

1 PAUL HASTINGS LLP
Todd M. Schwartz (Cal. Bar No. 288895)
2 Will Clark Farmer (Cal. Bar No. 329170)
1117 S. California Avenue,
3 Palo Alto, California 94304
Telephone: (650) 320-1800
4 Facsimile: (650) 320-1900
E mail toddschwartz@paulhastings.com
5 willfarmer@paulhastings.com

6 Nathan S. Gimpel (*pro hac vice* admission pending)
Matthew Smart (*pro hac vice* admission pending)
7 71 South Wacker Drive, Suite 4500
Chicago, Illinois 60606
8 Telephone: (312) 499-6000
Facsimile: (312) 499-6100
9 E mail nathangimpel@paulhastings.com
matthewsmart@paulhastings.com

10 *Proposed Attorneys for Debtor and*
11 *Debtor in Possession*

12 UNITED STATES BANKRUPTCY COURT
13 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION
14

15 In re
16 SVXR, Inc., a Delaware Corporation,¹
17 Debtor

Case No. 21-51050 (SLJ)

Chapter 11

**DECLARATION OF DANIEL
18 TREPANIER IN SUPPORT OF FIRST
19 DAY MOTIONS AND RELATED
RELIEF**

20 Date: August 10, 2021

Time: 11:00 a.m.

21 Crtrm.: 9, via Zoom

22 Judge: Honorable Stephen L. Johnson
United States Bankruptcy Court
280 South First Street
23 San Jose, CA 95113

24
25
26
27
28 ¹ The last four digits of SVXR, Inc.'s federal tax identification number are (1893). The mailing address for SVXR, Inc. is 90 Bonaventura Drive, San Jose, California 95134.

1 I, Daniel Trepanier, pursuant to section 1746 of title 28 of the United States Code, hereby
2 declare that the following is true to the best of my knowledge, information, and belief:

3 I am the acting Chief Executive Officer (“CEO”) and President of SVXR, Inc., the above-
4 captioned debtor and debtor-in-possession (the “Debtor” or “SVXR”). I have served as CEO of
5 the Debtor since February 1, 2021. I have more than twenty years of experience working in the
6 semiconductor industry, with a particular focus on semiconductor devices. I have substantial
7 knowledge and experience in senior management positions, including eighteen years as the CEO
8 of venture-capital funded technology start-up companies.

9 On the date hereof (the “Petition Date”), SVXR commenced with this Court (the “Court”)
10 a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

11 I am knowledgeable and familiar with the Debtor’s day-to-day operations, business,
12 financial affairs, books and records, and the circumstances leading to the commencement of the
13 Debtor’s chapter 11 case (the “Chapter 11 Case”). Except as otherwise indicated, all facts set forth
14 in this declaration are based upon my personal knowledge, information obtained from the Debtor’s
15 management team and advisors, my review of relevant documents and information concerning the
16 Debtor’s operations, financial affairs, and restructuring initiatives, or my opinions based upon my
17 experience and knowledge. I am authorized to submit this declaration on behalf of the Debtor, am
18 above 18 years of age, and, if called upon to testify, I could and would testify competently to the
19 facts set forth herein.

20 I submit this declaration to assist the Court and parties in interest in understanding: (a) the
21 Debtor, its operations, and its capital structure; (b) the circumstances related to the commencement
22 of the Chapter 11 Case; and (c) the relief requested by the Debtor pursuant to the motions and
23 applications, which were filed contemporaneously herewith and are as follows (collectively,
24 the “First Day Motions”):

- 25 a. *Debtor’s First Day Emergency Motion Pursuant to 11 U.S.C. §§ 105, 361, 362, 363,*
26 *364, 503, and 507, and Fed. R. Bankr. P. 2002, 4001, 6003, 6004, and 9014 for*
27 *Entry of Interim and Final Orders: (I) Authorizing the Debtor to (A) Obtain Senior*
28 *Secured Post-Petition Financing, and (B) Utilize Cash Collateral of Pre-Petition*
Secured Parties; (II) Granting Liens and Superpriority Claims; (III) Modifying the

1 Automatic Stay; (IV) Scheduling Final Hearing; and (V) Granting Related Relief
2 (the “DIP Financing and Cash Collateral Motion”);

- 3 b. Debtor’s First Day Emergency Motion for Entry of an Order (I) Approving the
4 Debtor’s Entry Into and Performance Under an Asset Purchase Agreement,
5 (II) Establishing Bidding Procedures, (III) Scheduling Bid Deadline and Auction,
6 (IV) Approving Contract Assumption and Assignment Procedures, (V) Approving
7 the Form and Manner of Notice, (VI) Scheduling a Hearing to Consider any
8 Proposed Sale, and (VII) Granting Related Relief (the “Bid Procedures Motion”);
- 9 c. Debtor’s Motion for Entry of an Order: (I) Approving the Sale of Substantially All
10 Debtor’s Assets Free and Clear of Liens; (II) Approve the Assumption and
11 Assignment of Executory Contracts; and (III) Granting Related Relief (the “Sale
12 Motion”);
- 13 d. Debtor’s First Day Emergency Motion for Entry of Interim and Final Orders
14 (I) Authorizing the Debtor to (A) Pay Prepetition Employee Wages, Salaries, Other
15 Compensation, and Reimbursable Employee Expenses and (B) Continue Employee
16 Benefits Programs and (II) Granting Related Relief (“Employee Wages and
17 Benefits Motion”);
- 18 e. Debtor’s First Day Emergency Motion for Entry of an Order (I) Authorizing the
19 Debtor to (A) Continue to Operate Its Cash Management System and (B) Honor
20 Certain Prepetition Obligations Related Thereto and (II) Granting Related Relief
21 (the “Cash Management Motion”);
- 22 f. Debtor’s First Day Emergency Motion for Entry of Interim and Final Orders (I)
23 Determining Adequate Assurance of Payment for Future Utility Services, (II)
24 Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility
25 Services, (III) Establishing Procedures for Determining Adequate Assurance of
26 Payment, and (IV) Granting Related Relief (the “Utilities Motion”);
- 27 g. Debtor’s First Day Emergency Motion for Entry of Order Extending Time to File
28 Schedules of Assets and Liabilities and Statement of Financial Affairs (the “Motion
 to Extend Time to File Schedules and Statements”);
- h. Debtor’s Application for Entry of an Order (I) Approving the Retention and
 Appointment of Omni Agent Solutions as Claims and Noticing Agent to the Debtor,
 Effective Nunc Pro Tunc to the Petition Date and (II) Granting Related Relief (the
 “Claims and Noticing Agent Application”);

 This Declaration is submitted in compliance with the Court’s *First Day Motion Guidelines*
for Chapter 11 Cases. As to the Sale Motion in particular, this Declaration is also intended to
satisfy the requirements of the Court’s *Guidelines for Early Disposition of Assets in Chapter 11*
Cases, Pre-Packaged Plans, the Sale of Substantially All Assets under § 363.

 This declaration is organized in the following five parts:

- Part I provides an overview of the Debtor’s anticipated chapter 11 process, including
the proposed debtor-in-possession financing, sale process, and expected case
timeline;

- 1 • Part II provides background information on the Debtor and detailed information on
- 2 the Debtor’s prepetition operations;
- 3 • Part III provides an overview of the Debtor’s prepetition capital structure;
- 4 • Part IV provides information regarding the Debtor’s prepetition restructuring efforts
- 5 and the commencement of the Chapter 11 Case;
- 6 • Part V incorporates the factual bases for the relief requested in the First Day
- 7 Motions.

8 **I. THE CHAPTER 11 CASE**

9 Beginning in September 2020, the Debtor undertook a robust marketing process with the
10 assistance of its investment banker, Greenhill & Co., LLC (“Greenhill”), to identify a strategic
11 transaction to maximize value for the Debtor and its stakeholders. After some eleven months, and
12 three separate rounds of marketing the Debtor’s assets to interested potential investors and
13 acquirers, the Debtor has entered into an asset purchase agreement (“APA”) with Bruker Nano Inc.
14 (“Bruker”) to preserve the value of SVXR and provide an optimal recovery for all creditors.

15 To ensure the highest and best recovery for all stakeholders, the Debtor intends to seek
16 emergency court authorization to establish bidding procedures and conduct an expedited auction
17 and sale of substantially all of SVXR’s assets under section 363 of the Bankruptcy Code within the
18 first 30 days of the Chapter 11 Case. As a result of the nearly year-long marketing process that the
19 Debtor performed prepetition, and in an effort to limit costs to the estate, the Debtor intends to file
20 a chapter 11 plan or return value to its constituents by other means shortly after consummation of
21 a court-approved sale.

22 The Debtor believes that the proposed sale transaction represents the only viable option for
23 preserving and maximizing the value of SVXR and that, if the relief requested in the First Day
24 Motions, including the proposed debtor-in-possession financing and anticipated sale process, are
25 not approved and consummated, or if they are delayed, the Debtor would have no choice but to
26 liquidate under chapter 7 of the Bankruptcy Code. A chapter 7 liquidation, including potential
27 piecemeal sales or abandonment of the Debtor’s assets, would severely diminish the value of the
28

1 Debtor's estate. Accordingly, the Debtor has commenced this Chapter 11 Case and is pursuing the
2 sale transaction to maximize the value of the Debtor's estate for the benefit of all stakeholders.

3 **II. COMPANY BACKGROUND AND OPERATIONS**

4 Founded in 2013, SVXR is a developer and manufacturer of high-resolution, automated
5 x-ray inspection ("HR-AXI") and metrology equipment for businesses in the semiconductor and
6 advanced-electronics market. SVXR also provides data-analytics software and field-support
7 services to its customers in the semiconductor fabrication industry.

8 **A. The Company's Assets and Operations**

9 SVXR is engaged in the business of product development, manufacturing, and sales of its
10 proprietary HR-AXI equipment, software, and related services. The X200™ is the primary
11 hardware that the Debtor sells to its customers (the "X200"). The X200 is a patented high-speed
12 inspection device that allows customers to monitor and detect defects or abnormalities in their
13 products during the semiconductor fabrication process. The X200 provides high-speed, sensitivity
14 (e.g., pixel resolution), and safety capabilities, improving customers' production processes and the
15 consistency of their end products.

16 The Debtor's Hawk-I Data Analytics software ("Hawk-I"),² an integral component of the
17 X200, provides advanced computational X-ray image processing and data analysis in real time. By
18 harnessing the power of machine learning, Hawk-I provides customers the ability to improve and
19 automate the data-analytics functions in the X200 over time. Hawk-I's optimized imaging and
20 machine-learning software allows the X200 to provide customers with an industry-leading product
21 to identify critical defects in their semiconductor products before the products reach the end of the
22 customer's assembly line or an end user.³

23 The Debtor partners with vendors across the world to obtain the specialized inputs, tools,
24 and parts required to develop and manufacture its HR-AXI products. The Debtor's significant
25 suppliers include businesses located in the United States, France, and Taiwan.

27 ² The Debtor has applied for a patent regarding the Hawk-I software.

28 ³ The Debtor holds valuable intellectual property assets that provide the framework for the manufacture and sale of
the X200 and the provision of Debtor's services to customers.

1 The Debtor has a physical presence in the United States and Asia, allowing the Debtor to
2 provide its products and services efficiently and effectively to important customers of the Debtor
3 in both markets. The Debtor's headquarters are in San Jose, California, where it has approximately
4 28 employees. The Debtor's other physical presence is in Taiwan, where two branch offices of the
5 Debtor focus on sales and technical-applications development with the support of four employees.⁴

6 **B. The Company's Key Customers**

7 The Debtor has six key customers that are well-known leaders in the semiconductor
8 fabrication industry. In addition to supplying the X200 and/or data analytics toolkits to its
9 customers, the Debtor provides warranty and post-warranty, rental, and joint-development services
10 to its customers (the "Customer Programs"). As of the Petition Date, the Debtor does not expect
11 to incur any substantial postpetition obligations as a result of its Customer Programs, assuming that
12 the Court is able to approve a sale of the Debtor's business under the proposed bidding and sale
13 timeline.

14 **C. The Company's Employees**

15 From its headquarters in San Jose, California, SVXR leads its team of 32 employees in
16 California and Taiwan. The Debtor's highly skilled team includes software and hardware engineers,
17 applications engineers and scientists, and sales and marketing managers, among others, that provide
18 immense value to the Debtor. As a result of SVXR employees' expertise and unique skillsets,
19 human capital is a critical asset of the Debtor. Section V below includes a detailed discussion of
20 the Debtor's employees and certain benefits owing to them.

21 **D. The Company's Cash Management System**

22 The Debtor maintains two U.S. bank accounts and one account in the Republic of China
23 (Taiwan) (the "Taiwan Account"). The Taiwan Account enables the Debtor to fund its Taiwan
24 branch and reduce expenses that the Debtor would otherwise incur by funding its Taiwan operations
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28 ⁴ The Debtor also enters into agreements with independent contractors in the United States, Singapore, and Korea.

1 through a financial institution domiciled in the United States.⁵ Section V below includes a detailed
2 discussion of the Debtor's bank accounts and cash-management system.

3 **E. The Company's Insurance Program**

4 In the ordinary course of its operations, SVXR maintains various liability, property, and
5 other insurance arrangements (collectively, the "Insurance Policies," and all premiums and other
6 obligations related thereto, including any broker or advisor fees, associated federal excise taxes and
7 state taxes, other fees, and deductibles, collectively, the "Insurance Obligations") through several
8 insurance carriers (each, an "Insurer"). The Debtor's Insurance Policies provide the Debtor with
9 insurance coverage for general commercial and product claims, property-damage claims, and
10 employee, officer, and director professional-liability claims, as well as excess policies related to
11 the same. The Debtor maintains the Insurance Policies to, among other things, help manage the
12 various risks associated with its technology business. The Debtor is not aware of any outstanding
13 premiums or other amounts owed to the various Insurers under the Insurance Policies.

14 **F. The Debtor's Utilities Providers and Obligations**

15 In the ordinary course of its operations, the Debtor incurs expenses for electricity, natural
16 gas, telephone, internet, and garbage disposal, and other similar services (collectively, the "Utility
17 Services"). The Debtor has a consistent, timely payment history with the five utility providers that
18 provide it services (collectively, the "Utility Providers"). To the best of the Debtor's knowledge,
19 there are no defaults or arrearages on any account related to any of the Utility Providers. The
20 Debtor's aggregate monthly expenses owing to the Utility Providers is approximately \$5,250. The
21 Debtor is not aware of any outstanding obligations owed to the Utility Providers as of the Petition
22 Date, but amounts will come due to the Utility Providers within 30 days following the Petition
23 Date. Subject to this Court's authorization, the Debtor intends to pay all postpetition obligations
24 owed to the Utility Providers in a timely manner. Section V below includes a detailed discussion
25 of the Debtor's Utility Providers and how the Debtor proposes to provide adequate assurance of
26 payment to the Utility Providers.

27 ⁵ SVXR is applying for a refund for the amount of excise tax withheld on a recent purchase order of Micron
28 Technologies, Inc. (for an amount equal to 12 percent of the amount due under the purchase order). Timing of
receipt of this amount is subject to processing by the tax authorities of Taiwan and may exceed 30 days.

1 **G. The Company’s Taxes and Fees**

2 In the ordinary course of its operations, the Debtor collects, withholds, and incurs a variety
3 of taxes and assessments that it remits periodically to various international, federal, state, and local
4 taxing, licensing, and other governmental authorities (collectively, the “Taxing Authorities”). The
5 Debtor generally pays the taxes and assessments on a per-occurrence, bi-monthly, monthly,
6 quarterly, or annual basis, in each case, as required by applicable laws and regulations. The Debtor
7 is not aware of any outstanding tax or assessment due and owing to the various Taxing Authorities
8 as of the Petition Date or any amount that may come due within 30 days following the Petition
9 Date.

10 **III. PREPETITION CAPITAL STRUCTURE**

11 As of the Petition Date, the Debtor’s secured funded debt totals approximately
12 \$8.725 million, including:

13

14 Debt	15 Maturity	16 Interest Rate	17 Approx. Aggregate Amount Owed	18 Security
19 SBA EIDL Loan	20 April 1, 2050	21 3.75%	22 \$517,000	23 Substantially All Debtor Assets
24 Second Lien Notes	25 May 19, 2021	26 10.00%	27 \$8,200,000	28 Substantially All Debtor Assets

29 **A. The Secured Economic Injury Disaster Loan**

30 On March 30, 2020, the U.S. Small Business Administration (the “SBA”) approved an
31 Economic Injury Disaster Loan in the amount of \$500,000 to the Debtor (the “EIDL Loan”), subject
32 to the terms and conditions of that certain Loan Authorization and Agreement, dated
33 March 30, 2020, and secured Note, dated April 1, 2020, both by and between the SBA and the
34 Debtor.⁶ Beginning in April 2021, the Debtor pays interest on the EIDL Loan on a monthly basis

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37 ⁶ Additionally, the former President of the Debtor, David L. Adler, is a guarantor of the EIDL Loan. On
38 June 8, 2020, the Debtor and Mr. Adler entered that certain Reimbursement and Security Agreement, which
provides Mr. Adler a lien on substantially all of the Debtor’s assets should he be required to repay the EIDL Loan,
and the Debtor fails to reimburse him for such payment.

1 and is current on its payments under the EIDL Loan. Approximately \$17,000 of additional accrued
2 interest is due to the SBA on account of the deferral of one year of payments at the time of the loan
3 issuance.

4 **B. The Secured Notes**

5 The Debtor is party to that certain Secured Note Purchase Agreement, dated
6 November 19, 2020, by and between the Debtor and the certain holders of the secured notes
7 (the “Noteholders”).⁷ In accordance with the Secured Note Purchase Agreement, the Debtor issued
8 notes in the aggregate principal amount of \$6.0 million to the Noteholders (the “Secured Notes”),
9 and each Noteholder and SVXR executed that certain Security Agreement, and, severally and not
10 jointly, a Secured Promissory Note (collectively, the “Notes Agreements”). As of the Petition Date,
11 there is approximately \$8.2 million in aggregate indebtedness owed under the Secured Notes. No
12 additional notes have or will be issued pursuant to the Notes Agreements. As discussed in more
13 detail below, the Debtor reached various forbearance agreements with the Noteholders in the lead-
14 up to the Secured Notes’ maturity date and the filing of the Chapter 11 Case.

15 Although the Secured Notes are secured by a lien on substantially all of the Debtor’s assets,
16 the Secured Notes are subordinated in right of payment to the prior payment in full of the EIDL
17 Loan.

18 **C. The Comet Precautionary Lien**

19 COMET Technologies USA Inc. (“Comet”) holds a “precautionary” lien on certain
20 equipment that the Debtor leases from Comet. Comet’s UCC Financing Statement provides that
21 the lien is precautionary and was submitted in the event that the parties’ lease would be found to be
22 a transaction creating a security interest. The Debtor is not aware of any alleged amount
23 outstanding it owes to Comet as of the Petition Date under the parties’ lease agreement, and the
24 equipment lease between the Debtor and Comet does not create any security interest in the
25 equipment. Comet is receiving notice of this and the other First Day Motions.

26 ⁷ As set forth on Schedule 1 to that certain Secured Note Purchase Agreement, the Noteholders are: (i) The Levy
27 Family Trust dated February 18, 1983; (ii) Grand Process Technology Corporation; (iii) ASE Test Limited;
28 (iv) David Adler; (v) Michael Wu; (vi) Scott Jewler; (vii) Maureen Lamb; (viii) The McWhirter Living Trust;
(ix) The Franklin/Malnekoff Trust, Gregg E. Franklin, and Mara B. Malnekoff, and their successors, as Trustee,
under Trust Agreement dated January 12, 2016; (x) Remon Kaldani; (xi) Sunil Kaul; and (xii) Robert Maire.

1 **D. Unsecured Obligations**

2 As of the Petition Date, the Debtor has aggregate outstanding unsecured obligations of
3 approximately \$1,825,000.

4 **E. Equity Interests**

5 SVXR is privately held and none of its equity interests are traded on public exchanges.

6 **IV. EVENTS LEADING TO CHAPTER 11**

7 In the years following its founding in 2013, the Debtor invested heavily in developing its
8 patented technology and bringing the X200 to market. In fiscal year 2019, the Debtor made a gross
9 profit, for the first time, of approximately \$1,860,000. The Debtor had negative net income in fiscal
10 year 2019, however, of approximately \$8,315,000. Like many early-stage, hyper-specialized, and
11 research-intensive companies, the Debtor has never been a positive cash-flow enterprise.

12 As a result of operating losses and a lack of liquidity, the Debtor has been pursuing a
13 strategic transaction, equity recapitalization, or a debt refinancing for nearly a year. As discussed
14 below, because the Debtor is currently in default of its secured note obligations to the Noteholders,
15 the Debtor has continued to steadfastly pursue a sale of substantially all of its assets.

16 **A. The Strategic Transactions Committee and the Notes Agreements**

17 On or about August 6, 2020, the Debtor’s Board of Directors (the “Board”) appointed a
18 Strategic Transactions Committee (“Strategic Transactions Committee”) to, with the assistance of
19 Greenhill and other advisors, pursue either (i) a financing transaction (whether debt, equity, or
20 convertible securities) or (ii) a sale transaction. The Debtor retained Greenhill (with Christopher
21 T. Grubb, Managing Director and Head of M&A and Restructuring for the Western Region, serving
22 as the lead) to market the Debtor’s business and assets for sale or identify a strategic financing.
23 The appointment of the Strategic Transactions Committee coincided with the resignation of David
24 L. Adler as SVXR’s President and CEO, effective August 7, 2020.

25 Beginning in late August and September 2020, the Strategic Transactions Committee and
26 Greenhill began probing the market regarding a possible sale transaction, recapitalization of SVXR,
27 or debt-financing transaction. Shortly thereafter, the Strategic Transactions Committee proposed
28

1 an internal secured debt financing of up to \$6.0 million (the “Notes Financing”), which would
2 eventually be consummated by execution of the Notes Agreements (on November 19, 2020).

3 On October 22, 2020, and in response to the Strategic Transaction Committee’s
4 recommended financing proposal, the Board also appointed a Special Committee with respect to
5 the Notes Financing, consisting solely of disinterested Directors. The Special Committee’s purview
6 included the authority to negotiate and approve (on behalf of the Board) the Notes Financing or any
7 other recapitalization or sale transaction.

8 On November 16, 2020, the Special Committee approved the Notes Financing in an amount
9 not to exceed \$6.0 million.⁸ As discussed above, the Debtor and Noteholders entered into the Notes
10 Agreements on November 19, 2020.

11 **B. The Ongoing Sale Process and the Departure of Key Employees**

12 The Fall 2020 Marketing of the Debtor’s Assets. Concurrent with the negotiation and
13 execution of the Notes Agreements, the Debtor, with the assistance of Greenhill, continued to
14 market its assets and pursue a value maximizing transaction. Despite SVXR’s lack of profitability,
15 in November 2020, the Debtor received a promising non-binding indication of interest from a
16 strategic buyer. This interest from the potential buyer in a transaction, unfortunately, did not
17 translate into a binding offer, and the marketing process during Fall 2020 ultimately did not result
18 in the consummation of any transaction.

19 Effective January 29, 2021, the Debtor’s then-CEO, Scott Jewler, resigned from the Debtor,
20 disturbing the Debtor’s marketing efforts and chilling interest from prospective acquirers of SVXR.
21 As a result of the departure of Mr. Jewler, the Board appointed Daniel Trepanier as acting CEO,
22 President, and Secretary of the Debtor. Mr. Trepanier remains the Debtor’s acting CEO and
23 President.

24 The Spring 2021 Marketing of the Debtor’s Assets. The appointment of Mr. Trepanier as
25 CEO of the Debtor in January 2021 returned stability to the Debtor’s operations and marketing
26 process. In February 2021, the Debtor, with the assistance of Greenhill, renewed its efforts to
27 identify a value maximizing transaction for the Debtor’s stakeholders. During February and March
28

⁸ The Notes Financing was also approved by the Debtor’s shareholders.

1 2021, the Debtor actively marketed its technology and products to strategic partners and interested
2 purchasers in connection with its ongoing effort to realize a sale of SVXR. In March and April
3 2021, however, additional officers and employees of the Debtor left the company, further
4 challenging the Debtor's efforts to identify a value maximizing transaction.

5 **C. The Maturation of the Secured Notes**

6 On May 19, 2021, at a time when the Debtor's liquidity was already severely limited, the
7 Secured Notes became due. Shortly thereafter, the Noteholders made a demand pursuant to the
8 Notes Agreements, notifying the Debtor that the entire amount owed under the Notes Agreements
9 was due immediately. Notwithstanding the Debtor's and Greenhill's extensive efforts to identify
10 strategic alternatives to address the Debtor's liquidity shortfall, the Debtor had up to that point been
11 unable to identify a transaction that would benefit its stakeholders and fairly value SVXR.

12 **D. The Forbearance Negotiations with the Noteholders and Prepetition**
13 **Marketing of the Debtor's Assets**

14 The Summer 2021 Marketing of the Debtor's Assets. In early June 2021, while negotiating
15 a forbearance agreement with the Noteholders, the Debtor, with the assistance of Greenhill, once
16 more undertook a robust and competitive marketing process to identify and engage with partners,
17 strategic buyers, and investors that might be interested in a refinancing, recapitalization, or
18 acquisition of SVXR. Because of the turnover in leadership at the Debtor over the last year, the
19 Debtor's sale process did not provide the level of interest—or valuation of the Debtor's assets—
20 that had previously existed.

21 Following reengagement of potential acquirers, Bruker Nano, Inc. submitted a term sheet
22 to SVXR on June 10, 2021. The Debtor entered into the APA on August 4, 2021, subject to filing
23 for bankruptcy and obtaining bankruptcy court approval. I believe that the APA the Debtor has
24 negotiated with Bruker preserves maximum value for the Debtor's stakeholders and, importantly,
25 ensures that the Debtor's ongoing operations can continue as a going concern, preserving jobs for
26 substantially all of the Debtor's employees.

1 **V. FIRST DAY MOTIONS**

2 The purpose of the Chapter 11 Case is to permit the Debtor to run an expedited sale process
3 focused on maximizing the going-concern value of its assets while also minimizing the time (and
4 attendant costs) needed to get to a sale closing, which the Debtor hopes to achieve within
5 approximately 30 days of the Petition Date. Given the nearly year-long marketing process that the
6 Debtor has undertaken prepetition, a failure to quickly consummate the proposed sale to Bruker, or
7 an overbidder, will very likely lead to conversion to chapter 7 and a significant loss of value for the
8 Debtor's stakeholders. Any delay in closing is likely to fatally—and finally—extinguish the
9 Debtor's efforts to preserve value for creditors and parties in interest through a strategic transaction.
10 As a result, the Debtor's "runway" in bankruptcy is severely limited.

11 Bruker and other interested parties that the Debtor and its advisors have spoken to during
12 the Debtor's multiple sale processes have generally appreciated the value in retaining the Debtor's
13 employees, honoring key existing contracts, and continuing to operate the Debtor's business.
14 Consistent with this view, I believe that a going-concern sale, such as that contemplated by the
15 Bruker APA, will preserve millions of dollars in value and mitigate hundreds of thousands of
16 dollars in damages that would otherwise result from potentially piecemeal liquidation sales of the
17 Debtor's assets. Creditors (both secured and unsecured), employees, customers, vendors, and other
18 constituents, thus, will benefit from the going-concern sale, including the expedited postpetition
19 sale timeline, under these circumstances.

20 The Debtor has filed its First Day Motions contemporaneously herewith to ensure that the
21 Debtor's business continues to function and the sale process is successful during this Chapter 11
22 Case. For the reasons set forth below, I submit that (a) the relief requested in the First Day Motions
23 is necessary to enable the Debtor to operate with minimal disruption during the pendency of its
24 Chapter 11 Case, (b) the requested relief is essential to consummating a sale of the Debtor's assets
25 that will preserve value for the Debtor's stakeholders, and (c) approval of the First Day Motions is
26 warranted.⁹

27 _____
28 ⁹ Capitalized terms used in this section of the Declaration and not defined herein shall have the meanings ascribed to them in the relevant First Day Motion.

1 **A. Debtor’s First Day Emergency Motion Pursuant to 11 U.S.C. §§ 105, 361, 362,**
2 **363, 364, 503, and 507 and Fed. R. Bankr. P. 2002, 4001, 6003, 6004, and 9014**
3 **for Entry of Interim and Final Orders: (I) Authorizing the Debtor to**
4 **(A) Obtain Senior Secured Post-Petition Financing, and (B) Utilize Cash**
5 **Collateral of Pre-Petition Secured Parties; (II) Granting Liens and**
6 **Superpriority Claims; (III) Modifying the Automatic Stay; (IV) Scheduling**
7 **Final Hearing; and (V) Granting Related Relief (the “DIP Financing and Cash**
8 **Collateral Motion”)**

9 As the CEO of SVXR, I was involved in assessing the Debtor’s financing needs during
10 period leading up to the Petition Date, especially concerning the maintenance of the Debtor’s
11 operations. As of the Petition Date, SVXR has approximately \$100,000 of cash on hand.

12 Prior to the commencement of the Chapter 11 Case, and as set forth in detail in the
13 *Declaration of Christopher T. Grubb In Support Of Debtor’s (I) Debtor in Possession Financing*
14 *and Cash Collateral Motion and (II) Bid Procedures Motion*, the Debtor, with the assistance of
15 Greenhill and other advisors, developed a projection of cash flows to account for the impacts of the
16 chapter 11 filing, the likely cash burn during the Chapter 11 Case, and the anticipated chapter 11
17 expenses. That work lead the Debtor and its advisors to conclude that SVXR would require access
18 to Cash Collateral and at least \$1 million of debtor-in-possession financing over a 30–90 day period
19 to support its operations and the Chapter 11 Case.

20 Because SVXR has not historically been a cash-flow positive enterprise,
21 debtor-in-possession financing and access to Cash Collateral are integral to maintaining the
22 Debtor’s operations, ensuring stakeholder confidence in the sale process, and administering the
23 Chapter 11 Case. The proposed DIP financing sizing also incorporates projected professional fees
24 for estate-paid professionals to be paid during the pendency of the Chapter 11 Case.

25 I believe that the DIP financing’s delayed draw structure will provide the Debtor with the
26 flexibility to limit its financing costs while managing the proposed expedited sale process. The
27 total amount of new money under the DIP financing, \$2.0 million, in addition to access to Cash
28 Collateral, will provide adequate liquidity to the Debtor throughout the pendency of the Chapter 11
29 Case.

30 The Debtor would experience irreparable harm if the interim order approving the DIP
31 Financing and Cash Collateral Motion is not entered. Access to immediate financing is essential

1 to ensure that SVXR has sufficient working capital to continue operating and manage the
2 Chapter 11 Case. Absent authority to borrow under the DIP Loan and access Cash Collateral on
3 an emergency basis, the Debtor will not be able to both continue operations on a normal basis,
4 fulfill its obligations to employees, customers, and suppliers, and consummate a value-maximizing
5 sale, resulting in immediate and irreparable harm to the Debtor and its estate, creditors (including
6 secured creditors), employees, and customers.

7 The Debtor evaluated, with the assistance of its advisors, the amount of funding that it will
8 require during the interim borrowing period of the Chapter 11 Cases. The amount was derived
9 from a cash-flow projection developed from an analysis of the Debtor's receipts and disbursements
10 (the "Budget," attached to the Interim DIP Order as Exhibit 1). I believe the Budget presents a
11 reasonable estimate of the Debtor's cash sources and needs.

12 Given these estimates, access to the requested portion of the DIP Loans and use of Cash
13 Collateral would provide the Debtor sufficient liquidity to stabilize its operations until the Court
14 makes a determination as to relief on a final basis. Specifically, the DIP Loans and Cash Collateral
15 will allow the Debtor to: (a) maintain its operations; (b) fund approximately \$618,000 of payroll
16 obligations coming due in the first month of the Chapter 11 Case; (c) fund other essential payments
17 to be made under first day orders; and (d) fund the near-term administrative costs of the
18 Chapter 11 Case. The interim DIP funding amount and Cash Collateral usage would also provide
19 a reasonable liquidity buffer to the Debtor in the event that the Debtor is unable to realize a sale
20 within the first thirty days of the Chapter 11 Case.

21 Based upon the above, I believe the DIP Loans and access to Cash Collateral represent the
22 best option for meeting the Debtor's liquidity needs, and respectfully submit that the Debtor should
23 be authorized to access Cash Collateral and up to \$1.0 million of the DIP Loans until a final hearing
24 on the DIP Financing and Cash Collateral Motion.

1 **B. Debtor’s First Day Emergency Motion for Entry of an Order:**
2 **(I) Approving Bidding Procedures in Connection with Sale of Debtor’s Assets;**
3 **(II) Break-Up Fee; and (III) Related Relief (the “Bid Procedures Motion”)**

4 As discussed above, prior to the Petition Date, the Debtor, with the assistance of its advisors,
5 undertook a robust, nearly year-long process to market and sell its assets. After three separate
6 rounds of marketing the Debtor’s assets, Bruker emerged as a potential purchaser of SVXR’s assets.
7 Following good-faith, arm’s-length negotiations between the Debtor and Bruker, the parties
8 reached agreement on the terms of the Stalking Horse APA. The transaction contemplated by the
9 Stalking Horse APA provides for the sale of the Debtor’s Assets for approximately \$11,858,000.

10 The Debtor proposes to implement certain bid procedures (the “Bid Procedures”) to
11 facilitate a full and fair process designed to maximize the value of the Assets for the benefit of the
12 Debtor’s estate and so that the sale process will not be delayed by last minute offers. A detailed
13 description of the Bid Procedures is set forth in the *Declaration of Christopher T. Grubb In Support*
14 *Of Debtor’s (I) Debtor in Possession Financing and Cash Collateral Motion and (II) Bid*
15 *Procedures Motion.*

16 I believe that the Bidding Procedures, entry into the Stalking Horse APA, and the related
17 relief requested in the Bid Procedures Motion will allow the Debtor to efficiently sell its assets and
18 accomplish a restructuring that is in the best interests of the Debtor’s bankruptcy estate.
19 Accordingly, I respectfully submit that the Court should grant the relief requested in the Bid
20 Procedures Motion.

21 **C. Debtor’s First Day Emergency Motion for Entry of an Order: (I) Approving**
22 **Sale of Substantially All Debtor’s Assets Free and Clear of Liens; (II) Approve**
23 **the Assumption and Assignment of Executory Contracts; and (III) Provide**
24 **Related Relief (the “Sale Motion”)**

25 I am seeking appointment as the Responsible Individual for the Debtor, and the following
26 is intended to comply with respect to the items required by Section 4 of the Court’s *Guidelines for*
27 *Early Disposition of Assets in Chapter 11 Cases, Pre-Packaged Plans, the Sale of Substantially All*
28 *Assets under § 363:*

1 **(1) & (2) Alternatives to Sale and Marketing of Assets** – As set forth on pages
2 ten through twelve above, the Debtor conducted a robust marketing effort over the past year,
3 with the assistance of Greenhill, in a sustained effort to market and sell its assets, obtain an
4 equity capital infusion, or restructure its liabilities. In furtherance of this process, the Debtor
5 established the Strategic Transactions Committee in August 2020, entered into the Notes
6 Agreements in November 2020, began negotiating a possible merger agreement with
7 Bruker in May 2021, and continued to market its business, with the assistance of Greenhill,
8 until the Petition Date.

9 **(2) Decision to Sell** – The Debtor signed the Asset Purchase Agreement with Bruker
10 shortly before filing this bankruptcy petition on August 3, 2021.

11 **(3) Asset Valuation** – This Declaration provides substantial details on the Debtor’s
12 financial condition. More specifically, despite the Debtor receiving varying non-binding
13 indications of interest that did not progress to binding offers during its prepetition marketing
14 process, I believe the Stalking Horse APA with Bruker, valuing the Debtor’s enterprise at
15 approximately \$11.858 million, is the clearest indication of the market value of SVXR.

16 **(4) Relationship to Buyer** - Prior to the effort to locate a buyer, the Debtor had no
17 pre-existing business relationship with Bruker Nano, Inc., other than in their capacities as
18 competitors in the semiconductor industry. I am not aware of any preexisting relationship
19 between Bruker Nano, Inc. or its officers, directors, or shareholders, on the one hand, and
20 any of the Debtor’s creditors, officers, directors, shareholders, attorneys, accountants, or
21 any person employed at the Office of the United States Trustee. It is my understanding that
22 counsel for Bruker Nano, Inc. (Jack Fainberg, Chris Desiderio, and Richard Stein of Nixon
23 Peabody LLP) and bankruptcy counsel for the Debtor (Todd Schwartz of Paul Hastings
24 LLP) had no pre-existing professional relationship before working on this matter, and that
25 Greenhill has previously worked on unrelated matters with both Paul Hastings LLP and
26 Nixon Peabody LLP. I am not aware of any other specific connection between the
27 respective attorneys, accountants, or advisors of the Debtor and Bruker Nano, Inc.
28

1 (5) **Post-Sale Relationship with Debtor** - Assuming this Court approves the sale
 2 to Bruker, Bruker retains the right to employ the Debtor's current employees, as set forth in
 3 Section 8.16 of the APA.

4 (6) **Relationship with Secured Creditors** - A detailed description of the Debtor's
 5 existing secured debt is set forth in Section III above. Below are additional details, as I
 6 understand them, with respect to existing relationships that the Debtor holds with secured
 7 debtholders.

Secured Creditor	Officer	Director	Shareholder	Other Connections to SVXR
U.S. Small Business Administration	No	No	No	None (lender).
COMET Technologies USA, Inc.	No	No	No	None (supplier).
Noteholders				
The Levy Family Trust dated February 18, 1983	No	No	Yes	None.
Grand Process Technology Corporation	No	No	Yes	Grand Process Technology Corporation is a customer of the Debtor in the ordinary course of business.
ASE Test Limited	No	No	Yes	ASE Test Limited is a customer of the Debtor in the ordinary course of business. On or about March 18, 2019, the Debtor entered into a Collaboration and Joint Development Agreement with Advance Semiconductor Engineering, Inc., an affiliate of ASE Test Limited.
David Adler	No	No	Yes	David Adler is a former officer and director of the Debtor.
Michael Wu	No	No	Yes	None.
Scott Jewler	No	No	Yes	Scott Jewler is a former officer and director of the Debtor.
Maureen Lamb	No	No	Yes	Maureen Lamb is an independent contractor and consultant for the Debtor.
The McWhirter Living Trust	No	No	No	It is my understanding that Jim, Jodi, and Richard McWhirter, in the individual capacity of each natural person, are shareholders of the Debtor.
The Franklin/Malnekoff Trust, Gregg E. Franklin, and Mara B. Malnekoff, and	No	No	Yes	None.

1	their successors, as Trustee, under Trust Agreement dated January 12, 2016				
2					
3	Remon Kaldani	No	No	Yes	None.
4	Robert Maire	No	No	Yes	None.
5					

6 **(7) Insider Compensation** – Officers, Directors, key employees, and other insiders
7 will receive normal base salary payments from the Debtor during the Chapter 11 Case,
8 consistent with prepetition practice.

9 As set forth above, the Debtor has executed the Stalking Horse APA with Bruker. A true
10 and correct copy of the Stalking Horse APA is attached as Exhibit B to the Bid Procedures Motion.
11 The transaction contemplated by the Stalking Horse APA (the “Stalking Horse Bid”) provides for
12 the sale of the Debtor’s Assets for approximately \$11,858,000.

13 Under the Stalking Horse APA, the sale of the Assets will be consummated under
14 section 363 of the Bankruptcy Code. In exchange for providing the Stalking Horse Bid, the
15 Stalking Horse Bidder will be entitled to a break-up fee in the amount of \$100,000 (the “Break-Up
16 Fee”) and an expense reimbursement of reasonable and actual amounts incurred by the Stalking
17 Horse Bidder up to \$250,000 (the “Expense Reimbursement,” and together with the Break-Up Fee,
18 the “Bid Protections”) in the event the Assets are not sold to the Stalking Horse Bidder but rather
19 to one or more other third parties. I believe that the Break-Up Fee, at less than 3 percent of the
20 purchase price under the Stalking Horse APA, is a reasonable amount to compensate the Stalking
21 Horse Bidder for its costs and its agreement to provide the Stalking Horse Bid.

22 I believe that the Bidding Procedures, entry into the Stalking Horse APA, and the related
23 relief requested in the Bid Procedure and Sale Motion will allow the Debtor to efficiently sell the
24 Assets and accomplish a restructuring that is in the best interests of the Debtor’s bankruptcy estate.
25 Accordingly, I respectfully submit that the Court should grant the relief requested in the Sale
26 Motion.

1 **D. Debtor’s First Day Emergency Motion for Entry of an Order Authorizing**
2 **Debtor to Honor Prepetition Obligations to Employees (the “Employee Wages**
3 **and Benefits Motion”)**

4 Pursuant to the Employee Wages and Benefits Motion, the Debtor seeks entry of interim
5 and final orders (i) authorizing the Debtor to (a) pay prepetition employee wages, salaries, other
6 compensation, and reimbursable employee expenses and (b) continue employee benefits programs
7 and (ii) granting related relief.

8 The Debtor employs approximately 32 employees, 28 of whom are full time and 4 of whom
9 are part time. Of the Debtor’s 32 Employees, 28 are based at the Debtor’s headquarters in San
10 Jose, California, while 4 are based in Taiwan at the Debtor’s two Taiwan-based branches. In
11 addition to the Employees, the Debtor also regularly and continuously uses the services of various
12 independent contractors. As of the Petition Date, the Debtor has seven Independent Contractors—
13 five in the United States, one in Korea, and one in Singapore.

14 The Employees and the Independent Contractors perform a variety of functions critical to
15 the preservation of value and the administration of the Debtor’s bankruptcy estate. In many
16 instances, the Employees and Independent Contractors include personnel who are intimately
17 familiar with the Debtor’s business, processes, and systems, and whom the Debtor could not easily
18 replace.

19 Additionally, many of the Employees and Independent Contractors rely on their
20 compensation and benefits to pay their daily living expenses. Thus, the Employees and
21 Independent Contractors will be exposed to significant financial constraints if the Debtor is not
22 permitted to continue paying compensation and providing health and other benefits in accordance
23 with historical practice. Without the continued, uninterrupted services of their Employees and
24 Independent Contractors, the Debtor’s efforts to maximize value will be threatened.

25 To minimize the personal hardship the Employees and Independent Contractors could suffer
26 if prepetition Employee-related obligations are not paid when due or as expected and to maintain
27 stability in the Debtor’s workforce during the administration of the Chapter 11 Case, the Debtor is
28 seeking authority to pay and honor certain prepetition claims relating to, among other things, wages,

1 salaries, commissions, payroll services, federal and state withholding taxes and other amounts
2 withheld (including garnishments, Employees' share of insurance premiums, and taxes),
3 reimbursable expenses, health insurance, retirement benefits, workers' compensation benefits, life
4 insurance, long-term disability coverage, and certain other benefits that the Debtor has historically
5 provided in the ordinary course; and pay all costs incident to the such compensation and benefits.

6 I believe that payment of the Employee Compensation and Benefits is warranted.
7 Continuing ordinary course benefits will, among other benefits to the estate and its constituents,
8 help maintain Employee morale and minimize the adverse effect of the commencement of the
9 Chapter 11 Case on the Debtor's ongoing business operations. The Employees provide the Debtor
10 with services necessary to conduct the Debtor's business, and the Debtor believes that absent the
11 payment of the Employee Compensation and Benefits, the Debtor may experience turnover and
12 instability at this critical time, which could ultimately disrupt the auction sale process.

13 I believe that without these payments, the Employees and Independent Contractors may
14 become demoralized and unproductive because of the potential significant financial strain and other
15 hardships these Employees and Independent Contractors may face. Such Employees may then elect
16 to seek alternative employment opportunities, which may present an insurmountable challenge to
17 finalizing the sale of the Debtor's business. Additionally, a significant portion of the value of the
18 Debtor's business is tied to its workforce, as evidenced by the Stalking Horse APA and Bruker's
19 intention to rehire nearly all SVXR Employees and Independent Contractors. The Debtor's ability
20 to continue as a going concern may be materially impaired to the detriment of all stakeholders if
21 the relief requested is not granted. I therefore believe that payment of the prepetition obligations
22 with respect to the Employee Compensation and Benefits is a necessary and critical element of the
23 Debtor's efforts to preserve value and will give the Debtor the greatest likelihood of retention of its
24 Employees and Independent Contractors as the Debtor seeks to operate its business during the
25 Chapter 11 Case.

26 Accordingly, I believe that the relief requested in the Employee Wages and Benefits Motion
27 inures to the benefit of all parties in interest. Therefore, on behalf of the Debtor, I respectfully
28 submit that the Court should approve the Employee Wages and Benefits Motion.

1 **E. Debtor’s First Day Emergency Motion for Entry of an Order (I) Authorizing**
2 **the Debtor to (A) Continue to Operate Its Cash Management System,**
3 **(B) Honor Certain Prepetition Obligations Related Thereto, and (C) Maintain**
4 **Existing Business Forms and (II) Granting Related Relief (the “Cash**
5 **Management Motion”)**

6 Pursuant to the Cash Management Motion, the Debtor seeks entry of an order
7 (a) authorizing the Debtor to (i) continue to operate its existing Cash-Management System,
8 including the continued maintenance of existing bank accounts at the Debtor’s banks, and (ii) honor
9 certain prepetition obligations related to the Cash Management System and (b) granting related
10 relief.

11 In the ordinary course of business, the Debtor maintains the Cash Management System,
12 comprising three bank accounts (the “Bank Accounts”). Two bank accounts (together, the “BoA
13 Accounts”) are held at Bank of America, N.A. (“BoA”), and the Taiwan Account (together with
14 the BoA Accounts, the “Bank Accounts”) is held at the Shanghai Commercial and Savings Bank
15 (“Shanghai Bank”). Historically, funds flowed into the Company from retail customers and were
16 deposited into the BoA Account ending (7802) (the “Dormant Account”). From there, funds would
17 then flow to the BoA Account ending (7792) (the “Operating Account”). The Debtor does not
18 currently have any open accounts payment. Therefore, prior to the Petition Date, the Debtor ceased
19 use of the Dormant Account and transferred all funds from this account to the Operating Account.
20 Going forward, any accounts receivables will be paid directly into the Operating Account.

21 I believe that the relief requested in the Cash Management Motion is in the best interests of
22 the Debtor’s estate, its creditors, and all other parties in interest and will enable the Debtor to
23 continue to operate its business during the pendency of the Chapter 11 Case. Accordingly, I
24 respectfully submit that the Cash Management Motion should be approved.

25 **F. Utilities Motion Debtor’s First Day Emergency Motion Pursuant to 11 U.S.C.**
26 **§366 for Order Determining Adequate Assurance of Payment of Utility**
27 **Services (the “Utilities Motion”)**

28 Pursuant to the Utilities Motion, the Debtor seeks entry of interim and final orders:
29 (i) determining adequate assurance of payment for future utility services; (ii) prohibiting utility

1 providers from altering, refusing, or discontinuing services; (iii) establishing procedures for
2 determining adequate assurance of payment; and (iv) granting related relief.

3 In connection with the operation of its business, the Debtor historically obtains electricity,
4 natural gas, water, telephone, and trash service, and other similar services from a number of utility
5 providers. In most instances, the amounts charged for these services are billed to and paid directly
6 by the Debtor. As of the Petition Date, the Debtor owes approximately \$5,250 in outstanding, but
7 unbilled, obligations to the Utility Providers, all of which will become due in the 30 days after the
8 Petition Date.

9 The relief requested in the Utilities Motion is with respect to all Utility Providers supplying
10 Utility Services to the Debtor. Uninterrupted Utility Services are essential to the Debtor's ongoing
11 business operations and, hence, the overall success of the Chapter 11 Case. The Debtor's facilities
12 need electricity and phone lines to operate, its trash needs to be attended to, and its water supply
13 needs to remain on in order to keep the facilities running. Without the ability to keep the Debtor's
14 facilities open and its business operating during the Chapter 11 Case, the Debtor will suffer
15 irreparable harm, and the Debtor's ability to maintain the going concern value of its business would
16 be jeopardized.

17 To provide assurance of payment to the Utility Providers, the Debtor proposes to deposit
18 into a segregated account \$2,625 (the "Adequate Assurance Deposit"), which represents an amount
19 equal to approximately two weeks of Utility Services the Utility Providers provide the Debtor,
20 calculated based on the Debtor's average utility expenses, excluding any Utility Services billed
21 directly to the Debtor's landlords.

22 The Adequate Assurance Deposit will be held in a segregated account (the "Adequate
23 Assurance Account") at Bank of America, N.A. for the benefit of the Utility Providers and for the
24 duration of the Chapter 11 Case and may be applied to any postpetition payment defaults owed to
25 the Utility Providers by the Debtor. The Adequate Assurance Deposit will be held by the Debtor;
26 no liens will encumber the Adequate Assurance Deposit or the Adequate Assurance Account.

27 I believe that Utility Services should be preserved on an uninterrupted basis because it is
28 essential to the Debtor's ongoing operations and a successful reorganization. Any disruption would

1 adversely impact customer goodwill and employee relations, and could disrupt the proposed
2 auction sale process. Therefore, it is critical that the Utility Services continue uninterrupted during
3 the Chapter 11 Case. I believe that the Adequate Assurance Deposit and the Adequate Assurance
4 Procedure described in the Utilities Motion provide sufficient protection to the Utility Providers.
5 Accordingly, I respectfully submit that the Court should approve the Utilities Motion.

6 **G. Debtor’s First Day Emergency Motion Pursuant to 11 U.S.C. §§ 521(a) and**
7 **105(a) and Fed. R. Bankr. P. 1007(c) for Entry of Order Extending Time to File**
8 **Schedules of Assets and Liabilities and Statements of Financial Affairs (the**
9 **“Motion for Extension of Time to File Schedules and Statements”)**

10 Pursuant to the Motion for Extension of Time to File Schedules and Statements, the Debtor
11 requests entry of an order extending the initial 14 day period to file their schedules of assets and
12 liabilities and statements of financial affairs (collectively, the “Schedules and Statements”) by
13 60 days, to allow the Debtor a total of 74 days after the Petition Date to file its Schedules and
14 Statements (the “Schedules and Statements Deadline”).

15 The Debtor’s limited liquidity and proposed expedited sale process, coupled with the
16 limited time available to the Debtor to assemble the required information, necessitate an extension
17 of the Schedules and Statements Deadline. It is my understanding that collecting the necessary
18 information to prepare the Schedules and Statements will require an expenditure of time and effort
19 on the part of the Debtor, its employees, and its professionals, and such resources at the outset of
20 the Chapter 11 Case may be limited based on the relief sought in the First Day Motions. In light
21 of the foregoing, I respectfully submit that given the volume of work entailed in completing the
22 Schedules and Statements, as well as the competing demands on the Debtor’s employees and
23 professionals to stabilize the Debtor’s business operations and address the other many issues that
24 arise during the critical postpetition period, the Debtor, respectfully requests a brief extension of
25 the deadline to file its Schedules and Statements.

1 **H. Debtor’s Application for Entry of an Order (I) Approving the Retention and**
2 **Appointment of Omni Agent Solutions as Claims and Noticing Agent to the**
3 **Debtor, Effective Nunc Pro Tunc to the Petition Date and (II) Granting Related**
4 **Relief (the “Claims and Noticing Agent Application”)**

5 Pursuant to the Claims and Noticing Agent Application, the Debtor is seeking entry of an
6 order appointing Omni Agent Solutions (“Omni”) as its claims and noticing agent (the “Claims and
7 Noticing Agent”) for the Debtor and its Chapter 11 Case, including assuming full responsibility for
8 the distribution of notices and the maintenance, processing and docketing of proofs of claim filed
9 in the Chapter 11 Case, as set forth in the Engagement Agreement attached as Exhibit B to the
10 Claims and Noticing Agent Retention Application; *provided, however*, the Debtor is seeking
11 approval solely of those terms and provisions set forth in the Claims and Noticing Agent Retention
12 Application.

13 By appointing Omni as the Claims and Noticing Agent in the Chapter 11 Case, the
14 distribution of notices and the processing of claims will be expedited, and the Office of the Clerk
15 of the Bankruptcy Court will be relieved of the administrative burden of processing the claims in
16 the Chapter 11 Case. Accordingly, I respectfully submit that the Claims and Noticing Agent
17 Retention Application should be approved.

18 **I. Debtor’s First Day Emergency Motion Pursuant to B.L.R. 9006-1 Requesting**
19 **Order Shortening Time for Hearing on First Day Motions, Including Bid**
20 **Procedures Motion (the “Motion to Shorten Notice”)**

21 Pursuant to the Motion to Shorten Notice, the Debtor is seeking entry of an order shortening
22 time for a hearing on the following First Day Motions: (i) DIP Financing and Cash Collateral
23 Motion; (ii) Bid Procedures Motion; (iii) Employee Wages and Benefits Motion; (iv) Cash
24 Management Motion; (v) Utilities Motion; (vi) Motion for Extension of Time to File Schedules and
25 Statements; (vii) Claims and Noticing Agent Retention Application; and (viii) Redaction Motion
26 (collectively, the “First Day Motions”).

27 Specifically, the relief requested in the First Day Motions is necessary to, among other
28 things, protect the interests of the Debtor’s employees and customers, to avoid disruption to the
29 Debtor’s operations, and to ensure the effective management of the contemplated sale of

