Intercompany Claims; and (E) Granting Related Relief* [D.I. ____]; and this Court having found and determined that the relief sought in the Motion, on a final basis, is in the best interests of the Debtor, its estate, its creditors and all other parties in interest; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein on a final basis.
2. The Debtor is authorized and empowered to continue to manage its cash using its existing Cash Management System, and to collect, concentrate, and disburse cash in accordance with such Cash Management System.
3. The Debtor is authorized to (a) designate, maintain, and use any or all of the Bank Accounts in existence as of the Petition Date, including the Bank Accounts listed on Exhibit A annexed to the Motion, (b) deposit funds into and withdraw funds from such Bank Accounts by all usual means, including checks, wire transfers, automated transfers, and other debits, and (d) treat its prepetition Bank Accounts for all purposes as debtor in possession accounts.
4. The Cash Management Banks are authorized and directed to continue to treat, service, and administer such Bank Accounts as accounts of the respective Debtor as a debtor in

² All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Motion.

possession account without interruption and in the usual and ordinary course, and to receive, process, honor and pay any and all checks, drafts, wires, or ACH transfers drawn on the Bank Accounts by the holders or makers thereof, as the case may be.

5. Notwithstanding anything to the contrary in any other order of this Court, the Cash Management Banks (a) are authorized to accept and honor all representations from the Debtor as to which checks, drafts, wires, or ACH transfers should be honored or dishonored, consistent with any orders of this Court and governing law, whether such checks, drafts, wires, or ACH transfers are dated prior to, on, or subsequent to the Petition Date, and whether the Cash Management Banks believe the payment is or is not authorized by an order of this Court, (b) have no duty to inquire as to whether such payments are authorized by an order of this Court, and (c) such Cash Management Banks shall not have any liability to any party for relying on such representations by the Debtor as provided for herein.

6. The Cash Management Banks shall not be liable to any party on account of (a) following the Debtor's instructions or representations as to any order of this Court, (b) the honoring of any prepetition check or item in a good faith belief that this Court has authorized such prepetition check or item to be honored, or (c) an innocent mistake made despite implementation of reasonable item handling procedures.

7. Nothing contained herein shall prevent the Debtor from closing any of its Bank Accounts or opening any additional bank accounts (which shall be deemed Bank Accounts under this Final Order), provided such new Bank Accounts are with a bank is a party to a Uniform Depository Agreement with the U.S. Trustee, and any relevant bank is authorized to honor the Debtor's request to close or open such Bank Accounts or additional bank accounts, as the case may be; provided, however, that the Debtor shall give notice within fifteen (15) days of an

account opening or closure to the U.S. Trustee and any statutory committee appointed in this Chapter 11 Case of the opening of any additional bank accounts or the closing of any Bank Accounts and shall report the opening or closing of any Bank Account on the monthly operating report next submitted to the U.S. Trustee.

8. The Cash Management Banks, in accordance with current practice and the agreement governing the Bank Accounts, are authorized to “charge back” to the Debtor accounts any amounts incurred by the Cash Management Banks resulting from returned checks or other returned items, and the Debtor is authorized to pay any fees and expenses owed to the Cash Management Banks, in each case regardless of whether such items were deposited prepetition or postpetition or relate to prepetition or postpetition items. Each Cash Management Bank is authorized to debit the Debtor’s accounts in the ordinary course of business without the need for further order of this Court for: (a) all checks drawn on the Debtor’s Bank Accounts which are cashed at such Bank’s counters or exchanged for cashier’s checks by the payees thereof prior to the Petition Date; (b) all checks or other items deposited in one of Debtor’s Bank Accounts with such Cash Management Bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to the Petition Date; and (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Cash Management Bank as Service Charges for the maintenance of the Cash Management System.

9. The Debtor is authorized to pay any fees and expenses owed to the Cash Management Banks, including, but not limited to, Bank Account Claims, regardless of whether such fees and expenses were incurred prior to or following the Petition Date.

10. Any existing deposit agreements between the Debtor and the Cash Management Banks continue to govern the postpetition cash management relationship between the Debtor and such Cash Management Bank, and all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect.

11. The automatic stay is hereby lifted to permit SVB to apply and/or liquidate funds or securities held as collateral for the Debtor's reimbursement obligations to SVB, as applicable.

12. The Debtor's continued use of its continued Cash Management System shall be deemed to comply with section 345 of the Bankruptcy Code, and the Debtor is relieved from the obligations pursuant to section 345(b) of the Bankruptcy Code to obtain a bond from any entity for any of the Bank Accounts.

13. The Debtor shall not make any Intercompany Transactions to any of its non-debtor affiliates, except in connection with funding operating expenses as provided for in the budget approved by the Debtor's postpetition financing facility, absent further order of this Court.

14. The Debtor shall continue to maintain records with respect to all transfers of cash or property (including pursuant to such transactions) so that all allowed Intercompany Transactions may be readily ascertained, traced, and recorded properly on applicable intercompany accounts.

15. Any claim arising from postpetition Intercompany Transactions shall be given administrative expense priority in accordance with sections 503(b) and 507(a)(2) of the Bankruptcy Code.

16. For all Cash Management Banks that are party to a Uniform Depository Agreement with the U.S. Trustee, within fifteen days of the date of entry of this Final Order, the

Debtor shall (a) contact such Cash Management Bank, (b) provide the Cash Management Bank with each of the Debtor's tax identification numbers, and (c) identify each of its Bank Accounts held at such Cash Management Banks as being held by a debtor in possession in a bankruptcy case.

17. For Cash Management Banks that are not party to a Uniform Depository Agreement with the U.S. Trustee, if any, the Debtor shall use its good-faith efforts to cause the bank to execute a Uniform Depository agreement in a form prescribed by the U.S. Trustee within forty-five (45) days of the date of entry of this Final Order.

18. The Debtor is authorized to use its existing Business Forms; *provided*, that once the Debtor's existing checks have been used, the Debtor shall, when reordering checks, require the designation "Debtor in Possession" and the corresponding bankruptcy case number on all checks; *provided further* that, with respect to checks which the Debtor or its agents print themselves, the Debtor shall begin printing the "Debtor in Possession" legend on such items within ten (10) days of the date of entry of this Final Order.

19. Nothing in the Motion or this Final Order, nor as a result of any payment made pursuant to this Final Order, shall be deemed or construed as an admission as to the validity or priority of any claim against the Debtor or an approval or assumption of any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code.

20. For the PayPal account maintained by the Debtor, the Debtor shall use reasonable good faith efforts to ensure that the daily balance in the account does not exceed \$20,000. The Debtor shall provide to the U.S. Trustee, on a bi-weekly basis, statements showing the daily balances in the PayPal account

21. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

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

23. This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the Motion or the implementation of this Final Order.

Dated: _____, 2019
Wilmington, Delaware

United States Bankruptcy Judge