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*Proposed Counsel for Debtors-in-Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
	:	
ADVANCE SCIENCE TECHNOLOGIES,	:	Case No. 17-13668 (SMB)
INC., and FS-IP LLC,	:	
	:	Joint Administration Requested
Debtors. <sup>1</sup>	:	
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**EMERGENCY MOTION FOR INTERIM AND FINAL ORDERS UNDER SECTIONS 105, 361, 362, 363 AND 507 OF THE BANKRUPTCY CODE: (I) AUTHORIZING USE OF CASH COLLATERAL; (II) GRANTING ADEQUATE PROTECTION; (III) GRANTING RELATED RELIEF; AND (IV) SCHEDULING A FINAL HEARING**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Advance Science Technologies, Inc. (“*AST*”), and FS-IP LLC (“*FS-IP*”), as debtors and debtors-in-possession (collectively, the “*Debtors*”), respectfully represent:

**PRELIMINARY STATEMENT**

1. These chapter 11 cases are “prepackaged Chapter 11 case[s]” within the scope and definition set forth in Part II of the Guidelines for Prepackaged Chapter 11 Cases in the United States Bankruptcy Court for the Southern District of New York (the “*Guidelines*”)<sup>2</sup> as the

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Advance Science Technologies, Inc. (6977); and FS-IP LLC (5674). Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of the Debtors’ bankruptcy cases.

<sup>2</sup> Part II of Guidelines provides that “a ‘prepackaged Chapter 11 case’ is one in which the Debtor, substantially contemporaneously with the filing of its Chapter 11 petition, files a Confirmation Hearing Scheduling Motion for Prepackaged Plan in substantially the form annexed [to the Guidelines] as

Debtors, contemporaneously with the filing of their respective chapter 11 petitions, filed, among other documents, the *Debtors' Joint Prepackaged Plan of Reorganization* (the "**Plan**") and *Information and Disclosure Statement* (the "**Disclosure Statement**"). All classes of creditors and shareholders entitled to vote accepted the Plan prior to the Petition Date (as defined herein).<sup>3</sup> All other claims and equity interests are not impaired under the Plan.

2. This motion (the "**Motion**") seeks entry of an interim order on an expedited basis, substantially in the form attached hereto as *Exhibit "A"* (the "**Interim Order**"), and following a final hearing to be set by the Court, entry of a final order, substantially in the form attached hereto as *Exhibit "B"* (the "**Final Order**" and, together with the Interim Order, the "**Cash Collateral Orders**") authorizing the Debtors, among other things, to use cash collateral on an interim and final basis pursuant to the terms of the Cash Collateral Orders. Goldman Sachs Specialty Lending Group, L.P., as agent (the "**Agent**") for certain lenders (each an "**Lender**") party to the Debtors' prepetition credit agreement, consents to the Debtors' use of cash collateral subject to the terms and conditions of the Cash Collateral Orders.

### **BACKGROUND**

3. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case (collectively, the "**Chapter 11 Cases**") under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Debtors are authorized to continue to operate their businesses and manage their assets as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

4. Prior to the Petition Date, the Debtors commenced and completed the solicitation of votes on the Plan, through its Disclosure Statement.

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Exhibit A and satisfying the criteria set forth in Part III.A. below, Prepackaged Plan, disclosure statement (or other solicitation document) and voting certification."

<sup>3</sup> Capitalized terms used but not otherwise defined herein shall have the meanings given to such terms in the Cash Collateral Orders.

5. Additional factual background regarding the Debtors, including their business operations, corporate and capital structure, and the events leading to these chapter 11 cases, is set forth in the *Declaration of Sean Sullivan Pursuant to Local Bankruptcy Rule 1007-2, in Support of First Day Pleadings* (the “**Sullivan Declaration**”).

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over these chapter 11 cases under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated December 1, 2016. This matter constitutes a core proceeding under 28 U.S.C. § 157(b)(2).

7. Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

8. The statutory predicates for the relief requested herein are sections 105, 361, 362, 363, 364 and 507 of the Bankruptcy Code, Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 4001-2 and 9013-1(a) of the Local Rules of the United States Bankruptcy Court for the Southern District of New York.

#### **RELIEF REQUESTED**

9. The Debtors, certain affiliated entities, the Agent, and the Lenders are parties to the prepetition *Credit and Guaranty Agreement* dated as of November 13, 2015 (as amended, supplemented or otherwise modified from time to time, the “**Credit Agreement**”). As collateral for the Credit Agreement, the Lenders were granted a lien on all of the property and assets (both tangible and intangible) of Fortior Solutions, Inc. (f/k/a SureID, Inc.) and its subsidiaries.

10. Given the financial developments described in the Sullivan Declaration, the Debtors and their advisors have undertaken a fulsome evaluation of various potential strategic alternatives. They have concluded that the projected operating performance of the business and the challenging industry landscape suggest that a refinancing or sale of the Debtors at a level that would exceed the Debtors’ debt levels was unlikely. Accordingly, the Debtors engaged in discussions with the Lenders to evaluate those strategic alternatives, including the need for a bankruptcy filing and the Debtors’ financing needs in connection with the filing. Ultimately, the

Debtors determined to focus their efforts on negotiating a prepackaged chapter 11 plan and obtaining consensual use of cash collateral.

**A. The Need for Use of Cash Collateral**

11. The Debtors need to use the Lenders’ cash collateral to pay for administrative expenses incurred during these bankruptcy cases and set forth in an approved budget. Payment of such expenses will preserve the value of the Debtors’ estates. The Debtors have thus determined, in the exercise of their sound business judgment, that they require use of cash collateral and hereby request authority for such use through the Cash Collateral Orders.

**CONCISE STATEMENT OF RELIEF REQUESTED**

12. In accordance with Rule 4001 of the Bankruptcy Rules, and Local Rule 4001-2, below is a summary of material terms of the Cash Collateral Orders:<sup>4</sup>

<u>Existing Facility:</u>	The Credit Agreement among Fortior Solutions, Inc., the Debtors, the other credit parties party thereto from time to time, the Lenders, and Agent.
<u>Use of Cash Collateral</u>	<p>To enable the Debtors to pay for administrative expenses incurred during these bankruptcy cases and set forth in the Budget attached to the Cash Collateral Orders.</p> <p>Debtors are authorized to use Cash Collateral through the Termination Date, solely in accordance with the terms and provisions of the Cash Collateral Orders, and to the extent required to pay, when due, those expenses enumerated in the Budget. Without limiting the foregoing, (x) the aggregate amount of Cash Collateral used by Debtors may not exceed \$210,000, provided, however, until entry of the Final Order, the aggregate amount of Cash Collateral used by Debtors may not exceed \$50,000 and (y) no portion of the Cash Collateral may be used to pay any fees or expenses incurred by any entity (including any Professional Fee Claims) in connection with claims or causes of action adverse to Agent's or Lenders' interests in the Aggregate Collateral, including (1) preventing, hindering or delaying Agent's or Lenders' enforcement or realization upon any of the Aggregate Collateral once an Event of Default has occurred; (2) using or seeking to use</p>

<sup>4</sup> The summary is intended for informational purposes and is qualified in its entirety by the Cash Collateral Orders. In the event there is any conflict between this Motion and the Cash Collateral Orders, the Cash Collateral Orders will control in all respects.

	<p>Cash Collateral or incurring indebtedness in violation of the terms hereof, or selling any Aggregate Collateral without Agent's and Lenders' consent; or (3) objecting to or contesting in any manner, or in raising any defenses to, the validity, extent, amount, perfection, priority or enforceability of the Prepetition Debt or any mortgages, liens or security interests with respect thereto or any other rights or interests of Agent and Lenders, or in asserting any claims or causes of action, including, without limitation, any actions under chapter 5 of the Code, against Agent or Lenders.</p> <p>Except as provided for in the Cash Collateral Orders, Debtors will not use or seek to use Cash Collateral, unless, in addition to the satisfaction of all requirements of Code § 363, Agent has consented to such order.</p>
<p><u>Adequate Protection:</u></p>	<p>To the extent required under Code §§ 361, 362 and 363 (including for any decrease in the value of such interests in the Prepetition Collateral from and after the Filing Date), Agent is granted the Replacement Liens, for the benefit of Lenders, as security for payment of the Prepetition Debt. The Replacement Liens: (1) are and shall be in addition to the Prepetition Liens; (2) are and shall be properly perfected, valid and enforceable liens without any further action by Debtors or Agent and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; and (3) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Cases.</p> <p>The adequate protection granted in the Cash Collateral Orders is without prejudice to Agent's and Lenders' right to later request or otherwise seek additional forms of adequate protection.</p>
<p><u>Termination Date:</u></p>	<p>At Agent's election, the earliest to occur of: (a) the date on which Agent provides, via facsimile or overnight mail, written notice to counsel for Debtors of the occurrence and continuance of an Event of Default or an "Administrative Agent Termination Event" (as defined in the RSA); (b) the termination of the RSA, (c) the effective date of the Proposed Plan and (d) the fiftieth (50th) calendar day after the Filing Date.</p> <p>Unless extended by the Court upon the written agreement of Agent, upon the Termination Date without further notice or order of Court: (1) Debtors' authorization to use Cash Collateral under the Cash Collateral Orders will automatically terminate; and (2) Debtors shall be prohibited from using Cash Collateral for any purpose other than application to the Prepetition Debt.</p>

<u>Events of Default:</u>	As listed in Exhibit C to the Cash Collateral Orders (collectively, the “ <i>Events of Default</i> ”).
<u>Cash Management:</u>	Debtors will maintain all Cash Collateral at depository institutions acceptable to Agent; provided that, except as otherwise consented to by Agent, all deposit accounts with such deposit institutions shall be subject to control agreements in form and substance satisfactory to Agent.
<u>Affirmative Covenants:</u>	Debtors will (i) deliver to Agent and its counsel, reasonably in advance of filing to the extent practicable, and allow Agent and its advisors to review and comment on, all pleadings, motions and other documents to be filed with the Court on behalf of Debtors, and consider all comments provided by Agent and its advisors in good faith, (ii) deliver such financial reporting as Agent may reasonably request from time to time and (iii) adhere to the Budget.
<u>Negative Covenants:</u>	Debtors will not (i) make or commit to make payments in respect of prepetition amounts in excess of the amount contemplated by the Budget or (ii) seek to incur any financing under Code § 364 or use of cash collateral under Code § 363 without the consent of Agent.
<u>Professional Fee Claims:</u>	<p>Cash Collateral to be used for Professional Fee Claims shall be remitted to the Professional Fee Account (as defined in the Plan) in such amounts and at such times as set forth in the Budget, for the sole purpose of enabling the Debtors to pay such unpaid Professional Fee Claims to the extent allowed. The amount of such allowed Professional Fee Claims shall be paid out of any prepetition retainer before such payments are made from Cash Collateral. The Cash Collateral shall include amounts sufficient to enable the Debtors to pay quarterly fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Court.</p> <p>Subject to the foregoing, the Debtors shall be permitted to pay compensation and reimbursement of fees and expenses that are in accordance with the Budget and authorized under §§ 330 and 331 of the Code. In exchange for the prepetition retainers and use of Cash Collateral to enable the payment of allowed Professional Fee Claims (subject to the Budget), the Professionals (as defined in the Proposed Plan) may not assert Professional Fee Claims against the Debtors' estates in excess of the amounts set forth in the Budget.</p>
<u>Survival:</u>	The provisions of the Cash Collateral Orders, and any actions taken pursuant to or in reliance upon the terms hereof, shall survive entry of, and govern in the event of any conflict with, any order which may be entered in the Cases: (a) confirming any chapter 11 plan, (b) converting any Case to a case under chapter 7 of the Code, (c)

	dismissing any Case, (d) withdrawing of the reference of any Case from this Court, or (e) providing for abstention from handling or retaining of jurisdiction of any of the Cases in this Court. The terms and provisions of the Cash Collateral Orders shall continue in full force and effect until the earlier of the effective date of confirmation of the Proposed Plan or the date that all of the Prepetition Debt is indefeasibly paid in full in cash
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**C. Investigation of Potential Claims and Causes of Action.**

13. At the direction of the Debtors' board, the Debtors have conducted an investigation into potential claims and causes of action against the Lenders, including the possibility of deficiencies in grant, attachment, or perfection of the Lenders' security interests. That investigation revealed no such deficiencies.

14. Accordingly, the Debtors concluded that the Cash Collateral Orders, and the stipulation to the validity, priority and amount of the Lenders' claims, were appropriate.

**BASIS FOR RELIEF**

**A. Section 363 of the Bankruptcy Code Authorizes the Debtors' Use of Cash Collateral.**

15. Section 363(c)(2) of the Bankruptcy Code provides that a debtor in possession may not use cash collateral unless (i) each entity that has an interest in such cash collateral provides consent, or (ii) the court approves the use of cash collateral after notice and a hearing. *See* 11 U.S.C. § 363(c).

16. Section 363(e) of the Bankruptcy Code provides that, "on request of an entity that has an interest in property used . . . or proposed to be used . . . by the [debtor in possession], the court . . . shall prohibit or condition such use . . . as is necessary to provide adequate protection of such interest." 11 U.S.C. § 363(e).

17. Section 361 of the Bankruptcy Code provides that:

When adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by—

- (1) requiring the [debtor in possession] to make a cash payment or periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale,

or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such property;

(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value of such entity's interest in such property; or

(3) granting such other relief, other than entitling such entity to compensation allowable under section 503(b)(1) of this title as an administrative expense, as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.

11 U.S.C. § 361. “The *determination* of adequate protection is a fact-specific inquiry” to be decided on a case-by-case basis. *In re Mosello*, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996) (“Its application is left to the vagaries of each case . . . but its focus is protection of the secured creditor from diminution in the value of its collateral during the reorganization process.” (internal quotation marks and citation omitted)).

18. Here, the Lenders consent to the use of their cash collateral pursuant to the terms of the Cash Collateral Orders. Moreover, the interests of the Lenders are adequately protected for purposes of section 363(e) of the Bankruptcy Code. Pursuant to the Cash Collateral Orders, the Lenders, among other things, will (i) have the benefit of replacement liens and super-priority administrative expense claims to protect them from any diminution in value of their interest in the Debtors' assets, and (ii) receive other adequate protection as detailed above. Furthermore, the Debtors intend to preserve value by maintaining the status quo pending confirmation of the prepackaged plan, and this will inure to the benefit of the Lenders.

19. The Debtors believe that such protections are adequate under the circumstances. Further, given the significant value that the Debtors stand to lose in the event it is denied access to continued use of cash collateral, such protections are wholly appropriate and justified.

#### **INTERIM ORDER AND FINAL HEARING**

20. Pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2), the Debtors request that the Court set a date for the Final Hearing that is as soon as practicable, and fix the time and date prior to the final hearing for parties to file objections to the Motion.

21. The urgent need to preserve value of the Debtors' estates makes it imperative that the Debtors be authorized to use cash collateral as of the Petition Date, pending the Final Hearing, in order to administer these Chapter 11 Cases. Without the ability to obtain access to such cash, the Debtors would be unable to meet their postpetition obligations, thus causing irreparable harm to the value of the Debtors' estates.

22. Accordingly, the Debtors respectfully request that, pending the hearing on the Final Order, the Interim Order be approved in all respects and that the terms and provisions of the Interim Order be implemented and be deemed binding and that, after the Final Hearing, the Final Order be approved in all respects and the terms and provisions of the Final Order be implemented and be deemed binding.

#### **IMMEDIATE RELIEF IS NECESSARY**

23. Bankruptcy Rule 6003 provides that the relief requested in this Motion may be granted if the "relief is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003. The Debtors submit that for the reasons already set forth herein, the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors.

#### **WAIVER OF BANKRUPTCY RULES 6004(a) AND 6004(h)**

24. Given the nature of the relief requested herein, the Debtors respectfully request a waiver of (i) the notice requirements under Bankruptcy Rule 6004(a) and (ii) the 14-day stay under Bankruptcy Rule 6004(h), to the extent that either subsection of Rule 6004 is applicable.

#### **NOTICE**

25. Notice of this Motion will be provided to: (i) the attorneys for Goldman Sachs Specialty Lending Group, L.P., as administrative agent for the Debtors' principal secured lenders; (ii) all creditors of the Debtors; (iii) the U.S. Trustee; and (iv) all parties who have requested notice in these chapter 11 cases pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, no other or further notice is necessary.

**NO PRIOR REQUEST**

26. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, Debtors respectfully requests the Court enter the proposed Interim Order until a final hearing can be held.

Dated: December 29, 2017  
New York, New York

**PERKINS COIE LLP**  
Proposed Counsel for Debtors-in-Possession

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# **Exhibit A**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**IN RE:** ) **Chapter 11**  
 )  
**ADVANCE SCIENCE** ) **Case No. 17-13668 (SMB)**  
**TECHNOLOGIES, INC., and FS-IP** )  
**LLC** ) **Joint Administration Requested**

**Debtors.**

**STIPULATION AND ORDER AUTHORIZING DEBTORS UNDER SECTIONS 105, 361,  
362, AND 363 OF THE BANKRUPTCY CODE (I) AUTHORIZING USE OF CASH  
COLLATERAL; (II) GRANTING ADEQUATE PROTECTION; (III) GRANTING  
RELATED RELIEF AND (IV) SCHEDULING A FINAL HEARING**

This Stipulation and Order Authorizing Debtors under Sections 105, 361, 362, and 363 of the Bankruptcy Code (i) Authorizing Use of Cash Collateral; (ii) Granting Adequate Protection; (iii) Granting Related Relief and (iv) Scheduling a Final Hearing (this "Stipulation and Order") is entered into by and among Advance Science Technologies, Inc. ("AST"), FS-IP LLC ("FS-IP"; together with AST, the "Debtors" and each a "Debtor") and Goldman Sachs Specialty Lending Group, L.P., as administrative agent ("Agent") for the lenders ("Lenders") party to that certain Credit and Guaranty Agreement dated as of November 13, 2015 (as amended, supplemented or otherwise modified from time to time, the "Prepetition Credit Agreement") by and among Debtors, certain of their affiliates, Agent and Lenders, through their respective attorneys. Unless otherwise indicated, all capitalized terms used as defined terms herein have the meanings ascribed thereto in Exhibit A attached hereto and by this reference are made a part hereof.

A. On December 29, 2017 (the "Filing Date"), Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code (11 U.S.C. § 101 *et seq.*) (as amended, together with any successor statute, the "Code").

B. Debtors admit, stipulate and agree that:

1. the Prepetition Documents evidence and govern the Prepetition Debt, the Prepetition Liens and the prepetition financing relationship among Debtors, Agent and Lenders;

2. the Prepetition Debt constitutes the legal, valid and binding obligation of Debtors, enforceable in accordance with the terms of the Prepetition Documents;

3. as of the Filing Date, Debtors are liable for payment of the Prepetition Debt, and the Prepetition Debt shall be an allowed claim in an amount not less than \$57,900,000;

4. no offsets, defenses or counterclaims to the Prepetition Debt exist, and no portion of the Prepetition Debt is subject to contest, objection, recoupment, defense, counterclaim, offset, avoidance, recharacterization, subordination or other claim, cause of action or challenge of any nature under the Code, under applicable non-bankruptcy law or otherwise;

5. the Prepetition Liens are Priority Liens, subject to Permitted Priority Liens and secure payment of all of the Prepetition Debt;

6. Debtors do not have, and hereby release, and are forever barred from bringing any claims, counterclaims, causes of action, defenses or setoff rights relating to the Prepetition Documents, the Prepetition Liens, the Prepetition Debt or otherwise, against the Agent, the Lenders and their respective affiliates, subsidiaries, agents, officers, directors, employees, advisors, consultants, predecessors in interest, successors and assigns;

7. Agent and Lenders are entitled to adequate protection as set forth herein pursuant to Code §§ 361, 362 and 363 for any decrease in the value of such interests in the Prepetition Collateral from and after the Filing Date;

8. the terms of this Stipulation and Order have been negotiated at arm's length and in good faith; and

9. Under the circumstances of these Cases, this Stipulation and Order is a fair and reasonable response to Debtors' request for Agents' and Lenders' consent to the use of Cash Collateral, and the entry of this Stipulation and Order is in the best

interest of Debtors' estates and their creditors (the stipulations described in this Paragraph B are hereinafter referred to as the "Debtors' Stipulations").

**WHEREFORE, IT IS HEREBY STIPULATED, AGREED AND ORDERED THAT THE MOTION IS GRANTED, AND THAT:**

1. Incorporation. The above recitals and Debtors' Stipulations are hereby incorporated into this Stipulation and Order as if fully set forth herein.

2. Cash Collateral. Debtors are authorized to use Cash Collateral through the Termination Date, solely in accordance with the terms and provisions of this Stipulation and Order, and to the extent required to pay, when due, those expenses enumerated in the Budget. Without limiting the foregoing, (x) the aggregate amount of Cash Collateral used by Debtors may not exceed \$210,000, provided, however, until entry of the Final Order, the aggregate amount of Cash Collateral used by Debtors may not exceed \$50,000 and (y) no portion of the Cash Collateral may be used to pay any fees or expenses incurred by any entity (including any Professional Fee Claims) in connection with claims or causes of action adverse to Agent's or Lenders' interests in the Aggregate Collateral, including (1) preventing, hindering or delaying Agent's or Lenders' enforcement or realization upon any of the Aggregate Collateral once an Event of Default has occurred; (2) using or seeking to use Cash Collateral or incurring indebtedness in violation of the terms hereof, or selling any Aggregate Collateral without Agent's and Lenders' consent; or (3) objecting to or contesting in any manner, or in raising any defenses to, the validity, extent, amount, perfection, priority or enforceability of the Prepetition Debt or any mortgages, liens or security interests with respect thereto or any other rights or interests of Agent and Lenders, or in asserting any claims or causes of action, including, without limitation, any actions under chapter 5 of the Code, against Agent or Lenders.. Except as provided for in this Stipulation and Order, Debtors will not use or seek to use Cash Collateral, unless, in addition to the satisfaction of all requirements of Code § 363, Agent has consented to such order. Debtors will maintain all Cash Collateral at depository institutions acceptable to Agent; provided that, except as otherwise consented to by Agent, all deposit accounts with such deposit institutions shall be subject to control agreements in form and substance satisfactory to Agent.

3. Adequate Protection of Interests of Prepetition Agent and Prepetition Lenders in the Prepetition Collateral and the Prepetition Liens. Agent and Lenders have

consented to the terms of this Stipulation and Order and are entitled to adequate protection as set forth herein and to the extent required under Code §§ 361, 362 and 363 (including for any decrease in the value of such interests in the Prepetition Collateral from and after the Filing Date). The adequate protection granted herein shall be without prejudice to Agent's and Lenders' right to later request or otherwise seek additional forms of adequate protection.

(a) Replacement Liens. Agent is hereby granted the Replacement Liens, for the benefit of Lenders, as security for payment of the Prepetition Debt. The Replacement Liens: (1) are and shall be in addition to the Prepetition Liens; (2) are and shall be properly perfected, valid and enforceable liens without any further action by Debtors or Agent and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; and (3) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Cases. Notwithstanding the foregoing, Debtors are authorized to and shall execute and deliver to Agent such financing statements, mortgages, instruments and other documents as Agent may request from time to time in respect of the Replacement Liens.

4. Termination Date; Rights and Remedies.

(a) Effect of Termination Date. Unless extended by the Court upon the written agreement of Agent, upon the Termination Date without further notice or order of Court: (1) Debtors' authorization to use Cash Collateral hereunder will automatically terminate; and (2) Debtors shall be prohibited from using Cash Collateral for any purpose other than application to the Prepetition Debt.

(b) Rights and Remedies. On the fifth (5<sup>th</sup>) business day after the Termination Date, at Agent's election without further order of the Court: (1) Agent shall have automatic and immediate relief from the automatic stay with respect to the Aggregate Collateral (without regard to the passage of time provided for in Fed. R. Bankr. P. 4001(a)(3)), and shall be entitled to exercise all rights and remedies available to them under the Prepetition Documents and applicable nonbankruptcy law; and (2) Debtors shall surrender the Aggregate Collateral and otherwise cooperate with Agent and Lenders in the exercise of their rights and remedies under the Prepetition Documents and applicable nonbankruptcy law.

5. Professional Fee Claims.

(a) Professional Fee Claims. Cash Collateral to be used for Professional Fee Claims shall be remitted to the Professional Fee Account (as defined in the Proposed Plan) in such amounts and at such times as set forth in the Budget, for the sole purpose of enabling the Debtors to pay such unpaid Professional Fee Claims to the extent allowed. The amount of such allowed Professional Fee Claims shall be paid out of any prepetition retainer before such payments are made from Cash Collateral. The Cash Collateral shall include amounts sufficient to enable the Debtors to pay quarterly fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Court.

(b) Cash Collateral Usage for Professional Fee Claims. Subject to the foregoing, the Debtors shall be permitted to pay compensation and reimbursement of fees and expenses that are in accordance with the Budget and authorized under §§ 330 and 331 of the Code. In exchange for the prepetition retainers and use of Cash Collateral to enable the payment of allowed Professional Fee Claims (subject to the Budget), the Professionals (as defined in the Proposed Plan) may not assert Professional Fee Claims against the Debtors' estates in excess of the amounts set forth in the Budget.

6. No Surcharge. In the exercise of their business judgment, subject to entry of the Final Order, Debtors (or any Trustee) agree that there shall be no surcharge of the Aggregate Collateral for any purpose, unless agreed to by Agent and Lenders. Effective upon entry of the Final Order, the Debtors (or any Trustee) shall be deemed to have waived any rights, benefits or causes of action under Code § 506(c), the enhancement of collateral provisions of Code § 552, or any other legal or equitable doctrine (including, without limitation, unjust enrichment) as they may relate to or be asserted against the Agent, the Lenders or the Aggregate Collateral.

7. Right to Credit Bid. In connection with the sale or other disposition of all or any portion of the Aggregate Collateral, whether under Code § 363, Code § 1129 or otherwise, pursuant to Code § 363(k), Agent shall have the right to use the Prepetition Debt or any part thereof to credit bid with respect to any bulk or piecemeal sale of all or any portion of the Aggregate Collateral.

8. Covenants.

(a) Affirmative Covenants. Debtors will (i) deliver to Agent and its counsel, reasonably in advance of filing to the extent practicable, and allow Agent and its advisors to review and comment on, all pleadings, motions and other documents to be filed with the Court on behalf of Debtors, and consider all comments provided by Agent and its advisors in good faith, (ii) deliver such financial reporting as Agent may reasonably request from time to time and (iii) adhere to the Budget.

(b) Negative Covenants. Debtors will not (i) make or commit to make payments in respect of prepetition amounts in excess of the amount contemplated by the Budget or (ii) seek to incur any financing under Code § 364 or use of cash collateral under Code § 363 without the consent of Agent.

9. Force and Effect of Prepetition Documents. Except as modified herein and subject to the other provisions of this Stipulation and Order and the Code, the Prepetition Documents shall remain in full force and effect with respect to the Prepetition Debt. To the extent there exists any conflict among the terms of the Motion, the Prepetition Documents and this Stipulation and Order, this Stipulation and Order shall govern and control.

10. Modification of Stay. The automatic stay of Code § 362 is hereby modified with respect to Agent and Lenders to the extent necessary to effectuate the provisions of this Stipulation and Order.

11. No Waiver. Agent and Lenders shall not be deemed to have suspended or waived any of their rights or remedies under this Stipulation and Order, the Prepetition Documents, or applicable nonbankruptcy law unless such suspension or waiver is in writing, signed by a duly authorized officer of Agent or the Lenders, as applicable, and directed to Debtors. No failure of Agent or Lenders to require strict performance by Debtors (or by any Trustee) of any provision of this Stipulation and Order shall waive, affect or diminish any right of Agent or Lenders thereafter to demand strict compliance and performance therewith, and no delay on the part of Agent or Lenders in the exercise of any right or remedy under this Stipulation and Order, the Prepetition Documents or applicable nonbankruptcy law shall

preclude the exercise of any right or remedy. Further, this Stipulation and Order shall not constitute a waiver by Agent or the Lenders of any of their rights under the Prepetition Documents, the Code or applicable nonbankruptcy law, including, without limitation their right to later assert: (1) that, any of their interests in the Aggregate Collateral lack adequate protection within the meaning of Code §§ 362(d) or 363(e) or any other provision thereof; or (2) a claim under Code § 507(b).

12. Amendments. Debtors, Agent and the Lenders required under the Prepetition Credit Agreement may enter into amendments or modifications of the Prepetition Documents or the Budget without further notice and hearing or order of this Court; provided, that (a) such modifications or amendments do not materially and adversely affect the rights of any creditor or other party-in-interest and (b) notice of any such amendment or modification is filed with this Court.

13. Proof of Claim. Neither the Agent nor any of the Lenders shall be required to file a proof of claim with respect to any of the Prepetition Debt and the stipulations and findings set forth in this Stipulation and Order shall constitute an informal proof of claim in respect thereof. Notwithstanding the foregoing or any subsequent order of Court concerning proof of claim filing requirements, Agent is authorized (but not obligated) to file a single master proof of claim in the Advance Science Technologies, Inc. case, on behalf of itself and the Lenders on account of their claims arising under the Prepetition Documents and hereunder. Such master proof of claim shall be deemed filed as a claim against each of the Debtors.

14. Binding Effect. This Stipulation and Order shall be binding on the Debtors and their respective successors and assigns, including any Trustee. Except as otherwise explicitly set forth in this Stipulation and Order, no third party is intended to be, or shall be deemed to be, a third party beneficiary of this Stipulation and Order.

15. Survival. The provisions of this Stipulation and Order, and any actions taken pursuant to or in reliance upon the terms hereof, shall survive entry of, and govern in the event of any conflict with, any order which may be entered in the Cases: (a) confirming any chapter 11 plan, (b) converting any Case to a case under chapter 7 of the Code, (c) dismissing any Case, (d) withdrawing of the reference of any Case from this Court, or (e) providing for

abstention from handling or retaining of jurisdiction of any of the Cases in this Court. The terms and provisions of this Stipulation and Order shall continue in full force and effect until the earlier of the effective date of confirmation of the Proposed Plan or the date that all of the Prepetition Debt is indefeasibly paid in full in cash.

16. Notice of Final Hearing. The Final Hearing is scheduled for [\_\_\_\_], 2018, and may be continued from time to time without further notice other than that given in open court. Debtors are directed to immediately serve a copy of this Stipulation and Order and the proposed Final Order by first class mail, postage prepaid, on i) the attorneys for Goldman Sachs Specialty Lending Group, L.P., as administrative agent for the Debtors' principal secured lenders, (ii) all creditors of the Debtors, (iii) the U.S. Trustee, and (iv) all parties who have requested notice in these chapter 11 cases pursuant to Bankruptcy Rule 2002, which service shall constitute adequate and proper notice of the Final Hearing. Any objection to the Order must be filed with the Court and received by counsel for the Debtors, the Agents, and the United States Trustee no later than seventy-two (72) hours prior to the commencement of the Final Hearing. Any timely and properly filed and served objection will be heard at the Final Hearing.

**AGREED AND STIPULATED TO:**

**ADVANCE SCIENCE TECHNOLOGIES, INC.**

and **FS-IP LLC**, by proposed Debtors' counsel  
PERKINS COIE LLP

By:

---

30 Rockefeller Center, 22nd Floor  
New York, New York

**GOLDMAN SACHS SPECIALTY LENDING, L.P.,**

by its counsel Goldberg Kohn Ltd.

By:

---

Randall Klein  
55 East Monroe, Suite 3300

Chicago, Illinois

**IT IS SO ORDERED:**

Dated: January \_\_, 2018  
New York New York

---

United States Bankruptcy Judge

**EXHIBIT A**

**DEFINED TERMS**

1. ***Aggregate Collateral.*** Collectively, the Prepetition Collateral and the Postpetition Collateral.
2. ***Budget.*** The operating budget attached to this Stipulation and Order as Exhibit B setting forth the projected financial operations of the Debtors, as amended, modified or supplemented from time to time, as may be agreed to by Agent.
3. ***Cases.*** The chapter 11 cases or any superseding chapter 7 cases of the Debtors.
4. ***Cash Collateral.*** All "cash collateral," as that term is defined in Code § 363(a), in which Agent (on behalf of Lenders) has an interest, all deposits subject to setoff rights in favor of Agent and Lenders, and all cash arising from the collection or other conversion to cash of the Aggregate Collateral.
5. ***Event of Default.*** At Agent's election, the occurrence of any of the events described on Exhibit C attached hereto.
6. ***Final Hearing.*** The final hearing on the Motion conducted in accordance with Fed. R. Bankr. P. 4001.
7. ***Final Order.*** A final order authorizing Debtors to use Cash Collateral and incur Postpetition Debt entered at or in connection with the Final Hearing.
8. ***Permitted Priority Liens.*** Collectively, the liens in favor of third parties upon the Prepetition Collateral, which third-party liens, as of the Filing Date: (1) had priority under applicable law over the Prepetition Liens, (2) were not subordinated by agreement or applicable law, and (3) were non-avoidable, valid, properly perfected and enforceable as of the Filing Date.
9. ***Postpetition Collateral.*** All of the real and personal property of Debtors of any description whatsoever, wherever located and whenever arising or acquired, including all cash, accounts, inventory, equipment, fixtures, chattel paper, general intangibles (including, upon entry of the Final Order, claims and proceeds under Code §§ 544, 547, 548, 549, 550 and 553), all leaseholds, all commercial torts, all other "Collateral" (as that term is defined in the Prepetition Credit Agreement), and all proceeds, rents, issues, profits and products, whether tangible or intangible, of any of the foregoing, including proceeds of insurance covering any of the foregoing.
10. ***Prepetition Collateral.*** All of the "Collateral" (as that term is defined in the Prepetition Credit Agreement) existing as of the Filing Date, and all proceeds, rents, issues, profits and products thereof.
11. ***Prepetition Debt.*** All indebtedness or obligations under the Prepetition Documents as of the Filing Date, including all "Obligations" (as defined in the Prepetition Credit

Agreement), and all fees, costs, interest, and expenses as and when due and payable pursuant to the Prepetition Documents.

12. **Prepetition Documents.** The Prepetition Credit Agreement and the "Credit Documents" (as that term is defined in the Prepetition Credit Agreement).

13. **Prepetition Liens.** Agent's (on behalf of Lenders) asserted security interests in the Prepetition Collateral under the Prepetition Documents, subject only to Permitted Priority Liens.

14. **Priority Liens.** Liens which are first priority, properly perfected, valid and enforceable security interests, which are not subject to any claims, counterclaims, defenses, setoff, recoupment or deduction, and which are otherwise unavoidable and not subject to recharacterization or subordination pursuant to any provision of the Code, any agreement, or applicable nonbankruptcy law.

15. **Professional Fee Claims.** The "Professional Fee Claims", as that term is defined in the Proposed Plan.

16. **Proposed Plan.** The Debtors' Joint Repackaged Plan of Reorganization filed in these Cases and in the form required pursuant to the RSA.

17. **Replacement Liens.** Priority Liens in the Postpetition Collateral granted to Agent (for the benefit of the Lenders) pursuant to this Stipulation and Order, subject only to the Permitted Priority Liens.

18. **RSA.** means that certain Restructuring Support Agreement dated as of December 4, 2017, by and among the Debtors, Fortior, FS Holdings, Merger Sub, FS-IS, FSIHC, the Administrative Agent, and the Senior Secured Lenders, along with all exhibits thereto, as amended, supplemented and modified from time to time, in accordance with the terms thereof.

19. **Termination Date.** At Agent's election, the earliest to occur of: (a) the date on which Agent provides, via facsimile or overnight mail, written notice to counsel for Debtors of the occurrence and continuance of an Event of Default or an "Administrative Agent Termination Event" (as defined in the RSA); (b) the termination of the RSA, (c) the effective date of the Proposed Plan and (d) the fiftieth (50th) calendar day after the Filing Date.

20. **Trustee.** Any trustee appointed or elected in the Cases.

**EXHIBIT B**

**BUDGET**

**[attached]**

## **CASH COLLATERAL BUDGET**

In re Advance Science Technologies, Inc.  
In re FS-IP LLC

<b><u>Category</u></b>	<b><u>Initial Funding Period (1)</u></b>	<b><u>Subsequent Funding Period (2)</u></b>	<b><u>Total</u></b>
Professional Fees	\$50,000	\$150,000	\$200,000
OUST Fees and Other	\$5,000	\$5,000	\$10,000
<b>Total:</b>	\$55,000	\$155,000	\$210,000

Notes:

(1) Petition Date through January 15, 2018

(2) Through February 28, 2018

**EXHIBIT C**

**EVENTS OF DEFAULT**

1. Entry of an order without the prior consent of the Agent amending, supplementing or otherwise modifying the Stipulation and Order or the Final Order;
2. Reversal, vacation or stay of the effectiveness of the Stipulation and Order or the Final Order;
3. The filing of any motion to dismiss the cases or convert the Cases to cases under chapter 7 of the Code, or the dismissal of the Cases or conversion of the Cases to cases under chapter 7 of the Code;
4. Termination or shortening of the Debtors' exclusivity periods under § 1121 of the Code;
5. Appointment or election of a Trustee;
6. Any sale of, or motion to sell, all or substantially all assets pursuant to § 363 of the Code to which the Agent does not consent;
7. Appointment or election of an examiner with enlarged powers;
8. Any Debtor breaches the Restructuring Milestones (as defined in the RSA);
9. Any plan or disclosure statement or supplements or amendments thereto, or any orders approving or amending any of the foregoing, are not in form and substance acceptable to Agent;
10. Except as provided in the Stipulation and Order and the Final Order, the granting of relief from the automatic stay in the Cases to permit foreclosure or enforcement on assets of the Debtors;
11. Entry of an order approving any financing under 364(c) or use of cash collateral under 363, in each case without the consent of Agent;
12. Any challenge by Debtors, the Debtors' affiliates, or any party to be released by the Lenders under the Proposed Plan, or any successful challenge by any other person, to the extent, validity or priority of the liens in favor of or claims held by the Agent or the Lenders;
13. Debtors' failure to comply with any of its covenants or obligations under and in strict accordance with the terms of this Stipulation and Order;
14. Any material representation or warranty made by Debtors in any certificate, report or financial statement delivered to Agent is, after the Filing Date, discovered or disclosed to Agent to have been false or misleading in any material respect as of the time when made or given (including by omission of material information necessary to make such representation, warranty or statement not misleading); or
15. Termination of the RSA or the occurrence of an Administrative Agent Termination Event (as defined in the RSA).

## **Exhibit B**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**IN RE:** ) **Chapter 11**  
)  
**ADVANCE SCIENCE** ) **Case No. 17-13668 (SMB)**  
**TECHNOLOGIES, INC., and FS-IP** )  
**LLC** ) **Joint Administration Requested**

**Debtors.**

**STIPULATION AND ORDER AUTHORIZING DEBTORS UNDER SECTIONS 105, 361,  
362, AND 363 OF THE BANKRUPTCY CODE (I) AUTHORIZING USE OF CASH  
COLLATERAL; (II) GRANTING ADEQUATE PROTECTION;  
AND (III) GRANTING RELATED RELIEF**

This Stipulation and Order Authorizing Debtors under Sections 105, 361, 362, and 363 of the Bankruptcy Code (i) Authorizing Use of Cash Collateral; (ii) Granting Adequate Protection; and (iii) Granting Related Relief (this "Stipulation and Order") is entered into by and among Advance Science Technologies, Inc. ("AST"), FS-IP LLC ("FS-IP"; together with AST, the "Debtors" and each a "Debtor") and Goldman Sachs Specialty Lending Group, L.P., as administrative agent ("Agent") for the lenders ("Lenders") party to that certain Credit and Guaranty Agreement dated as of November 13, 2015 (as amended, supplemented or otherwise modified from time to time, the "Prepetition Credit Agreement") by and among Debtors, certain of their affiliates, Agent and Lenders, through their respective attorneys. Unless otherwise indicated, all capitalized terms used as defined terms herein have the meanings ascribed thereto in Exhibit A attached hereto and by this reference are made a part hereof.

A. On December 29, 2017 (the "Filing Date"), Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code (11 U.S.C. § 101 *et seq.*) (as amended, together with any successor statute, the "Code"). On January \_\_, 2018, the Court entered the Stipulation and Order Authorizing Debtors under Sections 105, 361, 362, and 363 of the Bankruptcy Code (i) Authorizing Use of Cash Collateral; (ii) Granting Adequate Protection; (iii) Granting Related Relief; and (iv) Scheduling a Final Hearing (the "Interim Hearing Stipulation").

B. Debtors admit, stipulate and agree that:

1. the Prepetition Documents evidence and govern the Prepetition Debt, the Prepetition Liens and the prepetition financing relationship among Debtors, Agent and Lenders;

2. the Prepetition Debt constitutes the legal, valid and binding obligation of Debtors, enforceable in accordance with the terms of the Prepetition Documents;

3. as of the Filing Date, Debtors are liable for payment of the Prepetition Debt, and the Prepetition Debt shall be an allowed claim in an amount not less than \$57,900,000;

4. no offsets, defenses or counterclaims to the Prepetition Debt exist, and no portion of the Prepetition Debt is subject to contest, objection, recoupment, defense, counterclaim, offset, avoidance, recharacterization, subordination or other claim, cause of action or challenge of any nature under the Code, under applicable non-bankruptcy law or otherwise;

5. the Prepetition Liens are Priority Liens, subject to Permitted Priority Liens and secure payment of all of the Prepetition Debt;

6. Debtors do not have, and hereby release, and are forever barred from bringing any claims, counterclaims, causes of action, defenses or setoff rights relating to the Prepetition Documents, the Prepetition Liens, the Prepetition Debt or otherwise, against the Agent, the Lenders and their respective affiliates, subsidiaries, agents, officers, directors, employees, advisors, consultants, predecessors in interest, successors and assigns;

7. Agent and Lenders are entitled to adequate protection as set forth herein pursuant to Code §§ 361, 362 and 363 for any decrease in the value of such interests in the Prepetition Collateral from and after the Filing Date;

8. the terms of this Stipulation and Order have been negotiated at arm's length and in good faith; and

9. Under the circumstances of these Cases, this Stipulation and Order is a fair and reasonable response to Debtors' request for Agents' and Lenders' consent to the use of Cash Collateral, and the entry of this Stipulation and Order is in the best interest of Debtors' estates and their creditors (the stipulations described in this Paragraph B are hereinafter referred to as the "Debtors' Stipulations").

**WHEREFORE, IT IS HEREBY STIPULATED, AGREED AND ORDERED  
THAT THE MOTION IS GRANTED, AND THAT:**

1. Incorporation. The above recitals and Debtors' Stipulations are hereby incorporated into this Stipulation and Order as if fully set forth herein.

2. Cash Collateral. Debtors are authorized to use Cash Collateral through the Termination Date, solely in accordance with the terms and provisions of this Stipulation and Order, and to the extent required to pay, when due, those expenses enumerated in the Budget. Without limiting the foregoing, (x) the aggregate amount of Cash Collateral used by Debtors may not exceed \$210,000, and (y) no portion of the Cash Collateral may be used to pay any fees or expenses incurred by any entity (including any Professional Fee Claims) in connection with claims or causes of action adverse to Agent's or Lenders' interests in the Aggregate Collateral, including (1) preventing, hindering or delaying Agent's or Lenders' enforcement or realization upon any of the Aggregate Collateral once an Event of Default has occurred; (2) using or seeking to use Cash Collateral or incurring indebtedness in violation of the terms hereof, or selling any Aggregate Collateral without Agent's and Lenders' consent; or (3) objecting to or contesting in any manner, or in raising any defenses to, the validity, extent, amount, perfection, priority or enforceability of the Prepetition Debt or any mortgages, liens or security interests with respect thereto or any other rights or interests of Agent and Lenders, or in asserting any claims or causes of action, including, without limitation, any actions under chapter 5 of the Code, against Agent or Lenders.. Except as provided for in this Stipulation and Order, Debtors will not use or seek to use Cash Collateral, unless, in addition to the satisfaction of all requirements of Code § 363, Agent has consented to such order. Debtors will maintain all Cash Collateral at depository institutions acceptable to Agent; provided that, except as otherwise consented to by Agent, all deposit accounts with such deposit institutions shall be subject to control agreements in form and substance satisfactory to Agent.

3. Adequate Protection of Interests of Prepetition Agent and Prepetition Lenders in the Prepetition Collateral and the Prepetition Liens. Agent and Lenders have consented to the terms of this Stipulation and Order and are entitled to adequate protection as set forth herein and to the extent required under Code §§ 361, 362 and 363 (including for any decrease in the value of such interests in the Prepetition Collateral from and after the Filing Date). The adequate protection granted herein shall be without prejudice to Agent's and Lenders' right to later request or otherwise seek additional forms of adequate protection.

(a) Replacement Liens. Agent is hereby granted the Replacement Liens, for the benefit of Lenders, as security for payment of the Prepetition Debt. The Replacement Liens: (1) are and shall be in addition to the Prepetition Liens; (2) are and shall be properly perfected, valid and enforceable liens without any further action by Debtors or Agent and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; and (3) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Cases. Notwithstanding the foregoing, Debtors are authorized to and shall execute and deliver to Agent such financing statements, mortgages, instruments and other documents as Agent may request from time to time in respect of the Replacement Liens.

4. Termination Date; Rights and Remedies.

(a) Effect of Termination Date. Unless extended by the Court upon the written agreement of Agent, upon the Termination Date without further notice or order of Court: (1) Debtors' authorization to use Cash Collateral hereunder will automatically terminate; and (2) Debtors shall be prohibited from using Cash Collateral for any purpose other than application to the Prepetition Debt.

(b) Rights and Remedies. On the fifth (5<sup>th</sup>) business day after the Termination Date, at Agent's election without further order of the Court: (1) Agent shall have automatic and immediate relief from the automatic stay with respect to the Aggregate Collateral (without regard to the passage of time provided for in Fed. R. Bankr. P. 4001(a)(3)), and shall be entitled to exercise all rights and remedies available to them under the Prepetition Documents and applicable nonbankruptcy law; and (2) Debtors shall surrender the Aggregate Collateral and

otherwise cooperate with Agent and Lenders in the exercise of their rights and remedies under the Prepetition Documents and applicable nonbankruptcy law.

5. Professional Fee Claims.

(a) Professional Fee Claims. Cash Collateral to be used for Professional Fee Claims shall be remitted to the Professional Fee Account (as defined in the Proposed Plan) in such amounts and at such times as set forth in the Budget, for the sole purpose of enabling the Debtors to pay such unpaid Professional Fee Claims to the extent allowed. The amount of such allowed Professional Fee Claims shall be paid out of any prepetition retainer before such payments are made from Cash Collateral. The Cash Collateral shall include amounts sufficient to enable the Debtors to pay quarterly fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Court.

(b) Cash Collateral Usage for Professional Fee Claims. Subject to the foregoing, the Debtors shall be permitted to pay compensation and reimbursement of fees and expenses that are in accordance with the Budget and authorized under §§ 330 and 331 of the Code. In exchange for the prepetition retainers and use of Cash Collateral to enable the payment of allowed Professional Fee Claims (subject to the Budget), the Professionals (as defined in the Proposed Plan) may not assert Professional Fee Claims against the Debtors' estates in excess of the amounts set forth in the Budget.

6. No Surcharge. In the exercise of their business judgment, Debtors (for itself, its estates and binding upon any Trustee) agree that there shall be no surcharge of the Aggregate Collateral for any purpose, unless agreed to by Agent and Lenders. The Debtors (for itself, its estates and binding upon any Trustee) hereby waive any rights, benefits or causes of action under Code § 506(c), the enhancement of collateral provisions of Code § 552, or any other legal or equitable doctrine (including, without limitation, unjust enrichment) as they may relate to or be asserted against the Agent, the Lenders or the Aggregate Collateral.

7. Right to Credit Bid. In connection with the sale or other disposition of all or any portion of the Aggregate Collateral, whether under Code § 363, Code § 1129 or otherwise, pursuant to Code § 363(k), Agent shall have the right to use the Prepetition Debt or

any part thereof to credit bid with respect to any bulk or piecemeal sale of all or any portion of the Aggregate Collateral.

8. Covenants.

(a) Affirmative Covenants. Debtors will (i) deliver to Agent and its counsel, reasonably in advance of filing to the extent practicable, and allow Agent and its advisors to review and comment on, all pleadings, motions and other documents to be filed with the Court on behalf of Debtors, and consider all comments provided by Agent and its advisors in good faith, (ii) deliver such financial reporting as Agent may reasonably request from time to time and (iii) adhere to the Budget.

(b) Negative Covenants. Debtors will not (i) make or commit to make payments in respect of prepetition amounts in excess of the amount contemplated by the Budget or (ii) seek to incur any financing under Code § 364 or use of cash collateral under Code § 363 without the consent of Agent.

9. Force and Effect of Prepetition Documents. Except as modified herein and subject to the other provisions of this Stipulation and Order and the Code, the Prepetition Documents shall remain in full force and effect with respect to the Prepetition Debt. To the extent there exists any conflict among the terms of the Motion, the Prepetition Documents and this Stipulation and Order, this Stipulation and Order shall govern and control.

10. Modification of Stay. The automatic stay of Code § 362 is hereby modified with respect to Agent and Lenders to the extent necessary to effectuate the provisions of this Stipulation and Order.

11. No Waiver. Agent and Lenders shall not be deemed to have suspended or waived any of their rights or remedies under this Stipulation and Order, the Prepetition Documents, or applicable nonbankruptcy law unless such suspension or waiver is in writing, signed by a duly authorized officer of Agent or the Lenders, as applicable, and directed to Debtors. No failure of Agent or Lenders to require strict performance by Debtors (or by any Trustee) of any provision of this Stipulation and Order shall waive, affect or diminish any right of Agent or Lenders thereafter to demand strict compliance and performance therewith, and no

delay on the part of Agent or Lenders in the exercise of any right or remedy under this Stipulation and Order, the Prepetition Documents or applicable nonbankruptcy law shall preclude the exercise of any right or remedy. Further, this Stipulation and Order shall not constitute a waiver by Agent or the Lenders of any of their rights under the Prepetition Documents, the Code or applicable nonbankruptcy law, including, without limitation their right to later assert: (1) that, any of their interests in the Aggregate Collateral lack adequate protection within the meaning of Code §§ 362(d) or 363(e) or any other provision thereof; or (2) a claim under Code § 507(b).

12. Amendments. Debtors, Agent and the Lenders required under the Prepetition Credit Agreement may enter into amendments or modifications of the Prepetition Documents or the Budget without further notice and hearing or order of this Court; provided, that (a) such modifications or amendments do not materially and adversely affect the rights of any creditor or other party-in-interest and (b) notice of any such amendment or modification is filed with this Court.

13. Proof of Claim. Neither the Agent nor any of the Lenders shall be required to file a proof of claim with respect to any of the Prepetition Debt and the stipulations and findings set forth in this Stipulation and Order shall constitute an informal proof of claim in respect thereof. Notwithstanding the foregoing or any subsequent order of Court concerning proof of claim filing requirements, Agent is authorized (but not obligated) to file a single master proof of claim in the Advance Science Technologies, Inc. case, on behalf of itself and the Lenders on account of their claims arising under the Prepetition Documents and hereunder. Such master proof of claim shall be deemed filed as a claim against each of the Debtors.

14. Binding Effect. This Stipulation and Order shall be binding on the Debtors and their respective successors and assigns, including any Trustee. Except as otherwise explicitly set forth in this Stipulation and Order, no third party is intended to be, or shall be deemed to be, a third party beneficiary of this Stipulation and Order.

15. Conflicts. To the extent that any provisions of this Stipulation and Order conflict with the Interim Hearing Stipulation, the terms and provision of this Stipulation and Order govern and control.

16. Survival. The provisions of this Stipulation and Order, and any actions taken pursuant to or in reliance upon the terms hereof, shall survive entry of, and govern in the event of any conflict with, any order which may be entered in the Cases: (a) confirming any chapter 11 plan, (b) converting any Case to a case under chapter 7 of the Code, (c) dismissing any Case, (d) withdrawing of the reference of any Case from this Court, or (e) providing for abstention from handling or retaining of jurisdiction of any of the Cases in this Court. The terms and provisions of this Stipulation and Order shall continue in full force and effect until the earlier of the effective date of confirmation of the Proposed Plan or the date that all of the Prepetition Debt is indefeasibly paid in full in cash.

**AGREED AND STIPULATED TO:**

**ADVANCE SCIENCE TECHNOLOGIES, INC.**  
and **FS-IP LLC**, by proposed Debtors' counsel  
**PERKINS COIE LLP**  
By:

---

30 Rockefeller Center, 22nd Floor  
New York, New York

**GOLDMAN SACHS SPECIALTY LENDING, L.P.**,  
by its counsel Goldberg Kohn Ltd.

By:

---

Randall Klein  
55 East Monroe, Suite 3300  
Chicago, Illinois

**IT IS SO ORDERED:**

Dated: January \_\_, 2018  
New York New York

---

United States Bankruptcy Judge

**EXHIBIT A**

**DEFINED TERMS**

1. ***Aggregate Collateral.*** Collectively, the Prepetition Collateral and the Postpetition Collateral.
2. ***Budget.*** The operating budget attached to this Stipulation and Order as Exhibit B setting forth the projected financial operations of the Debtors, as amended, modified or supplemented from time to time, as may be agreed to by Agent.
3. ***Cases.*** The chapter 11 cases or any superseding chapter 7 cases of the Debtors.
4. ***Cash Collateral.*** All "cash collateral," as that term is defined in Code § 363(a), in which Agent (on behalf of Lenders) has an interest, all deposits subject to setoff rights in favor of Agent and Lenders, and all cash arising from the collection or other conversion to cash of the Aggregate Collateral.
5. ***Event of Default.*** At Agent's election, the occurrence of any of the events described on Exhibit C attached hereto.
6. ***Permitted Priority Liens.*** Collectively, the liens in favor of third parties upon the Prepetition Collateral, which third-party liens, as of the Filing Date: (1) had priority under applicable law over the Prepetition Liens, (2) were not subordinated by agreement or applicable law, and (3) were non-avoidable, valid, properly perfected and enforceable as of the Filing Date.
7. ***Postpetition Collateral.*** All of the real and personal property of Debtors of any description whatsoever, wherever located and whenever arising or acquired, including all cash, accounts, inventory, equipment, fixtures, chattel paper, general intangibles (including, claims and proceeds under Code §§ 544, 547, 548, 549, 550 and 553), all leaseholds, all commercial torts, all other "Collateral" (as that term is defined in the Prepetition Credit Agreement), and all proceeds, rents, issues, profits and products, whether tangible or intangible, of any of the foregoing, including proceeds of insurance covering any of the foregoing.
8. ***Prepetition Collateral.*** All of the "Collateral" (as that term is defined in the Prepetition Credit Agreement) existing as of the Filing Date, and all proceeds, rents, issues, profits and products thereof.
9. ***Prepetition Debt.*** All indebtedness or obligations under the Prepetition Documents as of the Filing Date, including all "Obligations" (as defined in the Prepetition Credit Agreement), and all fees, costs, interest, and expenses as and when due and payable pursuant to the Prepetition Documents.
10. ***Prepetition Documents.*** The Prepetition Credit Agreement and the "Credit Documents" (as that term is defined in the Prepetition Credit Agreement).

11. **Prepetition Liens.** Agent's (on behalf of Lenders) asserted security interests in the Prepetition Collateral under the Prepetition Documents, subject only to Permitted Priority Liens.

12. **Priority Liens.** Liens which are first priority, properly perfected, valid and enforceable security interests, which are not subject to any claims, counterclaims, defenses, setoff, recoupment or deduction, and which are otherwise unavoidable and not subject to recharacterization or subordination pursuant to any provision of the Code, any agreement, or applicable nonbankruptcy law.

13. **Professional Fee Claims.** The "Professional Fee Claims", as that term is defined in the Proposed Plan.

14. **Proposed Plan.** The Debtors' Joint Prepackaged Plan of Reorganization filed in these Cases and in the form required pursuant to the RSA.

15. **Replacement Liens.** Priority Liens in the Postpetition Collateral granted to Agent (for the benefit of the Lenders) pursuant to this Stipulation and Order, subject only to the Permitted Priority Liens.

16. **RSA.** means that certain Restructuring Support Agreement dated as of December 4, 2017, by and among the Debtors, Fortior, FS Holdings, Merger Sub, FS-IS, FSIHC, the Administrative Agent, and the Senior Secured Lenders, along with all exhibits thereto, as amended, supplemented and modified from time to time, in accordance with the terms thereof.

17. **Termination Date.** At Agent's election, the earliest to occur of: (a) the date on which Agent provides, via facsimile or overnight mail, written notice to counsel for Debtors of the occurrence and continuance of an Event of Default or an "Administrative Agent Termination Event" (as defined in the RSA); (b) the termination of the RSA, (c) the effective date of the Proposed Plan and (d) the fiftieth (50th) calendar day after the Filing Date.

18. **Trustee.** Any trustee appointed or elected in the Cases.

**EXHIBIT B**

**BUDGET**

**[attached]**

## **CASH COLLATERAL BUDGET**

In re Advance Science Technologies, Inc.  
In re FS-IP LLC

<b><u>Category</u></b>	<b><u>Initial Funding Period (1)</u></b>	<b><u>Subsequent Funding Period (2)</u></b>	<b><u>Total</u></b>
Professional Fees	\$50,000	\$150,000	\$200,000
OUST Fees and Other	\$5,000	\$5,000	\$10,000
<b>Total:</b>	\$55,000	\$155,000	\$210,000

Notes:

(1) Petition Date through January 15, 2018

(2) Through February 28, 2018

**EXHIBIT C**

**EVENTS OF DEFAULT**

1. Entry of an order without the prior consent of the Agent amending, supplementing or otherwise modifying the Stipulation and Order;
2. Reversal, vacation or stay of the effectiveness of the Stipulation and Order;
3. The filing of any motion to dismiss the cases or convert the Cases to cases under chapter 7 of the Code, or the dismissal of the Cases or conversion of the Cases to cases under chapter 7 of the Code;
4. Termination or shortening of the Debtors' exclusivity periods under § 1121 of the Code;
5. Appointment or election of a Trustee;
6. Any sale of, or motion to sell, all or substantially all assets pursuant to § 363 of the Code to which the Agent does not consent;
7. Appointment or election of an examiner with enlarged powers;
8. Any Debtor breaches the Restructuring Milestones (as defined in the RSA);
9. Any plan or disclosure statement or supplements or amendments thereto, or any orders approving or amending any of the foregoing, are not in form and substance acceptable to Agent;
10. Except as provided in the Stipulation and Order, the granting of relief from the automatic stay in the Cases to permit foreclosure or enforcement on assets of the Debtors;
11. Entry of an order approving any financing under 364(c) or use of cash collateral under 363, in each case without the consent of Agent;
12. Any challenge by Debtors, the Debtors' affiliates, or any party to be released by the Lenders under the Proposed Plan, or any successful challenge by any other person, to the extent, validity or priority of the liens in favor of or claims held by the Agent or the Lenders;
13. Debtors' failure to comply with any of its covenants or obligations under and in strict accordance with the terms of this Stipulation and Order;
14. Any material representation or warranty made by Debtors in any certificate, report or financial statement delivered to Agent is, after the Filing Date, discovered or disclosed to Agent to have been false or misleading in any material respect as of the time when made or given (including by omission of material information necessary to make such representation, warranty or statement not misleading); or
15. Termination of the RSA or the occurrence of an Administrative Agent Termination Event (as defined in the RSA).