

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

SC HEALTHCARE HOLDING, LLC *et al.*,  
  
Debtors.<sup>1</sup>

Chapter 11

Case No. 24-10443 (TMH)

Jointly Administered

Ref. Docket Nos. 38, 97 & 296

**NOTICE OF FILING OF BLACKLINE OF PROPOSED FINAL ORDER  
(I) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION FINANCING,  
(II) GRANTING SECURITY INTERESTS AND SUPERPRIORITY ADMINISTRATIVE  
EXPENSE STATUS, (III) GRANTING ADEQUATE PROTECTION TO CERTAIN  
PREPETITION SECURED CREDIT PARTIES, (IV) MODIFYING THE AUTOMATIC  
STAY, (V) AUTHORIZING THE DEBTORS TO ENTER INTO AGREEMENTS WITH  
JMB CAPITAL PARTNERS LENDING, LLC, (VI) AUTHORIZING  
NON-CONSENSUAL USE OF CASH COLLATERAL, AND  
(VII) GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE** that, on March 21, 2024, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting Security Interests and Superpriority Administrative Expense Status, (III) Granting Adequate Protection to Certain Prepetition Secured Credit Parties, (IV) Modifying the Automatic Stay, (V) Authorizing the Debtors to Enter into Agreements with JMB Capital Partners Lending, LLC, (VI) Authorizing Non-Consensual Use of Cash Collateral, (VII) Scheduling a Final Hearing, and (VIII) Granting Related Relief* [Docket No. 38] (the “DIP Motion”)<sup>2</sup> with the United States Bankruptcy Court for the District of Delaware (the “Court”).

**PLEASE TAKE FURTHER NOTICE** that, on March 26, 2024, the Court entered an order approving the DIP Motion on an interim basis [Docket No. 97] (the “Interim DIP Order”).

**PLEASE TAKE FURTHER NOTICE** that, on May 12, 2024, the Debtors filed the *Notice of Filing of (I) Proposed Final Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting Security Interests and Superpriority Administrative Expense Status, (III) Granting Adequate Protection to Certain Prepetition Secured Credit Parties, (IV) Modifying*

<sup>1</sup> The last four digits of SC Healthcare Holding, LLC’s tax identification number are 2584. The mailing address for SC Healthcare Holding, LLC is c/o Petersen Health Care Management, LLC 830 West Trailcreek Dr., Peoria, IL 61614. Due to the large number of debtors in these Chapter 11 Cases, whose cases are being jointly administered, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information is available on a website of the Debtors’ claims and noticing agent at <http://www.kccllc.net/Petersen>.

<sup>2</sup> Capitalized terms used but not defined herein have the meanings given to them in the DIP Motion.



*the Automatic Stay, (V) Authorizing the Debtors to Enter Into Agreements With JMB Capital Partners Lending, LLC, (VI) Authorizing Non-Consensual Use of Cash Collateral, and (VII) Granting Related Relief; and (2) Senior Secured Super-Priority Debtor-In-Possession Loan and Security Agreement [Docket No. 296] (the “Proposed Final DIP Order”).*

**PLEASE TAKE FURTHER NOTICE** that, on May 13, 2024, the Court held a hearing (the “May 13 Hearing”) to consider, among other things, final approval of the DIP Motion. At the May 13 Hearing, counsel to the Debtors advised the Court that the Debtors, the DIP Lender, the Prepetition Secured Parties, the Official Committee of Unsecured Creditors, and the U.S. Department of Urban Housing and Development agreed to the terms of a revised Proposed Final DIP Order (the “Revised Proposed Final DIP Order”) and that the Debtors would file revised documents reflecting the agreed-upon terms.

**PLEASE TAKE FURTHER NOTICE** that, for the convenience of the Court and all interested parties, attached hereto as **Exhibit A** is a blackline of the Revised Proposed Final DIP Order marked against the Proposed Final DIP Order and attached hereto as **Exhibit B** is a blackline of the Revised Proposed Final DIP Order marked against the Interim DIP Order.

**PLEASE TAKE FURTHER NOTICE** that the Debtors intend to present and seek entry of the Revised Proposed Final DIP Order at the hearing scheduled for May 14, 2024 at 10:30 a.m. (ET) (the “May 14 Hearing”). The Debtors reserve all rights to further revise or modify the Revised Proposed Final DIP Order, and the exhibits attached thereto, at, prior to, and as a result of the May 14 Hearing.

*[Remainder of Page Intentionally Left Blank]*

Dated: May 14, 2024  
Wilmington, Delaware

**YOUNG CONAWAY STARGATT &  
TAYLOR, LLP**

*/s/ Shella Borovinskaya*

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**EXHIBIT A**

**Incremental Blackline to Proposed Final DIP Order**

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

**In re**

**SC HEALTHCARE HOLDING, LLC *et al.*,  
Debtors.<sup>1</sup>**

Chapter 11

Case No. 24-10443 (TMH)

Jointly Administered

Ref. Docket Nos. 38, 97

**FINAL ORDER (I) AUTHORIZING THE DEBTORS TO OBTAIN  
POSTPETITION FINANCING, (II) GRANTING SECURITY INTERESTS AND  
SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (III) GRANTING  
ADEQUATE PROTECTION TO CERTAIN PREPETITION SECURED CREDIT  
PARTIES, (IV) MODIFYING THE AUTOMATIC STAY; (V) AUTHORIZING  
THE DEBTORS TO ENTER INTO AGREEMENTS WITH JMB CAPITAL  
PARTNERS LENDING, LLC, (VI) AUTHORIZING USE  
OF CASH COLLATERAL, AND (VII) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above captioned debtors (collectively, the “Debtors”) in the above-captioned chapter 11 cases (collectively, the “Chapter 11 Cases”), pursuant to sections 105, 361, 362, 363, 364, 503 and 507 of title 11 of the United States Code, (11 U.S.C. §§ 101 *et seq.*, as amended, the “Bankruptcy Code”), Rules 2002, 4001, 6003, 6004 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1 and 4001-2 and 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), seeking entry of an interim order, which was entered by the Court on March 24, 2024 at Docket No. 97 (the “Interim Order”), and a final order (this “Final Order”) granting *inter alia*:

<sup>1</sup> The last four digits of SC Healthcare Holding, LLC’s tax identification number are 2584. The mailing address for SC Healthcare Holding, LLC is c/o Petersen Health Care Management, LLC 830 West Trailcreek Dr., Peoria, IL 61614. Due to the large number of debtors in these Chapter 11 Cases, for which the Debtors have requested joint administration, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information will be made available on a website of the Debtors’ proposed claims and noticing agent at [www.kccllc.net/Petersen](http://www.kccllc.net/Petersen).

<sup>2</sup> Unless stated otherwise, capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the DIP Credit Agreement (as defined below), as applicable.

i. authority, pursuant to sections 105, 363, and 364(c) and 364(d) of the Bankruptcy Code, for each of the Debtors, jointly and severally, to obtain a non-amortizing priming super-priority senior secured postpetition financing (“DIP Facility”) in an aggregate principal amount of up to \$45,000,000 (the “DIP Commitment”) which will be available through multiple draws, in each case subject to the terms and conditions set forth in the Debtor-in-Possession Loan and Security Agreement attached hereto as Exhibit 1 (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the “DIP Credit Agreement”) and, together with any ancillary, collateral or related documents and agreements, including without limitation the DIP Term Sheet attached as Exhibit 1 to the Interim Order, the “DIP Loan Documents”), among the Debtors, as borrowers, and JMB Capital Partners Lending, LLC, as lender (the “DIP Lender”);

ii. authority for the Debtors to execute, deliver, and perform under the DIP Loan Documents, and all other credit documentation relating to the DIP Facility, including, without limitation, as applicable, security agreements, pledge agreements, debentures, mortgages, control agreements, deeds, charges, guarantees, promissory notes, intercompany notes, certificates, instruments, intellectual property security agreements, notes, fee letters, and such other documents that are ancillary or incidental thereto or that may be reasonably requested by the DIP Lender in connection with the DIP Facility, in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof;

iii. authority for the Debtors to issue, incur and guarantee all loans, notes, advances, extensions of credit, financial accommodations, reimbursement obligations, fees and premiums (including, without limitation, the Commitment Fee, upfront fees, the Exit Fee, backstop fees or premiums, administrative agency fees, and any other fees payable pursuant to the DIP Loan Documents), costs, expenses and other liabilities and all other obligations (including indemnities and similar obligations, whether contingent or absolute) due or payable to or for the benefit of the DIP Lender under the DIP Loan Documents (collectively, the “DIP Obligations”), and to

perform such other and further acts as may be required, necessary, desirable, or appropriate in connection therewith;

iv. authority for the Debtors to use the DIP Facility and the proceeds thereof in accordance with this Final Order, the DIP Loan Documents to (a) fund the necessary postpetition working capital needs of the Debtors, (b) pay fees, costs and expenses of the DIP Facility on the terms and conditions described in the DIP Loan Documents, and (c) pay the allowed administrative costs and expenses of the Chapter 11 Cases, in each case, solely in accordance with the DIP Loan Documents, the DIP Budget (as defined below), and this Final Order;

v. authority for the Debtors to grant to the DIP Lender valid, enforceable, non-avoidable, automatically and fully perfected priming security interests, liens and superpriority claims, including allowed superpriority administrative expense claims pursuant to sections 364(c)(1) and 507(b) of the Bankruptcy Code, subject only to the Carve Out and the Permitted Prior Liens (as defined in the DIP Credit Agreement), and liens pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code in the DIP Collateral (as defined below) (and all proceeds thereof), including, without limitation, all property constituting “Cash Collateral,” as defined in section 363(a) of the Bankruptcy Code, (“Cash Collateral”), to secure all DIP Obligations, subject only to the Carve Out and the Permitted Prior Liens;

vi. authority for the Debtors to grant the Prepetition Secured Parties (as defined below) valid, enforceable, non-avoidable, automatically and fully perfected security interests, liens and superpriority claims, as set forth herein, including allowed superpriority administrative expense claims pursuant to section 507(b) of the Bankruptcy Code, subject only to the Carve Out, the Permitted Prior Liens and the superpriority claims and liens of the DIP Lender, to secure any diminution in value of the Prepetition Collateral and as it relates to the Cost Allocation as set forth herein;

vii. authority for the DIP Lender to take all commercially reasonable actions to implement and effectuate the terms of this Final Order and the DIP Loan Documents;

- viii. waiver by the Debtors of all rights to surcharge against the collateral of the DIP Lender and the Prepetition Secured Parties pursuant to section 506(c) of the Bankruptcy Code;
- ix. determination that the equitable doctrine of marshaling or any other similar doctrine shall not apply with respect to any collateral of the DIP Lender and the Prepetition Secured Parties (other than (A) as it relates to the Cost Allocation with respect to the Prepetition Secured Parties and (B) as expressly set forth in Paragraph 9 of this Final Order);
- x. modification of the automatic stay provided by section 362(a) of the Bankruptcy Code to the extent set forth herein and as necessary to permit the Debtors and the DIP Lender to implement and effectuate the terms and provisions of the DIP Loan Documents, including, upon entry, the Final Order, and, subject to the terms of the DIP Loan Documents (including this Final Order), to deliver any Carve Out Trigger Notice (as defined herein) or other notices in relation thereto and the exercise of certain rights and remedies, as contemplated hereby and by the DIP Loan Documents; and
- xi. waiver of any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Final Order.

This Court having considered the relief requested in the Motion (including the DIP Loan Documents), the evidence submitted or adduced, pursuant to the *Declaration of David R. Campbell in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), the declaration of Luke Andrews in support of the Motion (the “DIP Marketing Declaration”) and the declaration of David R. Campbell in support of the Motion (the “Campbell Valuation Declaration”), the declaration of Mark Myers in Support of the Motion (the “Myers Valuation Declaration”) and the arguments of counsel made at the hearing held on March 22, 2024 (the “Interim Hearing”) and having found that due and proper notice of the Motion and the Interim Hearing having been given in accordance with Bankruptcy Rule 2002 and 4001(b), (c) and (d) and all applicable Local Rules; and the Interim Hearing to consider the relief requested in the Motion having been held and concluded; and having entered the Interim Order on March 26,



2024; and a final hearing (the “Final Hearing”) having been held by this Court on ~~May 13~~ [and 14](#), 2024; and objections, if any, to the relief requested in the Motion having been withdrawn, resolved or overruled; and it appearing to this Court that granting the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, otherwise is fair and reasonable and in the best interests of the Debtors, their estates, creditors, and other parties in interest, and is essential for the continued operation of the Debtors’ businesses and the preservation of the value of the Debtors’ assets and represents a sound exercise of the Debtors’ business judgment; and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

**THIS COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED UPON THE MOTION, THE REPRESENTATIONS OF COUNSEL AND EVIDENCE SUBMITTED DURING THE FINAL HEARING:<sup>3</sup>**

A. Petition Date. On March 20, 2024 (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Court”) commencing these Chapter 11 Cases.

B. Joint Administration. The Chapter 11 Cases are being jointly administered pursuant to the *Order, Pursuant to Bankruptcy Rule 1015 and Local Rule 1015-1, (I) Directing Joint Administration of the Debtors’ Chapter 11 Cases, (II) Modifying the Requirements for Filing Monthly Operating Reports, and (III) Granting Related Relief* [Docket No. 79] entered by this Court on March 22, 2024.

<sup>3</sup> The findings and conclusions set forth herein constitute this Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014, and shall take effect and be fully enforceable effective as of the Petition Date immediately upon entry hereof. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

C. Debtors in Possession. The Debtors, with the exception of some inactive entities, are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

D. Jurisdiction and Venue. This Court has core jurisdiction over the persons and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue for the Chapter 11 Cases and proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

E. Notice. Under the circumstances, the notice given by the Debtors of, and as described in, the Motion, the relief requested therein, and the Final Hearing constitutes proper notice thereof and complies with Bankruptcy Rules 2002, 4001(b), (c) and (d), and 9014 and the Local Rules, and no further notice of the relief sought at the Final Hearing and the relief granted herein is necessary or required. The relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates, creditors, and other parties in interest.

F. Committee Formation. On April 9, 2024, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an official committee of unsecured Creditors (the “Committee”) in the Chapter 11 Cases, as provided for under section 1102 of the Bankruptcy Code.

G. No Credit Available on More Favorable Terms. The Debtors are unable to procure financing in the form of unsecured credit allowable as an administrative expense under sections 364(a), 364(b), or 503(b)(1) of the Bankruptcy Code. The Debtors are also unable to obtain secured credit without (i) granting to the DIP Lender the DIP Liens and the DIP Superpriority Claims (each as defined herein) and (ii) incurring the Adequate Protection Obligations (as defined herein), to the extent set forth herein and under the terms and conditions set forth in this Final Order, the DIP Loan Documents, in each case of (i) and (ii) subject and subordinate to the Carve Out and the Permitted Prior Liens, and have been unable to procure the

necessary financing on terms more favorable, taken as a whole, than the financing offered by DIP Lender pursuant to the DIP Loan Documents, as modified by this Final Order.

H. Best Interests of Estates. It is in the best interests of the Debtors' estates and creditors that the Debtors be allowed to obtain postpetition secured financing from the DIP Lender under the terms and conditions set forth herein and in the DIP Loan Documents, as such financing is necessary to avoid immediate and irreparable harm to the Debtors' estates and for the continued operation of the Debtors' businesses.

I. Good Faith. The extension of credit and financial accommodations under the DIP Loan Documents are fair, reasonable, in good faith, negotiated at arm's length, reflect the Debtors' exercise of prudent business judgment, and are supported by reasonably equivalent value and fair consideration. The liens, claims and other covenants and payments as set forth in this Final Order and the DIP Loan Documents, as well as the protections afforded parties acting in "good faith" under section 364(e) of the Bankruptcy Code are integral, critical and essential components of the DIP Facility provided by the DIP Lender to the Debtors. Accordingly, the DIP Lender is entitled to the protections of Bankruptcy Code section 364(e).

J. Good Cause. The relief requested in the Motion is necessary, essential and appropriate, and is in the best interest of and will benefit the Debtors, their creditors and their estates, as its implementation will, among other things, provide the Debtors with the necessary liquidity to (1) minimize disruption to the Debtors' businesses and ongoing operations, (2) preserve and maximize the value of the Debtors' estates for the benefit of all the Debtors' creditors, and (3) avoid potential immediate and irreparable harm to the Debtors, their creditors, their businesses, their employees, and their assets.

K. Interim Order. On March 26, 2024, the Court entered the Interim DIP Order, pursuant to which the Court, *inter alia*, (i) authorized the Debtors to obtain postpetition secured financing from the DIP Lender, on an interim basis, under the terms and conditions set forth

therein and in the DIP Loan Documents, (ii) approved the DIP Term Sheet, and (iii) approved the (a) Commitment Fee and (b) the Exit Fee on a final basis.

L. *Necessity of DIP Facility Terms.* The terms of this Final Order, the DIP Loan Documents assuring that the liens and the various claims, superpriority claims, and other protections granted in this Final Order will not be affected by any subsequent reversal or modification, as provided in section 364(e) of the Bankruptcy Code, which is applicable to the postpetition financing arrangement contemplated in the DIP Loan Documents, are necessary in order to induce the DIP Lender to provide postpetition financing to the Debtors.

M. *Need for Postpetition Financing.* The Debtors do not have sufficient and reliable sources of working capital to continue to operate their businesses in the ordinary course without the financing requested in the Motion. The Debtors' ability to care for their residents, maintain business relationships with their vendors, suppliers and customers, to pay their employees, and to otherwise fund their operations is essential to the Debtors' continued viability as the Debtors seek to maximize the value of the assets of their estates for the benefit of all creditors of the Debtors. The ability of the Debtors to obtain sufficient and stable working capital and liquidity through the proposed postpetition financing arrangements with the DIP Lender as set forth in this Final Order and the DIP Loan Documents is vital to the preservation and maintenance of the going concern value of each Debtor. Accordingly, the Debtors have an immediate need to obtain the postpetition financing in order to, among other things, permit the orderly continuation of the operation of their businesses, minimize the disruption of their business operations, and preserve and maximize the value of the assets of the Debtors' bankruptcy estates in order to maximize the recovery to all creditors of the estates.

N. *Need to Use Cash Collateral.* The Debtors need to use Cash Collateral in order to, among other things, preserve, maintain and maximize the value of their assets and businesses. The ability of the Debtors to maintain liquidity through the use of Cash Collateral is vital to the

Debtors and their efforts to maximize the value of their assets. Accordingly, the Debtors have demonstrated good and sufficient cause for the relief granted herein.

O. Sections 506(c) and 552(b). As material inducement to the DIP Lender to agree to provide the DIP Facility and in exchange for agreement by the DIP Lender and the Prepetition Secured Parties to subordinate their superpriority claims to the Carve Out, the DIP Lender and the Prepetition Secured Parties are entitled to a waiver of any “equities of the case” exception under section 552(b) of the Bankruptcy Code, and (b) the DIP Lender and the Prepetition Secured Parties are entitled to a waiver of the provisions of section 506(c) of the Bankruptcy Code.

P. Priming of Prepetition Liens. The priming of the Prepetition Liens by the DIP Lender under section 364(d)(1) of the Bankruptcy Code, to the extent set forth in this Final Order and, to the extent not inconsistent with this Final Order, the DIP Loan Documents and as further described below, will enable the Debtors to obtain the DIP Facility and, among other benefits, continue to operate their business for the benefit of their estates and stakeholders.

Q. DIP Budget. The Debtors prepared and delivered to the DIP Lender and Prepetition Secured Parties an initial budget attached as Schedule 1 to the Interim Order (together with any additional line-item or other detail and supplements as may be provided pursuant to the terms of this Final Order and the DIP Loan Documents, the “Initial DIP Budget”). The Initial DIP Budget reflects, among other things, for the 13-week period commencing on or about the Petition Date, the Debtors’ projected operating receipts, operating disbursements, non-operating disbursements, net operating cash flow and liquidity for each one-week period covered thereby. The Initial DIP Budget may be modified, amended, extended, and updated from time to time in accordance with this Final Order, the DIP Loan Documents, and such modified, amended, extended and/or updated budget, once approved by the Debtors (upon prior consultation with the Committee) and the DIP Lender, shall modify, replace, supplement or supersede, as applicable, the Initial DIP Budget for the periods covered thereby (the Initial DIP

Budget and each subsequent approved budget (including any additional line-item or other detail and supplements as may be provided pursuant to the terms of this Final Order, the DIP Loan Documents) shall constitute, without duplication, an “Approved Budget”). Each subsequent Approved Budget (as approved in accordance with the DIP Loan Documents and this Final Order) shall be provided to the U.S. Trustee, counsel for the Prepetition Secured Parties, counsel for U.S. Department of Housing and Urban Development (“HUD”) and counsel to the Committee in full. The Initial DIP Budget has been reviewed by the Debtors, their management and their advisors, and the Debtors believe that the Initial DIP Budget is reasonable under the circumstances. The DIP Lender is relying, in part, upon the Debtors’ agreement to comply with the Approved Budget (subject only to permitted variances) and the terms of the DIP Loan Documents and this Final Order in determining to enter into the DIP Facility and to consent to the use of Cash Collateral provided for in this Final Order.

R. Debtors’ Acknowledgments and Agreements. Without prejudice to the rights of the Committee or other parties-in-interest as and to the extent set forth in paragraph 18 of this Final Order, the Debtors admit, stipulate, acknowledge and agree that:

- (a) Prepetition Loan Documents. Prior to the Petition Date, the applicable Debtors entered into the following loan documents and credit facilities with the lenders party thereto (collectively, and including their respective successors and assigns, the “Prepetition Secured Parties”):
- Amended and Restated Loan Agreement dated February 24, 2021 with XCAL 2019-IL-1 Mortgage Trust, as lender, pursuant to which not less than \$33,038,340 is presently outstanding.
  - Amended and Restated Loan Agreement dated August 5, 2020 with Column Financial, Inc. (as successor in interest to Sector Financial Inc.), as the administrative agent and collateral agent (in such capacity, the “Sector Agent”) and the lenders party thereto (the “Sector Lenders”) pursuant to which not less than \$64,605,074 is presently outstanding.
  - Amended and Restated Loan Agreement dated August 5, 2020 with GMF Petersen Note LLC, as the lender pursuant to which not less than \$26,400,302.55 is presently outstanding.

- Credit and Security Agreement (the “eCapital Credit Agreement”) dated October 4, 2023 with eCapital Healthcare Corp. (“eCapital” and such obligations of the Debtor under the eCapital Credit Agreement, the “eCapital Obligations”) as the lender pursuant to which not less than \$3,833,089.27 which was paid in full in connection with the Interim Order.
- HUD Facilities and the lenders party thereto (collectively, together with their successors and assigns, the “HUD Lenders”):
  - Multiple FHA insured loans with Berkadia Commercial Mortgage LLC as lender and the applicable Debtor party thereto with not less than \$2,936,067 in the aggregate (net of escrows) is presently outstanding.
  - Multiple FHA insured loans with Grandbridge Real Estate Capital, LLC as lender and the applicable Debtor party thereto with not less than \$7,369,000 in the aggregate (net of escrows) presently outstanding.
  - Multiple FHA insured loans with Lument Real Estate Capital, LLC as lender and the applicable Debtor party thereto with not less than \$8,267,261 in the aggregate (net of escrows) presently outstanding.
  - An FHA-insured loan with Wells Fargo Mortgage as lender and Debtor SJL Health Systems, Inc. as borrower with not less than \$1,826,279.02 (net of reserves) presently outstanding.
- Solutions Bank Loan. Debtor Petersen Healthcare, Inc. is party to various loan documents in favor of Solutions Bank (the “Solutions Bank Facility”), pursuant to which Petersen Healthcare Inc. granted to Solution Bank a security interest in certain assets related to an assisted living facility located at 160 E. Walton Street, Canton, Illinois known as “Courtyard Estates of Canton.” In the relevant default notice, it was alleged that approximately \$3,408,171 is outstanding under the Solutions Bank Facility.
- Community State Bank. Debtor Petersen Health Systems, Inc. is party to various loan documents in favor of Community State Bank (the “CSB Facility”), pursuant to which Petersen Health Systems, Inc. granted to Community State Bank a security interest in certain assets related to real property located at 13516 Townline Road, Green Valley Illinois known as “Courtyard Estates of Green

Valley.” As of the Petition Date, approximately \$2,494,108 is outstanding under the CSB Facility.

- Bank of Farmington. Debtor Petersen Health Systems, Inc. is party to various loan documents in favor of Bank of Farmington (the “Farmington Facility”), pursuant to which Petersen Health Systems, Inc. granted to Bank of Farmington a security interest in certain assets related to an assisted living located at 1000 E. Fort Street, Farmington, IL known as “Courtyard Estates of Farmington.” As of the Petition Date, approximately \$2,845,278 is outstanding under the Farmington Facility.
- Hickory State Bank. Debtor CYE Girard HCO, LLC is party to various loan documents in favor of Hickory Point Bank & Trust (the “Hickory Point Facility”), pursuant to which CYE Girard HCO, LLC granted to Hickory Point Bank & Trust a security interest in certain assets related to an assisted living facility located at 1016 W North St, Girard, IL known as “Courtyard Estates of Girard.” As of the Petition Date, approximately \$1,839,599 is outstanding under the Farmington Facility.
- Bank of Rantoul. Debtor Petersen Health Systems, Inc. is the borrower under a certain loan facility with Bank of Rantoul, as lender (“Rantoul Facility”) secured by a mortgage and assignment of rents pertaining to the Courtyard Estates of Herscher healthcare facility located at 100 Harvest View Lane, Herscher, IL. As of the Petition Date, approximately \$2,352,907 in principal amount is outstanding under the Rantoul Facility.

(all of the foregoing, as all of the same have heretofore been amended, supplemented, modified, extended, renewed, restated and/or replaced at any time prior to the Petition Date, collectively, the “Prepetition Loan Documents”).

- (b) Prepetition Secured Obligations. As of the Petition Date, the applicable Debtors were indebted to the Prepetition Secured Parties under the Prepetition Loan Documents in an aggregate outstanding principal amount of not less than \$179,103,915 plus interest accrued and accruing thereon, together with all costs, fees, expenses (including attorneys’ fees and legal expenses) and other charges accrued, accruing or chargeable with respect thereto (the “Prepetition Secured Obligations”). The Prepetition Secured Obligations constitute allowed, legal, valid, binding, enforceable and non-avoidable obligations of Debtors, and are not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law, and Debtors do not possess, shall not assert, hereby forever release, and are forever barred from bringing any claim, counterclaim, setoff or defense of any



kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the Prepetition Secured Obligations.

- (c) Prepetition Collateral. As of the Petition Date, the Prepetition Secured Obligations were secured pursuant to the applicable Prepetition Loan Documents by valid, perfected, enforceable and non-avoidable first-priority security interests and liens (the “Prepetition Liens”) granted by the Debtors party thereto to the applicable Prepetition Secured Parties under the applicable Prepetition Loan Documents as listed on Schedule 3 of the DIP Term Sheet, in certain real estate of the applicable Debtors as more fully set forth in the Prepetition Loan Documents and in accounts receivable of the applicable Debtors (the “Prepetition Collateral”), and such security interests are perfected and have priority over all other security interests. The Debtors do not possess and will not assert any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the Prepetition Secured Party’s liens, claims or security in the Prepetition Collateral.
- (d) No Control. Subject to Paragraph 18 of this Final Order, the Debtors stipulate and this Court finds that in making decisions to advance loans to the Debtors, in administering any loans, in accepting the Initial DIP Budget or any future Approved Budget or in taking any other actions permitted by the Final Order, or the DIP Loan Documents in their capacity as DIP Lender, the DIP Lender shall not be deemed to be in control of the operations of the Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors.

S. Adequate Protection. The Prepetition Secured Parties consent to the senior priming liens and security interests in favor of the DIP Lender or are otherwise entitled to receive adequate protection on account of their interests in the Prepetition Collateral pursuant to sections 361, 362, and 363 of the Bankruptcy Code solely to the extent of any diminution in the value of their interests in the Prepetition Collateral and as it relates to the Cost Allocation as set forth herein. As part of the adequate protection, and, with respect to the Consenting Lenders (as defined herein), as it relates to the Cost Allocation herein, provided by this Final Order, the Prepetition Secured Parties shall receive, among other things, replacement liens, superpriority claims and reporting information as set forth in this Final Order. Consenting Lenders (as defined

herein) shall, in addition to their Consenting Lender Adequate Protection Claims (as defined herein) and their Consenting Lender Adequate Protection Liens (as defined herein), receive reimbursement of their reasonable professional fees, including those of their attorneys and financial advisors to the extent provided for in an Approved Budget; *provided* that any fees, costs and expenses paid as adequate protection for a Consenting Lender shall be recharacterized as payments of principal if such Consenting Lender is later determined to be undersecured and not entitled to received post-petition interest, fees, costs and expenses. The terms of the Adequate Protection Obligations (as defined in paragraph 13 below) are fair and reasonable, reflect the Debtors' prudent exercise of business judgment and are sufficient to allow the Debtors' use of the Prepetition Collateral and to permit the relief granted in this Final Order.

T. Requisite Authority. Each Debtor has all requisite corporate or entity power and authority to execute and deliver the DIP Loan Documents to which it is a party and to perform its obligations thereunder.

U. Immediate Entry. Sufficient cause exists for immediate entry of this Final Order pursuant to Bankruptcy Rule 4001(c)(2). Absent granting the relief set forth in this Final Order, the Debtors' estates will be immediately and irreparably harmed. Consummation of the DIP Facility and the permitted use of Prepetition Collateral in accordance with this Final Order and the DIP Loan Documents, are therefore in the best interests of the Debtors' estates and consistent with the Debtors' exercise of their fiduciary duties.

Based upon the foregoing findings and conclusions, the Motion and the record before this Court with respect to the Motion, and after due consideration and good and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED** that:

1. DIP Facility Approval. The relief sought in the Motion is granted to the extent set forth herein, the financing described herein is authorized and approved, and the Debtors' use of Cash Collateral is authorized, in each case subject to the terms and conditions set forth herein

and in the DIP Loan Documents. All objections to the Motion to the extent not withdrawn, waived, settled, or resolved are hereby denied and overruled on the merits. The Debtors are authorized, pursuant to section 364 of the Bankruptcy Code, to execute, deliver, enter into and, as applicable, comply with and perform all of their obligations under the DIP Loan Documents and such other and additional documents necessary or desired to implement the DIP Facility, and to obtain postpetition secured financing from the DIP Lender, to avoid immediate and irreparable harm to the Debtors' estates. Except as modified by this Final Order, including, for the avoidance of doubt, paragraph 38 below, all provisions of the DIP Loan Documents are incorporated herein and approved in their entirety, whether explicitly referenced or not. For the avoidance of doubt, if there are any inconsistencies between the terms of this Final Order and the DIP Loan Documents, the terms of this Final Order shall control, and all references herein to the DIP Loan Documents shall mean as modified by this Final Order.

2. DIP Obligations. The DIP Loan Documents shall constitute and evidence the valid and binding effect of the Debtors' obligations under the DIP Facility, which DIP Obligations shall be legal, valid, and binding obligations of the Debtors and enforceable against the Debtors, their estates, any successors thereto, including, without limitation, any trustee appointed in any of the Debtors' cases, or in any case under chapter 7 of the Bankruptcy Code upon the conversion of any such cases, or in any other proceedings superseding or related to any of the foregoing, any successors thereto, and any party determined to be the beneficial owner of the DIP Collateral by this Court. The Debtors and their successors shall be jointly and severally liable for repayment of any funds advanced pursuant to the DIP Loan Documents and the DIP Obligations. No obligation, payment, transfer or grant of security under the DIP Loan Documents or this Final Order, with respect to the DIP Facility shall be stayed, restrained, voided, voidable or recoverable under the Bankruptcy Code or under any applicable non-bankruptcy law, or subject to any defense, reduction, setoff, recoupment or counterclaim.

3. Authorization to Borrow. The Debtors are hereby authorized to execute, deliver, enter into and, as applicable, comply with and perform all of their obligations, and to pay all fees, costs, expenses, indemnities, and other amounts contemplated, under the DIP Loan Documents and to take such other and further acts as may be necessary, appropriate or desirable in connection therewith. Upon entry of this Final Order, the Debtors are authorized to borrow up to aggregate amount of the DIP Commitment, and the Debtors are hereby authorized to provide a guaranty of payment and performance in respect of the DIP Obligations, in each case, in accordance with the DIP Loan Documents, and the DIP Obligations up to the amount of the DIP Commitment are hereby approved (as and when such amounts become earned, due, and payable in accordance with this Final Order, the DIP Loan Documents) without the need to seek further Court approval. Once repaid, the DIP Commitment may not be re-borrowed.

4. Use of DIP Facility Proceeds. The Debtors shall use the DIP Commitment only for the express purposes specifically set forth in the DIP Loan Documents, the Initial DIP Budget and this Final Order. The Debtors are authorized to use the proceeds of the DIP Commitment to (a) fund the postpetition working capital needs of the Debtors during the pendency of the Chapter 11 Cases, (b) pay fees, costs, and expenses of the DIP Facility on the terms and conditions described in this Final Order, the Initial DIP Budget and any Approved Budget, and the DIP Loan Documents, and (c) pay the allowed administrative costs and expenses of the Chapter 11 Cases, in each case, solely in accordance with the DIP Loan Documents (including, but not limited to, the Approved Budget) and this Final Order.

5. DIP Budget and DIP Facility Reporting. Except as otherwise provided herein or approved by the DIP Lender, the proceeds from the DIP Commitment shall be used only in compliance with the terms of this Final Order, the DIP Loan Documents, and the Initial DIP Budget and any Approved Budget. The Debtors shall comply with the reporting requirements and obligations set forth in this Final Order and the DIP Loan Documents.

6. Payment of DIP Facility Fees and Expenses.

(a) The Commitment Fee (as defined in the DIP Loan Documents) has been paid pursuant to the Interim DIP Order and the DIP Loan Documents and the Exit Fee (as defined in the Loan Documents) has been approved on a final basis in accordance with, and on the terms set forth in the Interim DIP Order. The Debtors are hereby authorized and directed to and shall pay the Exit Fee (as defined in the Loan Documents) in accordance with, and on the terms set forth in the Interim DIP Order, the DIP Loan Documents, this Final Order and the Initial DIP Budget and any Approved Budget. The Debtors are also hereby authorized and directed to pay upon demand, all other reasonable and documented fees, costs, expenses and other amounts payable under the terms of the DIP Loan Documents and this Final Order and all other reasonable and documented fees and out-of-pocket costs and expenses of the DIP Lender in accordance with the terms of the DIP Loan Documents and this Final Order, including, without limitation, all reasonable and documented fees and out-of-pocket costs and expenses of Norton Rose Fulbright US LLP and Morris James LLP as counsel to the DIP Lender (the “DIP Professional Fees and Expenses”), subject to receiving a written invoice therefor. None of such fees, costs, expenses or other amounts shall be subject to further application to or approval of this Court, and shall not be subject to allowance or review by this Court or subject to the U.S. Trustee’s fee guidelines, and no attorney or advisor to the DIP Lender shall be required to file an application seeking compensation for services or reimbursement of expenses with this Court; provided, however, that copies of any such invoices shall be provided contemporaneously to the U.S. Trustee, counsel for the Prepetition Secured Parties and counsel to the Committee (together with the Debtors, the “Review Parties”), provided further, however, that such invoices may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of such invoices shall not constitute a waiver of the attorney-client privilege or any benefits of the attorney work product doctrine. Any objections raised by any Review Party with respect to such invoices must be in writing and state with

particularity the grounds therefor and must be submitted to the affected professional within ten (10) calendar days after delivery of such invoices to the Review Parties (such ten (10) day calendar period, the “Review Period”). If no written objection is received prior to the expiration of the Review Period from the Review Parties, the Debtors shall pay such invoices within five (5) business days following the expiration of the Review Period. If an objection is received within the Review Period, the Debtors shall promptly pay the undisputed amount of the invoice within five (5) business days, and the disputed portion of such invoice shall not be paid until such dispute is resolved by agreement between the affected professional and the objecting party or by order of this Court. Any hearing to consider such an objection to the payment of any fees, costs or expenses set forth in a professional fee invoice hereunder shall be limited to the reasonableness of the fees, costs and expenses that are the subject of such objection. All such unpaid fees, costs, expenses and other amounts owed or payable to the DIP Lender shall be secured by the DIP Collateral and afforded all of the priorities and protections afforded to the DIP Obligations under the DIP Loan Documents and this Final Order.

(b) Reserved.

(c) Notwithstanding anything contained in this Final Order to the contrary, any and all payments, premiums, fees, costs, expenses, and other amounts paid at any time by any of the Debtors to the DIP Lender pursuant to the requirements of this Final Order or the DIP Loan Documents shall be non-refundable and irrevocable, are hereby approved, and shall not be subject to any challenge, objection, defense, claim or cause of action of any kind or nature whatsoever, including, without limitation, avoidance (whether under chapter 5 of the Bankruptcy Code or under applicable law (including any applicable state law Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law)), reduction, setoff, offset, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), reclassification, disgorgement, disallowance, impairment, marshaling, surcharge, or recovery or any other cause of action, whether arising under the Bankruptcy Code, applicable

non- bankruptcy law or otherwise, by any person or entity (subject, solely in the case of the DIP Professional Fees and Expenses, to paragraph 6(a) of this Final Order).

7. Cash Management. Until such time as all DIP Obligations are Paid in Full, the Debtors shall maintain the cash management system in accordance with the applicable “first day” order and such deposit accounts shall, upon the request of the DIP Lender, be subject to a control agreement in favor of the DIP Lender as required by the DIP Loan Documents (excluding for the avoidance of doubt, the Carve Out Account, and subject to any mandatory prepayment obligations owed to the DIP Lender, any account into which proceeds of any asset sales are escrowed and any account into which a government payor deposits accounts receivable).

8. Indemnification. The Debtors are hereby authorized to and hereby agree to indemnify and hold harmless the DIP Lender and its affiliates, directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing the DIP Lender (collectively, an “Indemnified Party”) from and against: (a) all obligations, demands, claims, damages, losses and liabilities (including, without limitation, reasonable fees and disbursements of counsel) (collectively, “Indemnity Claims”) as set forth in the DIP Loan Documents including those asserted by any other party in connection with the transactions contemplated by the DIP Loan Documents; and (b) all losses or expenses incurred, or paid by the DIP Lender from, following, or arising from the transactions contemplated by the DIP Loan Documents, including reasonable and documented attorneys’ fees and expenses, except for Indemnity Claims and/or losses directly caused by the DIP Lender’s fraud, gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any of the Debtors or any of their respective directors, security holders or creditors, an Indemnified Party, or if any other Person or Indemnified Party is otherwise a party thereto, and whether or not the transactions contemplated hereby are consummated. No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any

Debtor or any of its subsidiaries or any shareholders or creditors of the foregoing for or in connection with the transactions contemplated hereby, except to the extent such liability is determined by a court of competent jurisdiction in a final non-appealable judgment or order to have resulted solely from such Indemnified Party's gross negligence, willful misconduct or material breach of the DIP Loan Documents. All indemnities of the Indemnified Parties shall constitute DIP Obligations secured by the DIP Collateral and afforded all of the priorities and protections afforded to the DIP Obligations under the DIP Loan Documents and this Final Order.

9. DIP Superpriority Claims. In accordance with section 364(c)(1) of the Bankruptcy Code, the DIP Obligations shall constitute allowed senior administrative expense claims against each Debtor and their estates (the "DIP Superpriority Claims") with priority in payment over any and all administrative expenses at any time existing or arising, of any kind or nature whatsoever, including, without limitation, the kinds specified or ordered pursuant to any provision of the Bankruptcy Code, including, but not limited to, sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 and 1114 of the Bankruptcy Code or otherwise, including those resulting from the conversion of any of the Chapter 11 Cases pursuant to section 1112 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment; provided, however, that the DIP Superpriority Claims shall be subject to and subordinate to only the Carve Out; provided, further that the DIP Superpriority Claims shall have recourse to and be payable from all prepetition and postpetition property and assets of the Debtors and the estates and all DIP Collateral and all proceeds thereof; provided that, the DIP Lender may seek payment from the following DIP Collateral only after using commercially reasonable efforts to seek payment from all other DIP Collateral and so long as such payment is otherwise in accordance with the DIP Documents, and in any event no sooner than December 15, 2024: (a) proceeds ("Tort Claim Proceeds") of commercial tort claims, and claims, actions, suits, causes of action, if any, that may be brought by the Debtors or their estates against parties that are current or former "insiders" of the Debtors



as such term is defined in 11 U.S.C. § 101(31), or are current or former “affiliates” of the Debtors as such term is defined in 11 U.S.C. § 101(31), including, but not limited to, the Debtors’ current and former direct and indirect parent entities and the Debtors’ current and former insiders (“Tort Claims”) and (b) proceeds (“Avoidance Action Proceeds”) of any actions, claims, or remedies under sections 544, 545, 547, 548, and 550 of the Bankruptcy Code or other similar or related state or federal statutes or common law, including fraudulent transfer laws (“Avoidance Actions”). The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise. Any Avoidance Action Proceeds and Tort Claim Proceeds received by the Debtors shall be retained by the Debtors until the DIP Obligations are paid in full. No Avoidance Action Proceeds or Tort Claim Proceeds shall be used to repay the DIP Obligations without at least five (5) business days’ notice to Committee, during which time the Committee may seek expedited relief from the Court for a determination whether the obligation to use commercially reasonable efforts to seek payment from all other DIP Collateral has been satisfied.

10. DIP Liens.

(a) As security for the DIP Obligations, the DIP Lender is granted continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected priming first lien security interests in and liens (collectively, the “DIP Liens”) on the DIP Collateral as collateral security for the prompt and complete performance and payment when due (whether at the Maturity Date (as defined in the DIP Credit Agreement), by acceleration, or otherwise) of the DIP Obligations under the terms of the DIP Loan Documents and this Final Order. The term “DIP Collateral” means collectively all of the Debtors’ right, title and interest in, to and under all of the Debtors’ assets, including, but not limited to the following, in each case, whether now owned or existing or hereafter acquired, created or arising and wherever located: all assets and property of such Debtor and its estate, real or personal, tangible or intangible, now owned or

hereafter acquired, whether arising before or after the Petition Date, including, without limitation, all fee-owned real properties listed on Schedule ~~4.11(b)~~ of the DIP Credit Agreement, contracts, contract rights, licenses, general intangibles, instruments, equipment, accounts, documents, goods, inventory, fixtures, documents, cash, cash equivalents, accounts receivables, chattel paper, letters of credit and letter of credit rights, investment property (including, without limitation, all equity interests owned by any Loan Party in its current and future subsidiaries), arbitration awards, money, insurance, receivables, receivables records, deposit accounts, collateral support, supporting obligations and instruments, fixtures, all interests in leaseholds and real properties, all patents, copyrights, trademarks, all trade names and other intellectual property (whether such intellectual property is registered in the United States or in any foreign jurisdiction), together with all books and records relating to the foregoing, all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing (as such terms are defined in the Uniform Commercial Code as in effect from time to time in the State of New York) and (i) proceeds of actions brought under section 549 of the Bankruptcy Code to recover any postpetition transfer of DIP Collateral and (ii) the Avoidance Action Proceeds and Tort Claim Proceeds; provided, however, that DIP Collateral shall not include Tort Claims or Avoidance Actions.

(b) To the fullest extent permitted by the Bankruptcy Code or applicable law, and except as otherwise set forth herein, any provision of any lease other than a real property lease, loan document, easement, use agreement, proffer, covenant, license, contract, organizational document, or other instrument or agreement that requires the consent or the payment of any fees or obligations to any entity in order for any of the Debtors to pledge, grant, mortgage, sell, assign, or otherwise transfer any fee or leasehold interest or the proceeds thereof or other DIP Collateral, shall have no force or effect with respect to the DIP Liens on such leasehold interests or other applicable DIP Collateral or the proceeds of any assignment and/or

sale thereof by any Debtor, in favor of the DIP Lender in accordance with the terms of the DIP Loan Documents or this Final Order.

11. Priority of DIP Liens.

(a) To secure the DIP Obligations, immediately and automatically upon and effective as of entry of this Final Order, the DIP Liens granted to the DIP Lender under this Final Order are continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected first priority priming DIP Liens in the DIP Collateral as follows, in each case subject to the Carve Out and the Permitted Prior Liens:

(i) *Liens Priming the Prepetition Liens.* Pursuant to section 364(d)(1) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected priming first priority senior liens and security interests in the DIP Collateral, regardless of where located, which senior priming liens and security interests in favor of the DIP Lender shall be senior to the Prepetition Liens. For the avoidance of doubt, as a result of the priming of the Prepetition Liens pursuant to this Final Order, the DIP Lender shall have a first priority senior priming lien and security interest in the “Collateral” as defined in any of the Prepetition Loan Documents;

(ii) *Liens on Unencumbered Property.* Pursuant to section 364(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected first priority liens on and security interests in all DIP Collateral that is not otherwise subject to any valid, enforceable, and non-avoidable liens on and security interests in the DIP Collateral that (A) were perfected prior to the Petition Date (or perfected on or after the Petition Date to the extent permitted by Section 546(b) of the Bankruptcy Code), and (B) are not subject to avoidance, disallowance, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law, (the “Unencumbered Property”); provided, however, that the DIP Liens shall have priority over all Prepetition Liens; and

(iii) *Liens Junior to Certain Other Liens.* Pursuant to section 364(c)(3) of the Bankruptcy Code, valid, enforceable, non-avoidable automatically and fully perfected junior liens on and security interests in all DIP Collateral (other than as set forth in clauses (i) and (ii)) encumbered by the Permitted Prior Liens.

(b) Except as expressly set forth herein, the DIP Liens and the DIP Superpriority Claims shall not be made junior to or *pari passu* with (1) any lien, security interest or claim heretofore or hereinafter granted in any of the Chapter 11 Cases or any successor cases

(collectively, the “Successor Cases”), and shall be valid and enforceable against the Debtors, their estates, any trustee or any other estate representative appointed or elected in the Chapter 11 Cases or any Successor Cases and/or upon the dismissal or conversion of any of the Chapter 11 Cases or any Successor Cases, (2) any lien that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or otherwise, (3) any intercompany or affiliate lien or claim, and (4) any liens arising after the Petition Date excluding any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, or board for any liability of the Debtors.

(c) Notwithstanding anything herein or in the DIP Loan Documents to the contrary, the priming liens granted pursuant to section 364(d)(1) of the Bankruptcy Code in this Final Order shall not apply to encumber the Excluded HUD Mortgage Collateral (as defined below) owned by the following Debtors (the “HUD Debtors”): Petersen Health Care – Illini, LLC; Petersen Roseville, LLC; Petersen 23 LLC; Petersen 26 LLC; Petersen 27 LLC; Petersen 29 LLC; Petersen 30 LLC; South Elgin, LLC; Jonesboro, LLC; Macomb, LLC; Petersen Roseville, LLC; and SJL Health Systems, Inc. “Excluded HUD Mortgage Collateral” means the “real property” portion of the HUD Lenders’ collateral, with real property defined specifically to be the ground, buildings, fixtures (as defined in Article 9, § 102 of the UCC) , together with, in each case related thereto, (i) claims under any real property insurance and the proceeds thereof, (ii) condemnation claims, awards and proceeds; and (iii) any funds held by HUD Lenders in escrow or reserves relating to such real property or loan secured thereby (“Reserves”). For the avoidance of doubt, the Excluded HUD Mortgage Collateral does not include accounts, contract rights, chattel paper, cash (to the extent such cash is not Reserves or proceeds of any other Excluded HUD Mortgage Collateral), general intangibles, machinery, equipment, goods, inventory, furniture, letter of credit rights, books and records, deposit accounts, documents, instruments, commercial tort claims, leases and leaseholds and rents, or the going concern value of any of the Debtors’ business operations, including any government issued licenses issued in

connection with the operations of the Debtors' business. Funds shall be released from Reserves to pay any real estate tax obligations owed by the applicable HUD Debtor that come due during the pendency of the Chapter 11 Cases, up to a cap in the aggregate of \$1,000,000. HUD Lenders are authorized to use Reserves to pay mortgage insurance premiums consistent with prepetition amounts of such insurance in accordance with applicable loan documents and/or regulations as the same come due during the pendency of the Chapter 11 Cases. *For the avoidance of doubt, in the event of a dispute as to the valuation of any part of the Excluded HUD Mortgage Collateral, such part of the Excluded HUD Mortgage Collateral shall be valued on an unoccupied market value basis and shall not be valued on a going concern, in-use, or as-occupied basis; provided, however, the Reserves shall not be subject to such valuation method.*

12. Use of Cash Collateral. The Debtors are authorized to use Cash Collateral to fund the postpetition working capital needs of the Debtors during the pendency of the Chapter 11 Cases that are not funded with the DIP Facility and to pay the allowed administrative costs and expenses of the Chapter 11 Cases not funded by the DIP Facility, each solely in accordance with the DIP Loan Documents, the Initial DIP Budget and any Approved Budget and this Final Order, provided that the Debtors' performance against the Approved Budget shall be subject to variance permitted in the DIP Credit Agreement, and provided further that funds in Reserves held by HUD Lenders may be used by the Debtors and/or HUD Lenders (as applicable) only for the payment, when and as due post-petition, of real estate taxes owed on the HUD Debtor's property that is the subject of such Reserve and the mortgage insurance premiums as set forth in paragraph 11(c) herein. The Initial DIP Budget was attached to the Interim Order. Each proposed DIP Budget shall only become an Approved Budget for the use of Cash Collateral and DIP Obligations as set forth in this Final Order and the DIP Loan Documents when it is agreed upon by the Debtors (after consultation with the Committee) and DIP Lender. The Debtors' use of Cash Collateral shall automatically terminate upon the occurrence of an Event of Default (as

defined below). Any increase in the amounts budgeted for the Committee's professionals' fees and expenses in any proposed Budget shall be subject to prior written consent of the Prepetition Secured Parties or further Court order.

13. Adequate Protection of Prepetition Secured Parties. Each Prepetition Secured Party is entitled, pursuant to sections 361, 362, 363(c)(2), 363(e) and 507 of the Bankruptcy Code, to adequate protection of its interest in its respective Prepetition Collateral, (i) in an amount equal to the diminution in value of such Prepetition Secured Party's interests in its respective Prepetition Collateral from and after the Petition Date, if any, for any reasons provided under the Bankruptcy Code, and (ii) in respect of the Cost Allocation. In consideration for the foregoing, each Prepetition Secured Party is hereby granted the following in the amount of such diminution or in respect of the Cost Allocation, as applicable (collectively, together with the payment of the professional fees of certain Prepetition Secured Parties as detailed in paragraph ~~RS~~ of this Final Order, the "Adequate Protection Obligations"):

(a) *Adequate Protection Claims and Liens for Consenting Lenders.* Each Prepetition Secured Party who does not object at the Final Hearing and affirmatively consents in writing ~~prior to the commencement~~within 15 days of ~~the entry of this~~ Final Hearing Order to being primed by the DIP Lender and the Consenting Lender Cost Allocation Adequate Protection Claims as and to the extent provided in this Final Order (any such Prepetition Secured Party, a "Consenting Lender") is hereby granted an allowed claim against ~~the all~~ Debtors ~~that are obligors under such Consenting Lender's Prepetition Loan Documents,~~ in the amount equal to the diminution in value of such Consenting Lender's interests in its respective Prepetition Collateral from and after the Petition Date, if any, for any reasons provided under the Bankruptcy Code (with respect to each such Consenting Lender, the "Consenting Lender Diminution Adequate Protection Claim"), which is hereby secured (effective and perfected upon the date of this Final Order and without the necessity of any mortgages, security agreements, pledge agreements, financing statements, or other agreements) by a valid, perfected replacement

security interest in and lien (with respect to each such Consenting Lender, the “Consenting Lender Diminution Adequate Protection Liens”) on the DIP Collateral ~~owned by the Debtors that are obligors under such Consenting Lender’s Prepetition Loan Documents~~, but not including the Excluded HUD Mortgage Collateral or the Specified Assets (as defined below) (with respect to each such Consenting Lender, the “Consenting Lender Diminution Adequate Protection Collateral”). Each Consenting Lender’s Consenting Lender Diminution Adequate Protection Lien shall be (i) *pari passu* with each other Consenting Lender’s Consenting Lender Diminution Adequate Protection Lien, (ii) junior only to the DIP Liens, Permitted Prior Liens, the Carve Out, ~~the Prepetition Liens of Non-Consenting Lenders,~~ (including without limitation the Prepetition Liens on the Excluded HUD Mortgage Collateral) and the Consenting Lender Cost Allocation Adequate Protection Liens, and (iii) senior to the Non-Consenting Lender Adequate Protection Liens.

(b) In addition, each of the Consenting Lenders is hereby granted an allowed claim against all Debtors, in the amount equal to such Consenting Lender’s Cost Allocation ~~Amount~~ Overpayment (as defined below), if any (with respect to each such Consenting Lender, the “Consenting Lender Cost Allocation Adequate Protection Claim” and, with the Consenting Lender Diminution Adequate Protection Claim, the “Consenting Lender Adequate Protection Claim”), which is hereby secured (effective and perfected upon the date of this Final Order and without the necessity of any mortgages, security agreements, pledge agreements, financing statements, or other agreements) by a valid, perfected replacement security interest in and lien on the DIP Collateral, but not including the Excluded HUD Mortgage Collateral or (i) Avoidance Action Proceeds, or (ii) Tort Claims Proceeds ((i) and (ii), collectively, the “Specified Assets”) (with respect to each such Consenting Lender, the “Consenting Lender Cost Allocation Adequate Protection Liens” and, with the Consenting Lender Diminution Adequate Protection Liens, the “Consenting Lender Adequate Protection Liens”), including, but not limited to, the “Collateral” as defined in any of the Prepetition Loan Documents, the Prepetition Collateral, and the DIP

Collateral (with respect to each such Consenting Lender, the “Consenting Lender Cost Allocation Adequate Protection Collateral” and, with the Consenting Lender Diminution Adequate Protection Collateral, the “Consenting Lender Adequate Protection Collateral”). Such Consenting Lender Cost Allocation Adequate Protection Liens shall be (i) *pari passu* with each other Consenting Lender’s Consenting Lender Cost Allocation Adequate Protection Lien, and (ii) senior in priority to (x) Prepetition Liens (other than on Excluded HUD Mortgage Collateral), (y) Consenting Lender Diminution Adequate Protection Liens, and (z) Non-Consenting Lender Adequate Protection Liens. Notwithstanding the foregoing, the Prepetition Secured Parties’ right to seek and receive additional adequate protection under any subsequent orders entered by this Court, including monthly cash payments, is hereby reserved and nothing herein shall be deemed a waiver of such rights. No Consenting Lender Cost Allocation Adequate Protection Claim may be recovered from any other Consenting Lender’s Prepetition Collateral in an amount that would cause repayment of the DIP Obligation and Consenting Lender Cost Allocation Adequate Protection Claims in excess of such other Consenting ~~Lender~~ Lender’s Attributable Cost Allocation.

(c) *507(b) Claims for Consenting Lenders.* Each Consenting Lender is hereby granted an allowed superpriority administrative expense claim as provided in section 507(b) of the Bankruptcy Code against all Debtors in the amount of such Consenting Lender’s Consenting Lender Adequate Protection Claim with, except as set forth in this Final Order, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the “Consenting Lender 507(b) Claims”); which Consenting Lender 507(b) Claims shall have recourse to and be payable only from the Consenting Lender ~~Cost Allocation~~ Adequate Protection Collateral in the ~~cases~~ same order of priority as the Consenting Lender ~~Cost Allocation~~ Adequate Protection ~~Claim~~ Liens and, ~~with respect to for~~ the ~~Consenting Lender Diminution Adequate Protection Claim, the Consenting Lender Diminution Adequate Protection Collateral~~ avoidance of doubt, shall not be payable



from the Specified Assets. The Consenting Lender 507(b) Claims shall, in all instances, be subject and subordinate only to (i) the Carve Out and (ii) the DIP Superpriority Claims. The Consenting Lenders shall not receive or retain any payments, property, or other amounts in respect of the Consenting Lender 507(b) Claims unless and until the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated. The Consenting Lender 507(b) Claims shall be senior to the Non-Consenting Lender 507(b) Claims in all respects. ~~For the avoidance of doubt, any Consenting Lender 507(b) Claims that are on account of the Consenting Lender Diminution Adequate Protection Claims shall be allowed only against the Debtors that are obligors under the applicable Consenting Lender's Prepetition Loan Documents.~~

(d) *Adequate Protection Claims and Liens for Non-Consenting Lenders.*

Each Prepetition Secured Party that is not a Consenting Lender (each, a “Non-Consenting Lender”) is hereby granted a claim against the Debtors that are obligors under the Non-Consenting Lender’s Prepetition Loan Documents, in the amount equal to the diminution in value of such Non-Consenting Lender’s interest in its respective Prepetition Collateral from and after the Petition Date, if any, for any reasons provided under the Bankruptcy Code (the “Non-Consenting Lender Adequate Protection Claim,” together with the Consenting Lender Adequate Protection Claim, the “Adequate Protection Claims”), which is hereby secured (effective and perfected upon the date of this Final Order and without the necessity of any mortgages, security agreements, pledge agreements, financing statements, or other agreements) by a valid, perfected replacement security interest in and lien on such Non-Consenting Lender’s Prepetition Collateral (the “Non-Consenting Lender Adequate Protection Liens,” together with the Consenting Lender Adequate Protection Liens, the “Adequate Protection Liens”), including, but not limited to, the “Collateral” as defined in any of the Prepetition Loan Documents to which such Non-Consenting Lender was granted Prepetition Collateral (with respect to each such

Non-Consenting Lender, the “Non-Consenting Lender Adequate Protection Collateral,” together with the Consenting Lender Adequate Protection Collateral, the “Adequate Protection Collateral”); provided, however, that the Non-Consenting Lender Adequate Protection Collateral shall not include the Specified Assets. For the avoidance of doubt, and notwithstanding anything to the contrary herein, other than with respect to Consenting Lender Cost Allocation Adequate Protection Claims, no Prepetition Secured Party shall be entitled to payment on account of an asserted Adequate Protection Claim without further order of the Court determining (i) that such Prepetition Secured Party’s interest in its Prepetition Collateral has diminished in value and (ii) the amount of such diminution in value.

(e) *507(b) Claims for Non-Consenting Lenders.* Each Non-Consenting Lender is hereby granted, an allowed superpriority administrative expense claim, as provided in section 507(b) of the Bankruptcy Code against ~~only~~ the Debtors that are obligors under the Non-Consenting Lender’s Prepetition Loan Documents, ~~as provided in section 507(b) of the Bankruptcy Code~~ in the amount of the Non-Consenting Lender Adequate Protection Claim with, except as set forth in this Final Order, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the “Non-Consenting Lender 507(b) Claims,” together with the Consenting Lender 507(b) Claims, the “507(b) Claims”). The Non-Consenting Lender 507(b) Claims shall be payable only from the Non-Consenting Lender Adequate Protection Collateral and, for the avoidance of doubt, shall not be payable from the Specified Assets. The Non-Consenting Lender 507(b) Claims shall, in all instances, be subject and subordinate only to (i) the Carve Out, (ii) the DIP Superpriority Claims, and ~~(iviii)~~ claims of Consenting Lenders with respect to the Cost Allocation ~~Amount~~Overpayment. The Non-Consenting Lenders shall not receive or retain any payments, property, or other amounts in respect of the Non-Consenting Lender 507(b) Claims unless and until the DIP Obligations (other than contingent indemnification obligations as to which no claim

has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated.

(f) *Defined Terms.*

(i) “Cost Allocation” shall mean (i) the direct costs allocable to a home (e.g., food, medicine, utilities, payroll) minus the revenue from such home ~~used to pay such costs~~ (“Direct Costs”) ~~plus~~ (which, if it yields a negative number, will be credited against Indirect Costs) plus (ii) each home’s pro rata portion of the general costs of the Chapter 11 Cases, calculated by the Debtors on a per bed basis (i.e., determined by using number of beds in such home as of the Petition Date as the numerator, and the aggregate number as of the Petition Date of all beds in all homes owned by Debtors other than Receivership Debtors as the denominator), minus, solely with respect to Consenting Lenders, the Exit Fee Discount (defined below) (“Indirect Costs”). Each Prepetition Secured Party’s pro rata portion of Indirect Costs shall be fixed for the duration of the Chapter 11 Cases, subject only to any decrease or increase to the total number of Debtors in the Chapter 11 Cases and the allocations described in the definition of Exit Fee Discount below. The Cost Allocation for Direct Costs shall be updated within ten (10) business days of each month to reflect actual incurred Direct Costs, filed with the Court, and served on all Prepetition Secured Parties, the Committee, and the U.S. Trustee.

(ii) The “Exit Fee Discount” shall mean an amount equal to 25% of the Exit Fee if there are any Non-Consenting Lenders, and \$0 of the Exit Fee if there are no Non-Consenting Lenders. The Exit Fee Discount shall be allocated ratably to all Non-Consenting Lenders, if any, as part of the Cost Allocation. To the extent the Exit Fee Discount cannot be recovered in full from the Non-Consenting Lenders’ collateral, any such portion of the Exit Fee Discount will be reallocated to the Consenting Lenders pro rata using the per bed calculation used for the general costs of the Chapter 11 Cases.

(iii) “Attributable Cost Allocation” for any Prepetition Secured Party shall mean the Cost Allocation attributable to the homes that are part of such Prepetition Secured Party’s Prepetition Collateral.

(iv) “Cost Allocation ~~Amount~~Overpayment” for any Consenting Lender means that portion of the DIP Facility repaid from such Consenting Lender’s Prepetition Collateral in excess of such Consenting Lender’s Attributable Cost Allocation.

(g) *Sale Proceeds Reconciliation Period.* All sale proceeds of DIP Collateral in excess of the aggregate Cost Allocation ~~Amount~~Overpayment for the Collateral sold at such time shall be held in escrow by the Debtors for thirty (30) days prior to being used to pay

down the DIP Facility if sale proceeds then on hand are deficient to repay the entire Cost Allocation ~~Amount~~ Overpayment to the affected Consenting Lender(s) at that time.

(h) *Reporting.* As additional adequate protection, all Prepetition Secured Parties and counsel for HUD shall receive monthly cash flow reporting and all reports required to be delivered under the DIP Facility (substantially concurrently with delivery to the DIP Lender). The Debtors shall provide copies of all such reports to the Committee concurrently with delivery to the DIP Lender and the Prepetition Secured Parties.

(i) Notwithstanding anything to the contrary contained herein, any Consenting Lender Adequate Protection Claim of the Sector Lenders shall (a) have priority over any Consenting Lender Adequate Protection Claim of the HUD Lenders on the first \$1.5 million of any proceeds of the sale of assets of the Receivership Debtors, Petersen Health Care X, LLC, Petersen Health Network, LLC, and, solely to the extent such entities become Debtors, Charleston HCC, LLC, Charleston HCO, LLC, Cumberland HCC, LLC, and Cumberland HCO, LLC, received by the Debtors' estates, and (b) share *pari passu* with any Consenting Lender Adequate Protection Claim of the HUD Lenders on the next \$2.9 million of any such proceeds, up to \$4.4 million; provided, however, that (x) as to proceeds of the sale of assets of the Receivership Debtors, (i) the first \$3.3 million of such proceeds can be used to pay Consenting Lender Adequate Protection Claims and (ii) such proceeds in excess of \$3.3 million shall not be available to pay any Adequate Protection Claims and shall not be subject to any Adequate Protection Liens; and (y) as to proceeds of the sale of assets of Petersen Health Care X, LLC, Petersen Health Network, LLC, and, solely to the extent such entities become Debtors, Charleston HCC, LLC, Charleston HCO, LLC, Cumberland HCC, LLC, and Cumberland HCO, LLC, any such proceeds in excess of the \$1.1 million for Consenting Lender Adequate Protection Claims may be used to pay Consenting Lender Diminution Adequate Protection Claims but no other Adequate Protection Claims. Any Consenting Lender Diminution Adequate

Protection Claims of the Sector Lenders and HUD Lenders that are not otherwise repaid pursuant to this Final Order shall, in addition to all other protections afforded to such parties and claims by this Final Order, be allowed as unsecured claims in the bankruptcy estates of the Receivership Debtors, Petersen Health Care X, LLC, Petersen Health Network, LLC, and, solely to the extent such entities become Debtors, Charleston HCC, LLC, Charleston HCO, LLC, Cumberland HCC, LLC, and Cumberland HCO, LLC.

(j) In the event all Prepetition Secured Obligations and Adequate Protection Claims are paid in full, the Debtors and the Committee shall work in good faith to agree on allocating the DIP Obligations, the Direct Costs, and the Indirect Costs among the Debtors for purposes of distributions to unsecured creditors.

14. DIP Termination Event; Exercise of Remedies.

(a) DIP Termination Events. An “Event of Default” shall exist upon the occurrence of any of the events ~~listed in Section [ ] of the DIP Credit Agreement~~ that triggers the DIP Termination Date (as defined in the DIP ~~Credit Agreement~~) ~~(each~~ Loan Documents, a “DIP Termination Event”).

(b) Exercise of Remedies. Upon the occurrence of a DIP Termination Event, without further notice to, hearing of, application to, or order from this Court, the automatic stay provisions of section 362 of the Bankruptcy Code shall be vacated and modified to the extent necessary to permit the DIP Lender to take any of the following actions, at the same or different time: (i) deliver a written notice (which may be via electronic mail) to counsel for the Debtors, the U.S. Trustee and counsel for the Committee, (the “Remedies Notice”) declaring the occurrence of a DIP Termination Event (such date, the “DIP Termination Declaration Date”) and/or deliver a Carve Out Trigger Notice (as defined and in the manner described below), (ii) declare the termination, reduction or restriction of the commitments under the DIP Facility (to the extent any such commitment remains), (iii) declare all DIP Obligations to be immediately due and payable, without presentment, demand or protest or other notice of any kind, all of

which are expressly waived by the Debtors, (iv) declare the termination, restriction or reduction of the DIP Facility and the DIP Loan Documents as to any further liability or obligation thereunder, but without affecting the DIP Liens, the DIP Superpriority Claims, or the DIP Obligations, (v) charge default interest at the default rate set forth in the DIP Loan Documents, and (vi) declare the termination, restriction, or revocation of the ability of the Debtors to use Cash Collateral. The Debtors shall promptly provide any Remedies Notice to counsel for the Consenting Lenders.

(c) Waiting Period Procedures. The Debtors may seek an emergency hearing during the period beginning on the DIP Termination Date and prior to the expiration of ten (10) calendar days following the DIP Termination Date (such period, the “Waiting Period”). During the Waiting Period, the Debtors shall continue to have the right to use DIP Collateral (including Cash Collateral) in accordance with the terms of this Final Order and the Approved Budget; provided, however, that the professional fees and expenses of the Professional Persons (as defined below) shall be governed by Paragraph 16 and subject to the Approved Budget. The DIP Lender shall not (x) object to any motion filed by the Debtors during the Waiting Period seeking an expedited hearing with respect to the Remedies Notice or (y) seek to reduce such Waiting Period.

(d) Rights and Remedies Following Termination Date. Following a DIP Termination Date and unless this Court has entered an order prior to the expiration of the Waiting Period finding that an Event of Default has not occurred, the DIP Lender shall be entitled to exercise all rights and remedies in accordance with the DIP Loan Documents, this Final Order, and applicable law and the automatic stay of section 362 of the Bankruptcy Code shall automatically, without further order, be lifted, to allow the DIP Lender to pursue all rights and remedies in accordance with the DIP Loan Documents, this Final Order, and applicable law.

(e) Leased Premises. Following a DIP Termination Event (subject to the terms of paragraph 14 herein), the DIP Lender shall be entitled to enter upon any leased premises

in accordance with (i) a separate agreement with the landlord by and between the DIP Lender and the applicable landlord, (ii) consent of the landlord, (iii) upon entry of an order of this Court, upon notice to the landlord and a hearing, or (iv) in accordance with the rights of the DIP Lender under applicable non-bankruptcy law.

15. No Waiver by Failure to Seek Relief. The rights and remedies of the DIP Lender specified herein are cumulative and not exclusive of any rights or remedies that the DIP Lender may have under this Final Order, the DIP Loan Documents, applicable law, or otherwise. The failure or delay on the part of the DIP Lender to seek relief or otherwise exercise its rights and remedies under this Final Order, the DIP Loan Documents, or applicable law, as the case may be, shall not constitute a waiver of any of its respective rights hereunder, thereunder, or otherwise. Except as expressly set forth herein, none of the rights or remedies of the DIP Lender under this Final Order or the DIP Loan Documents shall be deemed to have been amended, modified, suspended, or waived unless such amendment, modification, suspension, or waiver is express, in writing and signed by the DIP Lender. No consents required hereunder by the DIP Lender shall be implied by any inaction or acquiescence by the DIP Lender.

16. Carve Out.

(a) Priority of Carve Out. The DIP Liens and the DIP Superpriority Claims shall be subject and subordinate to payment of the Carve Out. The Carve Out shall be senior to all claims and liens over all assets of the Debtors, including any DIP Collateral, as set forth in this Final Order.

(b) *Carve Out.* The term “Carve Out” shall mean the sum of (i) all fees required to be paid to the Clerk of this Court and to the U.S. Trustee under 28 U.S.C. § 1930(a), together with any interest thereon pursuant to 31 U.S.C. § 3717 (“Statutory Fees”), which shall not be subject to the Approved Budget; (ii) Court-allowed fees and expenses of a trustee appointed under section 726(b) of the Bankruptcy Code in an amount not to exceed \$25,000, (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all

unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”), the Patient Care Ombudsman appointed pursuant to the *Order Directing the Appointment of a Patient Care Ombudsman* (Docket No. 137) and her professionals (the “PCO Professionals”)<sup>4</sup> and persons or firms retained by the Committee, pursuant to sections 328 or 1103 of the Bankruptcy Code (the “Committee Professionals,” together with the Debtor Professionals, the Patient Care Ombudsman and the PCO Professionals, the “Professional Persons”), at any time before or on the first business day following delivery by the DIP Lender of a Carve Out Trigger Notice (as defined below), whether allowed by this Court prior to or after delivery of a Carve Out Trigger Notice (the “Pre-Trigger Date Fees”), subject to and not to exceed the Approved Budget and any limits by this Final Order, provided that Professional Persons may carry forward and carry backward budgeted but unused disbursements set forth in the Approved Budget for any week for use in any prior or subsequent week; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$750,000 incurred after the first calendar day following delivery by the DIP Lender of the Carve Out Trigger Notice (the “Trigger Date”), to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve Out Trigger Notice Cap” and together with the Pre-Trigger Date Fees, the “Carve Out Cap”); provided, however, that nothing herein shall be construed to impair the ability of the DIP Lender to object to the fees, expenses, reimbursement, or compensation described in clauses (iii) or (iv) above, on any grounds. Prior to the occurrence of the Trigger Date, the Carve-Out for Professional Persons shall be funded on a weekly basis to a trust or segregated account in the amounts specified in the Approved Budget for distribution to such Professional Persons once such fees and expenses are allowed by the Court. Following the occurrence of the Trigger Date,

<sup>4</sup> The PCO Professionals shall be permitted to seek and obtain compensation pursuant to the procedures and timeline set forth in the Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals [Dkt #235].



any remaining fees and expenses in the amount specified in the Approved Budget for the Professional Persons through the Trigger Date, including the Pre-Trigger Date Fees, shall be funded to a trust or segregated account and distributed to such Professionals once such fees and expenses are allowed by the Court.

(c) For purposes of the foregoing, “Carve Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the DIP Lender or its counsel to the Debtors, their counsel, the U.S. Trustee, counsel for any Consenting Lenders and counsel to the Committee, which notice may be delivered only following the occurrence and during the continuation of an Event of Default and acceleration of the DIP Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked. On the day on which a Carve Out Trigger Notice is received by the Debtors, the Carve Out Trigger Notice shall constitute a demand to the Debtors to transfer cash to the Carve Out Account in an amount equal to the Carve Out Cap.

(d) Carve Out Account. Immediately upon the delivery of a Carve Out Trigger Notice, and prior to the payment of any DIP Obligations, the Debtors shall be required to deposit cash in the amount of the Carve Out Cap into a segregated account not subject to the control of the DIP Lender (the “Carve Out Account”). The amounts in the Carve Out Account shall be available only to satisfy amounts included in the Carve Out until such amounts are paid in full. The amount in the Carve Out Account shall be reduced on a dollar-for-dollar basis for amounts included in the Carve Out that are paid after the delivery of the Carve Out Trigger Notice, and the Carve Out Account shall not be replenished for such amounts so paid. The failure of the Carve Out Account to satisfy in full the amount set forth in the Carve Out shall not affect the priority of the Carve Out.

(e) Carve Out Draw. Subject to exhaustion of the DIP Commitments, the Debtors shall be permitted to draw on the DIP Facility in the amount of the Carve Out less the amounts contained in the Carve Out Account, notwithstanding any default, Event of Default, or the occurrence of a Trigger Date; provided, however, the DIP Lender shall not have any

obligation to fund any Carve Out shortfall beyond what it is obligated to fund under the DIP Commitments. Any Carve Out Trigger Notice shall be deemed a consent by the DIP Lender to the Debtors depositing Cash Collateral or proceeds of the DIP Facility into the Carve Out Account in an amount equal to the sum of the Carve Out Cap.

(f) Payment of Allowed Professional Fees Prior to the Trigger Date. Any payment or reimbursement made prior to the occurrence of the Trigger Date in respect of any Allowed Professional Fees shall not reduce the Carve Out. Nothing herein shall be deemed to abridge the rights of any Professional Persons from submitting an application for allowance of professional fees in an amount greater than the amount identified in the Budget.

(g) No Direct Obligation to Pay Professional Fees; No Waiver of Right to Object to Fees. The DIP Lender and the Prepetition Secured Parties shall not be responsible for the direct payment or reimbursement of any fees or disbursements of any of the Professional Persons incurred in connection with the Chapter 11 Cases or any Successor Cases under any chapter of the Bankruptcy Code. Nothing in this Final Order or otherwise shall be construed to obligate the DIP Lender or any Prepetition Secured Party in any way to pay compensation to, or to reimburse expenses of, any of the Professional Persons, or to guarantee that the Debtors or their estates has sufficient funds to pay such compensation or reimbursement. Notwithstanding any provision in this paragraph to the contrary, no portion of the Carve Out, any Cash Collateral, any DIP Collateral or any proceeds of the DIP Facility (including any disbursements set forth in the Approved Budget or obligations benefitting from the Carve Out) shall be utilized for the payment of professional fees and disbursements to the extent restricted under paragraph 16 herein. Nothing herein shall be construed as consent to the allowance of any fees and/or expenses of any Professional Persons in the Chapter 11 Cases or any Successor Cases, or of any other person or entity, or shall affect the right of the Debtors, the DIP Lender, the Prepetition Secured Parties or any other party in interest to object to the allowance and/or payment of any such fees and expenses or amounts incurred or requested.

17. Limitations on Use of DIP Proceeds, Cash Collateral and Carve Out.

(a) The DIP Facility, DIP Collateral (including Cash Collateral), and Carve Out may not be used in connection with: (i) preventing, hindering, or delaying any of the DIP Lender's enforcement or realization upon any of the DIP Collateral; (ii) using or seeking to use Cash Collateral without the permission of the DIP Lender or selling or otherwise disposing of DIP Collateral without the consent of the DIP Lender or as permitted by the DIP Loan Documents (iii) using or seeking to use any insurance proceeds constituting DIP Collateral without the consent of the DIP Lender; (iv) seeking to amend or modify any of the rights granted to the DIP Lender under this Final Order or the DIP Loan Documents, including seeking to use Cash Collateral and/or DIP Collateral on a contested basis; (v) litigating, objecting to, challenging or contesting in any manner in any way the DIP Liens, DIP Obligations, DIP Superpriority Claims, DIP Collateral (including Cash Collateral), or any other claims, held by or on behalf of the DIP Lender; (vi) asserting, commencing or prosecuting any claims or causes of action whatsoever, including, without limitation, Avoidance Actions or applicable state law equivalents or actions to recover or disgorge payments, against the DIP Lender or any of its respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees; (vii) litigating, objecting to, challenging, or contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the DIP Obligations, the DIP Liens, or any other liens or interests of the DIP Lender; or (ix) seeking to subordinate, recharacterize, disallow or avoid the DIP Obligations.

(b) The Prepetition Collateral and Adequate Protection Collateral (including any Cash Collateral that constitutes Prepetition Collateral or Adequate Protection Collateral) may not be used in connection with: (i) after payment in full of the DIP Obligations, selling or otherwise disposing of Adequate Protection Collateral without the consent of the Prepetition Secured Parties; (ii) seeking to amend, challenge or modify any of the rights granted to the Prepetition Secured Parties under this Final Order or the Prepetition Loan Documents, including

seeking to use Cash Collateral or Adequate Protection Collateral on a contested basis; (iii) litigating, objecting to, challenging or contesting in any manner in any way the Prepetition Collateral, the Adequate Protection Obligations, the Adequate Protection Claims, the 507(b) Claims, the Adequate Protection Collateral, the Adequate Protection Liens or any other claims, held by or on behalf of any of the Prepetition Secured Parties, respectively; (iv) litigating, objecting to, challenging, or contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the Prepetition Liens, the Adequate Protection Liens or any other liens or interests of any of the Prepetition Secured Parties; or (v) seeking to subordinate, recharacterize, disallow or avoid the Adequate Protection Obligations or the liens or claims of any Prepetition Secured Parties. For the avoidance of doubt, and notwithstanding anything to the contrary herein, the Carve Out and the proceeds of the DIP Facility may be used for allowed fees and expenses incurred by the Committee ~~(a)~~ in investigating the validity, enforceability, perfection, priority or extent of the Prepetition Liens ~~and (b) contesting, opposing, or challenging the amount of any asserted Adequate Protection Claims.~~

18. Effect of Stipulation on Third Parties.

(a) *Generally.* The admissions, stipulations, agreements, releases, and waivers set forth in this Final Order (collectively, the “Prepetition Lien and Claim Matters”) are and shall be binding on the Debtors, any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties-in-interest and all of their successors in interest and assigns, including, without limitation, the Committee, unless, and solely to the extent that, a party-in-interest that has sought and obtained standing and the requisite authority to commence a Challenge (as defined below) (other than the Debtors, as to which any Challenge is irrevocably waived and relinquished): (i) has timely filed the appropriate pleadings, and timely commenced the appropriate proceeding required under the Bankruptcy Code and Bankruptcy Rules, including, without limitation, as required pursuant to Part VII of the

Bankruptcy Rules (in each case subject to the limitations set forth in this paragraph 18 of this Final Order) challenging the Prepetition Lien and Claim Matters, but in no event the DIP Liens or the Adequate Protection Liens, as set forth in paragraph 23 of this Final Order (each such proceeding or appropriate pleading commencing a proceeding or other contested matter, a “Challenge”), by no later than July 8, 2024, for any party-in-interest with requisite standing (each the “Challenge Deadline”), as such applicable date may be extended in writing from time to time in the sole discretion of each Prepetition Secured Party with respect to its respective Prepetition Claim and Lien Matters, or by this Court for good cause shown pursuant to an application filed by a party in interest prior to the expiration of the Challenge Deadline, or (ii) this Court enters judgment in favor of the plaintiff or movant in any such timely and properly commenced Challenge proceeding and any such judgment has become a final judgment that is not subject to any further review or appeal. If, prior to the Challenge Deadline, these Chapter 11 Cases convert to cases under chapter 7, or if a chapter 11 trustee is appointed, the Challenge Deadline shall be extended for any such chapter 7 or chapter 11 trustee until the later of (i) July 8, 2024, or (ii) 30 days after such appointment. The Committee shall have standing to commence a Challenge without further order of the Court.

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

Notwithstanding anything to the contrary herein, if any such proceeding is properly and timely commenced, the Prepetition Lien and Claim Matters shall nonetheless remain binding on all other parties-in-interest and preclusive as provided in subparagraph (a) above except to the extent that any of such Prepetition Lien and Claim Matters is expressly the subject of a timely and properly filed Challenge, which Challenge is successful as set forth in a final judgment as provided in subparagraph (a) above, and only as to plaintiffs or movants that have complied with the terms hereof. To the extent any such Challenge proceeding is timely and properly commenced, the Prepetition Secured Parties shall be entitled to payment of the reasonable related costs and expenses, including, but not limited to reasonable attorneys' fees, incurred under the Prepetition Loan Documents in defending themselves in any such proceeding as adequate protection; provided that the payment of such attorneys' fees shall be subject to the same notice requirements, objection procedures, and Review Period as are applicable to the DIP Professional Fees and Expenses under paragraph 6(a) of this Order. Upon a successful Challenge brought pursuant to this paragraph 18, this Court may fashion any appropriate remedy.

19. Bankruptcy Code Sections 506(c) and 552(b) Waivers. Without limiting the Carve Out, the Debtors irrevocably waive and shall be prohibited from asserting (i) any surcharge claim, under section 506(c) of the Bankruptcy Code or otherwise, for any costs and expenses incurred in connection with the preservation, protection or enhancement of, or realization by the DIP Lender upon the DIP Collateral and no costs or expenses of administration that have been or may be incurred in any of the Chapter 11 Cases at any time shall be charged against the DIP Lender or its respective claims or liens (including any claims or liens granted pursuant to this Final Order), and (ii) the "equities of the case" exception under section 552(b) of the Bankruptcy Code in connection with the DIP Facility and the use of Cash Collateral.

20. Application of Proceeds. Except (i) as it relates to the Cost Allocation with respect to the Prepetition Secured Parties and (ii) as set forth in Paragraph 9 with respect to Avoidance Action Proceeds and Tort Claim Proceeds, in no event shall the DIP Lender, with

respect to the DIP Collateral, or the Prepetition Secured Parties, with respect to the Adequate Protection Collateral, be subject to the equitable doctrine of “marshaling” or any other similar doctrine, and all proceeds of such DIP Collateral and Adequate Protection Collateral shall be received and used in accordance with this Final Order.

21. [Reserved].

22. Restrictions on Granting Postpetition Liens. Other than the Carve Out or as otherwise provided in this Final Order or the DIP Loan Documents, no claim or lien having a priority superior or *pari passu* with those granted by this Final Order to the DIP Lender shall be granted or permitted by any order of this Court in the Chapter 11 Cases heretofore or hereafter, and the Debtors will not grant any such mortgages, security interests or liens in the DIP Collateral (or any portion thereof) or the Adequate Protection Collateral (or any portion thereof) or to any other parties pursuant to section 364(d) of the Bankruptcy Code or otherwise, while (i) any portion of the DIP Facility or any other DIP Obligations, are outstanding, or (ii) the DIP Lender has any Commitment under the DIP Loan Documents. For avoidance of doubt, there shall be no restriction and this paragraph shall not apply to and excludes any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Debtors.

23. Automatic Effectiveness of Liens. The DIP Liens and the Adequate Protection Liens shall not be subject to a Challenge and shall attach and become valid, perfected, binding, enforceable, non-avoidable and effective by operation of law as of the date of the entry of this Final Order, automatically, without any further action by the Debtors, the DIP Lender or the Prepetition Secured Parties, respectively, and without the necessity of execution by the Debtors or the filing or recordation, of any financing statements, security agreements, deposit control agreements, vehicle lien applications, mortgages, filings with a governmental unit, or other documents or the taking of any other actions. All DIP Collateral shall be free and clear of other liens, claims and encumbrances, except as provided in the DIP Loan Documents and this Final

Order. All Adequate Protection Collateral shall be free and clear of other liens, claims and encumbrances, except as provided in this Final Order. If the DIP Lender hereafter requests that the Debtors execute and deliver to such party financing statements, security agreements, pledge agreements, control agreements, collateral assignments, mortgages, or other instruments and documents considered by the DIP Lender to be reasonably necessary or desirable to further evidence the perfection of the DIP Liens or the Adequate Protection Liens, as applicable, the Debtors are hereby authorized and directed to execute and deliver such financing statements, security agreements, pledge agreements, control agreements, mortgages, collateral assignments, instruments, and documents, and the DIP Lender is hereby authorized to file or record such documents in its discretion without seeking modification of the automatic stay under section 362 of the Bankruptcy Code, in which event all such documents shall be deemed to have been filed or recorded at the time and on the date of the entry of this Final Order; provided, however, no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens or the Adequate Protection Liens. The DIP Lender, in its sole discretion, may file a photocopy of this Final Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to, or in lieu of, such financing statements, notices of liens or similar statements.<sup>5</sup>

24. Protection Under Section 364(e) of the Bankruptcy Code. The DIP Lender has acted in good faith in connection with this Final Order and its reliance on this Final Order is in good faith. For the avoidance of doubt, the DIP Lender is entitled to all the protections of section 364(e) of the Bankruptcy Code.

25. Reservation of Rights of the DIP Lender and the Prepetition Secured Parties. Notwithstanding any other provision of this Final Order to the contrary, the entry of this Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair: (i) any of the rights of the DIP Lender or the Prepetition Secured Parties under

<sup>5</sup> The provisions of section 1146(a) of the Bankruptcy Code do not apply herein.



the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right of any of such parties to (a) request modification of the automatic stay of section 362 of the Bankruptcy Code, (b) request dismissal of any of these Chapter 11 Cases, conversion of any of these Chapter 11 Cases to cases under chapter 7, or appointment of a chapter 11 trustee or examiner with expanded powers in any of these Chapter 11 Cases, (c) seek to propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans; or (ii) any other rights, claims, or privileges (whether legal or equitable or otherwise) of the DIP Lender or the Prepetition Secured Parties. The delay in or failure of the DIP Lender or the Prepetition Secured Parties to seek relief or otherwise exercise their respective rights and remedies shall not constitute a waiver of any of the DIP Lender's or the Prepetition Secured Parties' rights and remedies.

26. Modification of Stay. Subject to the terms set forth herein, the automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms, rights, benefits, privileges, remedies and provisions of this Final Order and the DIP Loan Documents, including without limitation, to permit the DIP Lender to exercise all rights and remedies provided for in the DIP Loan Documents and this Final Order and to take any and all actions provided therein, in each case, without further notice, application to, order of or hearing before this Court, including those set forth in paragraph 24 of this Final Order.

27. Survival of DIP Liens, DIP Superpriority Claims, Adequate Protection Liens, Adequate Protection Obligations and Other Rights. If, in accordance with section 364(e) of the Bankruptcy Code, this Final Order does not become a final non-appealable order, or if any of the provisions of this Final Order are hereafter modified, amended, vacated or stayed by subsequent order of this Court or any other court, such termination or subsequent order shall not affect the priority, validity, enforceability or effectiveness of (or subordination to the Carve Out of) any lien, security interests or any other benefit or claim authorized hereby with respect to any DIP

Obligations or Adequate Protection Obligations incurred prior to the effective date of such termination or subsequent order. All such liens, security interests, claims and other benefits shall be governed in all respects by the original provisions of this Final Order, and the DIP Lender and Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted herein, including the liens and priorities granted herein, with respect to the DIP Facility and Adequate Protection Obligations, subject to the Carve Out and the Permitted Prior Liens.

28. Proof of Claim. The DIP Lender shall not be required to file proofs of claim with respect to any DIP Obligations or other obligations existing under the DIP Loan Documents or this Final Order, and the evidence presented with the Motion and the record established at the Final Hearing are deemed sufficient to, and do, constitute proofs of claim with respect to the DIP Obligations, secured status, and priority.

29. Survival of this Final Order.

(a) The provisions of this Final Order and any actions taken pursuant hereto shall survive the entry of any order: (i) confirming any plan of reorganization in any of the Chapter 11 Cases; (ii) converting any of the Chapter 11 Cases to a chapter 7 case; or (iii) dismissing any of the Chapter 11 Cases, and the terms and provisions of this Final Order as well as the DIP Superpriority Claims, the DIP Liens in DIP Collateral granted pursuant to this Final Order or the DIP Loan Documents, the Adequate Protection Liens, the 507(b) Claims, and the Adequate Protection Obligations shall continue in full force and effect notwithstanding the entry of any such order.

(b) The DIP Liens and the DIP Superpriority Claims shall maintain their priority as provided by this Final Order or the DIP Loan Documents, and to the maximum extent permitted by law, until all of the DIP Obligations are indefeasibly paid in full in cash and discharged or otherwise treated under a plan of reorganization, which is reasonably acceptable to the DIP Lender. In no event shall any plan of reorganization be allowed to alter the terms of

repayment of any of the DIP Obligations from those set forth in the DIP Loan Documents unless agreed to by and among the Debtors and the DIP Lender.

30. Modifications of DIP Loan Documents. The Debtors and the DIP Lender are hereby authorized to implement, in accordance with the terms of the DIP Loan Documents any non-material modifications of the DIP Loan Documents without further notice, motion or application to, order of or hearing before, this Court; provided that the Debtors and the DIP Lender shall provide notice to the Committee and the Prepetition Secured Parties of any such non-material modifications of the DIP Loan Documents. Any material modification or amendment to the DIP Loan Documents shall only be permitted pursuant to an order of this Court, after being submitted to this Court upon five (5) days' notice to the U.S. Trustee, Prepetition Secured Parties, and counsel to the Committee; provided, that any forbearance from, or waiver of, (i) a breach by the Debtors of a covenant representation or any other agreement or (ii) a default or an Event of Default, in each case under the DIP Loan Documents shall not require an order of this Court. In the event of any inconsistency between this Final Order and the DIP Loan Documents, this Final Order shall control.

31. Insurance Policies. On each insurance policy maintained by the Debtors which in any way relates to the DIP Collateral: (i) the DIP Lender shall be, and shall be deemed to be, without any further action by or notice to any person, named as additional insureds; and (ii) the DIP Lender shall be and shall be deemed to be, without any further action by or notice to any person, named as loss payee for DIP Collateral on which the DIP Lien holds a first priority lien. The Debtors are hereby authorized on an interim basis, to and shall take any actions necessary to have the DIP Lender be added as an additional insured and loss payee on each insurance policy maintained by the Debtors consistent with this Final Order and the DIP Loan Documents, which in any way relates to the DIP Collateral.

32. Financial Information. The Debtors shall deliver to the DIP Lender, HUD and the Prepetition Secured Parties such financial and other information concerning the business and

affairs of the Debtors and any of the DIP Collateral and the Adequate Protection Collateral as may be required pursuant to the DIP Loan Documents, the Prepetition Loan Documents and/or as the DIP Lender or the Prepetition Secured Parties shall reasonably request from time to time. The Debtors shall provide copies to the Committee of any such financial and other information delivered to the DIP Lender or Prepetition Secured Parties. The Debtors shall allow the DIP Lender and the Prepetition Secured Parties access to the premises in accordance with the terms of the DIP Loan Documents or Prepetition Loan Documents for the purpose of enabling such parties to inspect and audit the DIP Collateral, the Adequate Protection Collateral and the Debtors' books and records.

33. Reserved.

34. Reserved.

35. Reserved.

36. Immediate Effect of Order. The terms and conditions of this Final Order shall be effective and immediately enforceable upon its entry by the Clerk of the Court notwithstanding any potential application of Bankruptcy Rule 6004(h) or otherwise. Furthermore, to the extent applicable, the notice requirements and/or stays imposed by Bankruptcy Rules 4001(a)(3), 6003(b), and 6004(a) are hereby waived for good and sufficient cause. The requirements of Bankruptcy Rules 4001 and 6004, in each case to the extent applicable, are satisfied by the contents of the Motion.

37. Reserved.

38. Receivership Debtors. Notwithstanding anything herein to the contrary, this Order, and no finding or order herein, shall be binding upon or apply to Debtors El Paso HCC, LLC; Flanagan HCC, LLC; Kewanee AL, LLC; Knoxville AL, LLC; Legacy Estates AL, LLC; Marigold HCC LLC; Monmouth AL LLC; Polo LLC; El Paso HCO, LLC; Flanagan HCO, LLC; CYE Kewanee HCO, LLC; CYE Knoxville HCO, LLC; Legacy HCO, LLC; Marigold HCO, LLC; CYE Monmouth HCO LLC; and Polo HCO, LLC (collectively, "Receivership Debtors"),

any assets of Receivership Debtors or X-Caliber Funding LLC, in its capacity as servicer for U.S. Bank, N.A., as trustee of XCAL 2019-IL-1 MORTGAGE TRUST (“X-Caliber”), except as set forth in this paragraph 38 and paragraph 40. In addition:

(a) *X-Caliber’s Reservation of Rights.* X-Caliber shall have the full opportunity to object on factual and legal bases to any subsequent request by Debtors to bind X-Caliber and/or Receivership Debtors to provisions of this Order (other than this paragraph 38) at a later date and its factual and legal arguments in response thereto shall not be limited, by any finding or order set forth herein, including, without limitation, all findings and/or grants of adequate protection, granting of liens, granting of superpriority and/or administrative claims, waivers under 506(c) and 552(b), identification and fees.

(b) *X-Caliber Financing for Receivership Debtors.* Until a final order is entered on X-Caliber’s Motion to Dismiss [Docket. No. 60] and Motion to Prohibit Turnover [Docket. No. 59], Receiver may use X-Caliber’s cash collateral and borrower funds from X-Caliber pursuant to the Receivership Order (“Interim Receiver Financing”); provided that Receiver must provide Receivership Debtors, with a copy to the Committee, at least forty-eight hours’ notice of funds being expended. If Receivership Debtors object to any expenditure and are unable to resolve it, they may raise the matter to the Court before the expenditure is made (and if such expenditure is an emergency, the parties shall request the Court’s expedited consideration of the dispute).

(c) *X-Caliber Superpriority Claims.* X-Caliber is hereby granted an allowed senior administrative expense claim against Receivership Debtors and their estates (the “X-Caliber Superpriority Claims”) with priority in payment over any and all administrative expenses at any time existing or arising, of any kind or nature whatsoever, including, without limitation, the kinds specified or ordered pursuant to any provision of the Bankruptcy Code, including, but not limited to, sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 and 1114 of the Bankruptcy Code or otherwise, including those resulting from the

conversion of any of the Chapter 11 Cases pursuant to section 1112 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment; provided that the X-Caliber Superpriority Claims shall have recourse to and be payable from all prepetition and postpetition property and assets of Receivership Debtors and their estates and all proceeds thereof, except that the X-Caliber Superpriority Claims shall not be payable from Avoidance Actions, Avoidance Action Proceeds, Tort Claims or Tort Claim Proceeds. The X-Caliber Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(d) *X-Caliber DIP Liens.* Effective immediately and automatically as of the entry of this Final Order, as security for the Interim Receiver Financing, X-Caliber is granted continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected priming first lien security interests in and liens (collectively, the “X-Caliber DIP Liens”) on assets of Receivership Debtors as collateral security for the prompt and complete performance and payment of the Interim Receiver Financing. Pursuant to section 364(d)(1) of the Bankruptcy Code, the X-Caliber DIP Liens are valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected priming first priority senior liens and security interests in all of Receivership Debtors assets; provided that the X-Caliber DIP Liens shall not include any liens on or interests in Avoidance Actions, Avoidance Action Proceeds, Tort Claims or Tort Claim Proceeds.

(e) *X-Caliber Adequate Protection Claim.* X-Caliber is further granted a valid, perfected replacement lien on and security interest in its pre-petition collateral in an amount equal to the aggregate diminution of value of its interest thereon by Receiver’s use of its cash collateral (“X-Caliber Adequate Protection Claim”).

(f) *X-Caliber 507(b) Claim.* X-Caliber is further granted an allowed superpriority administrative expense claim as provided in section 507(b) of the Bankruptcy Code

in the amount of the X-Caliber Adequate Protection Claim with, except as set forth in this Final Order, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the “X-Caliber’s 507(b) Claims”); which 507(b) Claims shall have recourse to and be payable from Receivership Debtors’ assets; provided that the X-Caliber’s 507(b) Claims shall not have recourse to or be payable from Avoidance Actions, Avoidance Action Proceeds, Tort Claims or Tort Claim Proceeds.

(g) For the avoidance of doubt, if neither of X-Caliber’s Motion to Dismiss or Motion to Prohibit Turnover are granted, the Receivership Debtors reserve the right to request that their assets be subject to the DIP priming first lien and superpriority claim granted to the DIP Lender hereunder and all of X-Caliber’s rights with respect thereto are reserved.]

39. Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the provisions of this Final Order, and this retention of jurisdiction shall survive the confirmation and consummation of any chapter 11 plan for any one or more of the Debtors notwithstanding the terms or provisions of any such chapter 11 plan or any order confirming any such chapter 11 plan.

40. Surety Matters. Nothing in the Final Order, the Interim Order relating to the DIP Financing or the DIP Financing Documents shall in any way prime or affect the rights of Hartford Fire Insurance Company, or their past, present or future parents, subsidiaries or affiliates (individually and collectively as the “Surety”) as to (a) any funds it is holding and/or being held for it presently or in the future, whether in trust, as security, or otherwise, including any proceeds due or to become due any of the Debtors or their non-debtor affiliates in relation to obligations bonded by the Surety; or (b) any substitutions or replacements of said funds including accretions to and interest earned on said funds (collectively (a) and (b), the “Surety Assets”). In addition:

(a) Nothing in the Final Order, the Interim Order relating to the DIP Financing or the DIP Financing Documents shall affect the rights of the Surety under any current

or future indemnity, collateral, trust or related agreements between or involving the Surety and any of the Debtors or any of the Debtors' non-debtor affiliates as to the Surety Assets or otherwise, including, but not limited to, the General Indemnity Agreement dated May 1, 2023 executed by certain of the Debtors and non-debtors, including Petersen Health Operations, LLC; Petersen Health Care-Farmer City, LLC; Petersen Health Care-Illini, LLC; Midwest Health Operations, LLC; Petersen Health Network, LLC; Petersen Health Care-Roseville, LLC; Swansea HCO, LLC; Watseka HCO, LLC; Bement HCO, LLC; Eastview HCO, LLC; Prairie City HCO, LLC; Tarkio HCO, LLC; Westside HCO, LLC; XCH, LLC; Collinsville HCO, LLC; Effingham HCO, LLC; Robings HCO, LLC; Tuscola HCO, LLC; Shangri La HCO, LLC; Havana HCO, LLC; Rosiclare HCO, LLC; Petersen Health Care Management, LLC; Twin HCO, LLC; SABL, LLC; Lebanon HCO, LLC; Royal HCO, LLC; Petersen Health Care, Inc; Vandalia HCO, LLC; Aledo HCO, LLC; McLeansboro HCO, LLC; Shelbyville HCO, LLC; Arcola HCO, LLC; Piper HCO, LLC; SJL Health Systems, Inc.; Petersen Management Company, LLC; Petersen Health Junction, LLC (non-debtor); Petersen Health & Wellness, LLC; Petersen Health Quality, LLC; Petersen Health Properties, LLC; Petersen Health Business, LLC; Petersen Health Group, LLC; Sullivan HCO, LLC, Aspen HCO, LLC; Decatur HCO, LLC; Pleasant View HCO, LLC; Petersen Health Care II, Inc.; Charleston HCO, LLC (non-debtor); Cumberland HCO, LLC (non-debtor); El Paso HCO, LLC; Flanagan HCO, LLC; Marigold HCO, LLC; Polo HCO, LLC; Casey HCO, LLC; Kewanee HCO, LLC; North Aurora HCO, LLC and non-debtor Mark B. Petersen.

(b) Nothing in the Final Order, the Interim Order or the DIP Financing Documents shall prime or otherwise impact (x) current or future setoff and/or recoupment rights and/or the lien rights of the Surety or any party to whose rights the Surety has or may be subrogated; and/or (y) any existing or future subrogation or other common law rights of the Surety. In addition, notwithstanding anything in the Final Order, the Interim Order relating to the DIP Financing, or the DIP Financing Documents to the contrary, and subject to the



Bankruptcy Code, the rights, claims and defenses of the Debtors and of the Surety, including, but not limited to, the Surety's rights under any properly perfected lien and claims and/or claim for equitable rights of subrogation, and rights of the Debtors and of any successors in interest to any of the Debtors and any creditors, to object to any such liens, claims and/or equitable subrogation and other rights, are fully preserved. Nothing herein is an admission by the Surety or the Debtors, or a determination by the Bankruptcy Court, regarding any claims under any bonds, and the Surety and the Debtors reserve any and all rights, remedies and defenses in connection therewith.

(c) Additionally, all Resident Trust Accounts that are governed by the Illinois Nursing Home Care Act or the Missouri Omnibus Nursing Home Act do not constitute property of the Debtors' bankruptcy estate, and, as such, are not subject to any prepetition or post-petition liens. Moreover, Debtors will abide by all obligations required by way of any bonds, account agreements, state law and/or regulations that pertain to the use of funds in the Resident Trust Accounts.

(d) No liens, including, for the avoidance of doubt, DIP Liens, shall attach to the Adequate Assurance Deposit Account, except as to any reversionary interest of the Debtors.

41. For the avoidance of doubt, and except for the DIP Liens and the Adequate Protection Liens, nothing in this Final Order shall (i) create new liens for the benefit of or improve the lien position of any of the Prepetition Secured Parties, or (ii) grant any lien for any party on any collateral that was not granted to that party prior to the Petition Date

**42. Refinancing of eCapital Obligations.**

**(a) Paydown of eCapital Obligations. Following entry of the Interim DIP Order, the Debtors wired cash in the amount of the eCapital Obligations to eCapital.**

**(b) Allowance of eCapital Obligations. Prior to payment in full, the eCapital Obligations constituted allowed, legal, valid, binding, enforceable and non-avoidable obligations of Debtors, and were not subject to any offset, defense,**

counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law, and Debtors did not possess, will not assert, hereby forever release, and are forever barred from bringing any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the eCapital Obligations.

(c) *eCapital Indemnification.* The Debtors are hereby authorized to and hereby agree to indemnify and hold harmless eCapital and its affiliates, directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing eCapital (collectively, the “eCapital Indemnified Party”) from and against: (a) all obligations, demands, claims, damages, losses and liabilities (including, without limitation, reasonable fees and disbursements of counsel) (collectively, “eCapital Indemnity Claims”) including those asserted by any other party in connection with the paydown contemplated by this Final DIP Order; and (b) all losses or expenses incurred, or paid by the eCapital from, following, or arising from the paydown contemplated by this Final DIP Order, including reasonable and documented attorneys’ fees and expenses, except for eCapital Indemnity Claims and/or losses directly caused by the eCapital’s fraud, gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any of the Debtors or any of their respective directors, security holders or creditors, an eCapital Indemnified Party, or if any other eCapital Indemnified Party is otherwise a party thereto, and whether or not the transactions contemplated hereby are consummated. No eCapital Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any Debtor or any of its subsidiaries or any shareholders or creditors of the foregoing for or in connection with the transactions contemplated hereby. All indemnities of the eCapital Indemnified Parties shall constitute eCapital Obligations.

(d) Release of DACAs. Following payment in full in cash of the eCapital Obligations, released all applicable deposit account control agreements or similar control agreements.

43. Notwithstanding anything to the contrary herein, the Bank of Rantoul's retains the right to object to any revised Cost Allocation that includes an Attributable Cost Allocation to the Bank of Rantoul's real property Collateral in excess of \$156,000.00. The current amount of the Bank of Rantoul's loan and mortgage on the Herscher property is \$2,352,907. The priming DIP Lien shall not prime the Bank of Rantoul's lien of approximately \$505,000 on approximately 10 motor vehicles, to the extent that such liens, mortgages, and other security interests are valid and perfected, and have priority status. The Bank of Rantoul reserves all rights including the rights to object to the sale and to request that its liens attach to the proceeds of the sale and that the Bank of Rantoul shall be immediately paid in full at the closing of the sale, including additional applicable penalties, interest, costs and fees, and the right to seek relief from stay to repossess the vehicles as depreciating assets. As a result of the foregoing, the Bank of Rantoul shall be a Consenting Lender.

44. The Debtors shall promptly serve copies of this Final Order (which shall constitute adequate notice of the Final Hearing) to the parties having been given notice of the Final Hearing and to any party that has filed a request for notices with this Court in these Chapter 11 Cases.

45. Nothing in this Final Order is intended to create an injunction, but injunctive relief may be sought.

**EXHIBIT 1**

**DIP Credit Agreement**

*[Intentionally Omitted]*

**EXHIBIT B**

**Cumulative Blackline to Interim DIP Order**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re

SC HEALTHCARE HOLDING, LLC *et al.*,  
Debtors.<sup>1</sup>

Chapter 11

Case No. 24-10443 (TMH)

Jointly Administered

Ref. Docket ~~No~~Nos. 38, 97

~~AMENDED INTERIM~~FINAL ORDER (I) AUTHORIZING THE DEBTORS TO  
OBTAIN  
POSTPETITION FINANCING, (II) GRANTING SECURITY INTERESTS AND  
SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (III) GRANTING  
ADEQUATE PROTECTION TO CERTAIN PREPETITION SECURED CREDIT  
PARTIES, (IV) MODIFYING THE AUTOMATIC STAY; (V) AUTHORIZING  
THE DEBTORS TO ENTER INTO AGREEMENTS WITH JMB CAPITAL  
PARTNERS LENDING, LLC, (VI) AUTHORIZING ~~NON-CONSENSUAL-USE~~  
~~OF CASH COLLATERAL, (VII) SCHEDULING A FINAL HEARING,~~  
OF CASH COLLATERAL, AND (VH)VII) GRANTING RELATED RELIEF

Upon the motion (the “Motion”)<sup>2</sup> of the above captioned debtors (collectively, the  
“Debtors”~~—or the “Borrowers”~~) in the above-captioned chapter 11 cases (collectively, the  
“Chapter 11 Cases”), pursuant to sections 105, 361, 362, 363, 364, 503 and 507 of title 11 of the  
United States Code, (11 U.S.C. §§ 101 *et seq.*, as amended, the “Bankruptcy Code”), Rules  
2002, 4001, 6003, 6004 and 9006 of the Federal Rules of Bankruptcy Procedure (the  
“Bankruptcy Rules”), and Rules 2002-1 and 4001-2 and 9006-1 of the Local Rules of  
Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of  
Delaware (the “Local Rules”), seeking entry of an interim order ~~—(this “Interim, which was~~

<sup>1</sup> The last four digits of SC Healthcare Holding, LLC’s tax identification number are 2584. The mailing address for SC Healthcare Holding, LLC is c/o Petersen Health Care Management, LLC 830 West Trailcreek Dr., Peoria, IL 61614. Due to the large number of debtors in these Chapter 11 Cases, for which the Debtors have requested joint administration, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information will be made available on a website of the Debtors’ proposed claims and noticing agent at [www.kccllc.net/Petersen](http://www.kccllc.net/Petersen).

<sup>2</sup> Unless stated otherwise, capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the DIP ~~Term Sheet~~Credit Agreement (as defined below), as applicable.

entered by the Court on March 24, 2024 at Docket No. 97 (the “Interim Order”), and a final order (this “Final Order”) granting *inter alia*:

i. authority, pursuant to sections 105, 363, and 364(c) and 364(d) of the Bankruptcy Code, for each of the Debtors, jointly and severally, to obtain a non-amortizing priming super-priority senior secured postpetition financing (“DIP Facility”) in an aggregate principal amount of up to \$45,000,000 (the “DIP Commitment”) ~~of which, upon entry of this Interim Order and satisfaction or waiver of the borrowing conditions set forth in the DIP Term Sheet (as defined below), \$15,000,000 (the “Interim Advance”) shall be made available to the Debtors and may be drawn in a single draw, and the remainder of the DIP Commitment will, subject to and upon the date of entry of the Final Order (as defined below),~~which will be available through ~~additional~~multiple draws, in each case subject to the terms and conditions set forth in the ~~DIP Term Sheet and/or a~~ Debtor-in-Possession Loan and Security Agreement attached hereto as Exhibit 1 (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the “DIP Credit Agreement” and, together with any ancillary, collateral or related documents and agreements, including without limitation the DIP Term Sheet attached as Exhibit 1 to the Interim Order, the “DIP Loan Documents”), among the Debtors, as ~~Borrowers~~borrowers, and JMB Capital Partners Lending, LLC, as ~~Lender~~lender (the “DIP Lender”), ~~which DIP Facility Agreement shall be consistent with the terms set forth in the attached Debtor in Possession Term Loan Facility Summary of Terms and Conditions attached hereto as Exhibit 1 (the “DIP Term Sheet”);~~

ii. authority for the Debtors, ~~on an interim basis,~~ to execute, deliver, and perform under ~~the DIP Term Sheet,~~ the DIP Loan Documents, and all other credit documentation relating to the DIP Facility, including, without limitation, as applicable, security agreements, pledge agreements, debentures, mortgages, control agreements, deeds, charges, guarantees, promissory notes, intercompany notes, certificates, instruments, intellectual property security agreements, notes, fee letters, and such other documents that are ancillary or incidental thereto or that may be reasonably requested by the DIP Lender in connection with the DIP Facility, in each case, as

amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof;

iii. authority for the Debtors, ~~on an interim basis,~~ to issue, incur and guarantee all loans, notes, advances, extensions of credit, financial accommodations, reimbursement obligations, fees and premiums (including, without limitation, the Commitment Fee, upfront fees, the Exit Fee, backstop fees or premiums, administrative agency fees, and any other fees payable pursuant to the DIP ~~Term Sheet and/or DIP~~ Loan Documents), costs, expenses and other liabilities and all other obligations (including indemnities and similar obligations, whether contingent or absolute) due or payable to or for the benefit of the DIP Lender under the DIP ~~Term Sheet and/or the DIP~~ Loan Documents (collectively, the “DIP Obligations”), and to perform such other and further acts as may be required, necessary, desirable, or appropriate in connection therewith;

iv. authority for the Debtors, ~~on an interim basis,~~ to use the DIP Facility and the proceeds thereof in accordance with this ~~Interim~~Final Order, the ~~DIP Term Sheet and/or the DIP~~ Loan Documents to (a) fund the necessary postpetition working capital needs of the Debtors ~~pending the Final Hearing (as defined below),~~ (b) pay fees, costs and expenses of the DIP Facility on the terms and conditions described in the DIP ~~Term Sheet and/or the DIP~~ Loan Documents, and (c) pay the allowed administrative costs and expenses of the Chapter 11 Cases, in each case, solely in accordance with the DIP ~~Term Sheet~~Loan Documents, the DIP Budget (as defined below), and this ~~Interim~~Final Order;

v. authority for the Debtors to grant to the DIP Lender valid, enforceable, non-avoidable, automatically and fully perfected priming security interests, liens and superpriority claims, including allowed superpriority administrative expense claims pursuant to sections 364(c)(1) and 507(b) of the Bankruptcy Code, subject only to the Carve Out and the Permitted Prior Liens (as defined in ~~Schedule 2 to the DIP Term Sheet~~Credit Agreement), and liens pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code in the DIP Collateral (as defined below) (and all proceeds thereof), including, without limitation, all



property constituting “Cash Collateral,” as defined in section 363(a) of the Bankruptcy Code, (“Cash Collateral”), to secure all DIP Obligations, subject only to the Carve Out and the Permitted Prior Liens;

vi. authority for the Debtors to grant the Prepetition Secured Parties (as defined below) valid, enforceable, non-avoidable, automatically and fully perfected security interests, liens and superpriority claims, as set forth herein, including allowed superpriority administrative expense claims pursuant to section 507(b) of the Bankruptcy Code, subject only to the Carve Out, the Permitted Prior Liens and the superpriority claims and liens of the DIP Lender, to secure any diminution in value of the Prepetition Collateral and as it relates to the Cost Allocation as set forth herein;

vii. authority for the DIP Lender to take all commercially reasonable actions to implement and effectuate the terms of this ~~Interim~~Final Order and the DIP ~~Term Sheet~~Loan Documents;

viii. ~~subject to entry of the Final Order~~, waiver by the Debtors of all rights to surcharge against the collateral of the DIP Lender and the Prepetition Secured Parties pursuant to section 506(c) of the Bankruptcy Code;

ix. ~~subject to entry of the Final Order~~, determination that the equitable doctrine of marshaling or any other similar doctrine shall not apply with respect to any collateral of the DIP Lender and the Prepetition Secured Parties ~~for the benefit of any party other than the DIP Lender~~(other than (A) as it relates to the Cost Allocation with respect to the Prepetition Secured Parties and (B) as expressly set forth in Paragraph 9 of this Final Order);

x. modification of the automatic stay provided by section 362(a) of the Bankruptcy Code to the extent set forth herein and as necessary to permit the Debtors and the DIP Lender to implement and effectuate the terms and provisions of the DIP ~~Term Sheet and/or the DIP~~ Loan Documents, including, upon entry, the ~~Interim~~Final Order, and, subject to the terms of the DIP ~~Term Sheet and DIP~~ Loan Documents (including this ~~Interim~~Final Order), to deliver any Carve Out Trigger Notice (as defined herein) or other notices in relation thereto and the exercise of

certain rights and remedies, as contemplated hereby and by the DIP ~~Term Sheet and other DIP~~ Loan Documents; and

xi. waiver of any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this ~~Interim~~Final Order; ~~and~~.

~~xii. scheduling a final hearing (the “Final Hearing”) to consider final approval of the DIP Facility pursuant to a proposed final order (the “Final Order”), as set forth in the Motion and the DIP Term Sheet and approval of the siloing mechanism and other terms related thereto and in connection therewith, as set forth in paragraphs 33-36 of this Interim Order.~~

This Court having considered the ~~interim~~ relief requested in the Motion (including the DIP ~~Term Sheet and the other exhibits attached thereto~~Loan Documents), the evidence submitted or adduced, pursuant to the *Declaration of David R. Campbell in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), the declaration of Luke Andrews in support of the Motion (the “DIP Marketing Declaration”) and the declaration of David R. Campbell in support of the Motion (the “Campbell Valuation Declaration”), the declaration of Mark Myers in Support of the Motion (the “Myers Valuation Declaration”) and the arguments of counsel made at the hearing held on March 22, 2024 (the “Interim Hearing”) and having found that due and proper notice of the Motion and the Interim Hearing having been given in accordance with Bankruptcy Rule 2002 and 4001(b), (c) and (d) and all applicable Local Rules; and the Interim Hearing to consider the relief requested in the Motion having been held and concluded; and ~~all~~ having entered the Interim Order on March 26, 2024; and a final hearing (the “Final Hearing”) having been held by this Court on May 13 and 14, 2024; and objections, if any, to the ~~interim~~ relief requested in the Motion having been withdrawn, resolved or overruled; and it appearing to this Court that granting the ~~interim~~ relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates ~~pending the Final Hearing~~,<sup>2</sup> otherwise is fair and reasonable and in the best interests of the Debtors, their estates, creditors, and other parties in interest, and is essential for the continued operation of the Debtors’ businesses and the preservation of the value of the Debtors’ assets and represents a sound

exercise of the Debtors' business judgment; and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

**THIS COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED UPON THE MOTION, THE REPRESENTATIONS OF COUNSEL AND EVIDENCE SUBMITTED DURING THE ~~INTERIM~~FINAL HEARING:**<sup>3</sup>

A. Petition Date. On March 20, 2024 (the "Petition Date"), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Court") commencing these Chapter 11 Cases.

B. Joint Administration. The Chapter 11 Cases are being jointly administered pursuant to the Order, Pursuant to Bankruptcy Rule 1015 and Local Rule 1015-1, (I) Directing Joint Administration of the Debtors' Chapter 11 Cases, (II) Modifying the Requirements for Filing Monthly Operating Reports, and (III) Granting Related Relief [Docket No. 79] entered by this Court on March 22, 2024.

C. ~~B.~~ Debtors in Possession. The Debtors, with the exception of some inactive entities, are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. ~~To date, the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee") has not appointed an official committee in the Chapter 11 Cases.~~

D. ~~C.~~ Jurisdiction and Venue. This Court has core jurisdiction over the persons and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of the

<sup>3</sup> The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014, and shall take effect and be fully enforceable effective as of the Petition Date immediately upon entry hereof. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue for the Chapter 11 Cases and proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

E. ~~D.~~ Notice. Under the circumstances, the notice given by the Debtors of, and as described in, the Motion, the relief requested therein, and the ~~Interim~~Final Hearing constitutes proper notice thereof and complies with Bankruptcy Rules 2002, 4001(b), (c) and (d), and 9014 and the Local Rules, and no further notice of the relief sought at the ~~Interim~~Final Hearing and the relief granted herein is necessary or required. The ~~interim~~-relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates, creditors, and other parties in interest, ~~pending the Final Hearing.~~

F. ~~E.~~ Committee Formation. ~~As of the date hereof, the~~ On April 9, 2024, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee ~~has not~~”) appointed an official committee of unsecured ~~creditors in these~~Creditors (the “Committee”) in the Chapter 11 Cases ~~pursuant to, as provided for under~~ section 1102 of the Bankruptcy Code ~~(a “Creditors’ Committee”).~~

G. ~~F.~~ No Credit Available on More Favorable Terms. The Debtors are unable to procure financing in the form of unsecured credit allowable as an administrative expense under sections 364(a), 364(b), or 503(b)(1) of the Bankruptcy Code. The Debtors are also unable to obtain secured credit without (i) granting to the DIP Lender the DIP Liens and the DIP Superpriority Claims (each as defined herein) and (ii) incurring the Adequate Protection Obligations (as defined herein), to the extent set forth herein and under the terms and conditions set forth in this ~~Interim~~Final Order, ~~the DIP Term Sheet and/or~~ the DIP Loan Documents, in each case of (i) and (ii) subject and subordinate to the Carve Out and the Permitted Prior Liens, and have been unable to procure the necessary financing on terms more favorable, taken as a whole, than the financing offered by DIP Lender pursuant to the DIP ~~Term Sheet and/or the DIP~~ Loan Documents, as modified by this ~~Interim~~Final Order.

H. ~~G.~~ Best Interests of Estates. It is in the best interests of the Debtors' estates and creditors that the Debtors be allowed to obtain postpetition secured financing from the DIP Lender under the terms and conditions set forth herein and in the DIP ~~Term Sheet and/or the DIP~~ Loan Documents, as such financing is necessary to avoid immediate and irreparable harm to the Debtors' estates and for the continued operation of the Debtors' businesses.

I. ~~H.~~ Good Faith. The extension of credit and financial accommodations under ~~the DIP Term Sheet and/or~~ the DIP Loan Documents are fair, reasonable, in good faith, negotiated at arm's length, reflect the Debtors' exercise of prudent business judgment, and are supported by reasonably equivalent value and fair consideration. The liens, claims and other covenants and payments as set forth in this ~~Interim~~Final Order and the DIP ~~Term Sheet~~Loan Documents, as well as the protections afforded parties acting in "good faith" under section 364(e) of the Bankruptcy Code are integral, critical and essential components of the DIP Facility provided by the DIP Lender to the Debtors. Accordingly, the DIP Lender is entitled to the protections of Bankruptcy Code section 364(e).

J. ~~I.~~ Good Cause. The ~~interim~~ relief requested in the Motion is necessary, essential and appropriate, and is in the best interest of and will benefit the Debtors, their creditors and their estates, as its implementation will, among other things, provide the Debtors with the necessary liquidity to (1) minimize disruption to the Debtors' businesses and ongoing operations, (2) preserve and maximize the value of the Debtors' estates for the benefit of all the Debtors' creditors, and (3) avoid potential immediate and irreparable harm to the Debtors, their creditors, their businesses, their employees, and their assets.

K. Interim Order. On March 26, 2024, the Court entered the Interim DIP Order, pursuant to which the Court, *inter alia*, (i) authorized the Debtors to obtain postpetition secured financing from the DIP Lender, on an interim basis, under the terms and conditions set forth therein and in the DIP Loan Documents, (ii) approved the DIP Term Sheet, and (iii) approved the (a) Commitment Fee and (b) the Exit Fee on a final basis.

L. ~~J.~~ *Necessity of DIP Facility Terms.* The terms of this ~~Interim~~Final Order, ~~the DIP Term Sheet, and/or~~ the DIP Loan Documents assuring that the liens and the various claims, superpriority claims, and other protections granted in this ~~Interim~~Final Order will not be affected by any subsequent reversal or modification, as provided in section 364(e) of the Bankruptcy Code, which is applicable to the postpetition financing arrangement contemplated in the DIP ~~Term Sheet and/or the DIP~~ Loan Documents, are necessary in order to induce the DIP Lender to provide postpetition financing to the Debtors.

M. ~~K.~~ *Need for Postpetition Financing.* The Debtors do not have sufficient and reliable sources of working capital to continue to operate their businesses in the ordinary course without the financing requested in the Motion. The Debtors' ability to care for their residents, maintain business relationships with their vendors, suppliers and customers, to pay their employees, and to otherwise fund their operations is essential to the Debtors' continued viability as the Debtors seek to maximize the value of the assets of their estates for the benefit of all creditors of the Debtors. The ability of the Debtors to obtain sufficient and stable working capital and liquidity through the proposed postpetition financing arrangements with the DIP Lender as set forth in this ~~Interim~~Final Order and ~~the DIP Term Sheet (and/or~~ the DIP Loan Documents) is vital to the preservation and maintenance of the going concern value of each Debtor. Accordingly, the Debtors have an immediate need to obtain the postpetition financing in order to, among other things, permit the orderly continuation of the operation of their businesses, minimize the disruption of their business operations, and preserve and maximize the value of the assets of the Debtors' bankruptcy estates in order to maximize the recovery to all creditors of the estates.

N. ~~L.~~ *Need to Use Cash Collateral.* The Debtors need to use Cash Collateral in order to, among other things, preserve, maintain and maximize the value of their assets and businesses. The ability of the Debtors to maintain liquidity through the use of Cash Collateral is vital to the Debtors and their efforts to maximize the value of their assets. Accordingly, the Debtors have demonstrated good and sufficient cause for the relief granted herein.

O. ~~M. Sections 506(c) and 552(b).~~ As material inducement to the DIP Lender to agree to provide the DIP Facility and in exchange for agreement by the DIP Lender and the Prepetition Secured Parties to subordinate their superpriority claims to the Carve Out, ~~upon the entry of the Final Order (as defined in the Motion),~~ the DIP Lender and the Prepetition Secured Parties are entitled to a waiver of any “equities of the case” exception under section 552(b) of the Bankruptcy Code, and (b) the DIP Lender and the Prepetition Secured Parties are entitled to a waiver of the provisions of section 506(c) of the Bankruptcy Code.

P. ~~N. Priming of Prepetition Liens.~~ The priming of the Prepetition Liens by the DIP Lender under section 364(d)(1) of the Bankruptcy Code, to the extent set forth in this ~~Interim~~Final Order and, ~~to the DIP Term Sheet (and/or extent not inconsistent with this Final Order,~~ the DIP Loan Documents) and as further described below, will enable the Debtors to obtain the DIP Facility and, among other benefits, continue to operate their business for the benefit of their estates and stakeholders.

Q. ~~O. DIP Budget.~~ The Debtors ~~have~~ prepared and delivered to the ~~Notice~~DIP Lender and Prepetition Secured Parties ~~(as defined below)~~ an initial budget attached ~~hereto~~ as Schedule 1 to the Interim Order (together with any additional line-item or other detail and supplements as may be provided pursuant to the terms of this Final Order and the DIP ~~Term Sheet~~Loan Documents, the “Initial DIP Budget”). The Initial DIP Budget reflects, among other things, for the 13-week period commencing on or about the Petition Date, the Debtors’ projected operating receipts, operating disbursements, non-operating disbursements, net operating cash flow and liquidity for each one-week period covered thereby. The Initial DIP Budget may be modified, amended, extended, and updated from time to time in accordance with this ~~Interim~~Final Order, the DIP ~~Term Sheet and/or DIP~~ Loan Documents, and such modified, amended, extended and/or updated budget, once approved ~~(or deemed approved)~~ by the Debtors (upon prior consultation with the Committee) and the DIP Lender, shall modify, replace, supplement or supersede, as applicable, the Initial DIP Budget for the periods covered thereby (the Initial DIP Budget and each subsequent approved budget (including any additional line-item

or other detail and supplements as may be provided pursuant to the terms of this ~~Interim~~Final Order, the DIP ~~Term Sheet and/or DIP~~ Loan Documents) shall constitute, without duplication, an “Approved Budget”). Each subsequent Approved Budget (as approved in accordance with the DIP ~~Term Sheet~~Loan Documents and this ~~Interim~~Final Order) shall be provided to the U.S. Trustee, counsel for the ~~Sector Lenders (as defined below)~~Prepetition Secured Parties, counsel for U.S. Department of Housing and Urban Development (“HUD”) and counsel to the ~~Creditors’~~ Committee in ~~summary form~~full. The Initial DIP Budget has been reviewed by the Debtors, their management and their advisors, and the Debtors believe that the Initial DIP Budget is reasonable under the circumstances. The DIP Lender is relying, in part, upon the Debtors’ agreement to comply with the Approved Budget (subject only to permitted variances) and the terms of the ~~Term Sheet~~DIP Loan Documents and this Final Order in determining to enter into the DIP Facility and to consent to the use of Cash Collateral provided for in this ~~Interim~~Final Order.

R. ~~P.~~ Debtors’ Acknowledgments and Agreements. Without prejudice to the rights of the ~~Creditors’~~ Committee or other parties-in-interest as and to the extent set forth in paragraph 18 of this ~~Interim~~Final Order, the Debtors admit, stipulate, acknowledge and agree that:

(a) Prepetition Loan Documents. Prior to the Petition Date, the applicable Debtors entered into the following loan documents and credit facilities with the lenders party thereto (collectively, and including their respective successors and assigns, the “Prepetition Secured Parties”):

- Amended and Restated Loan Agreement dated February 24, 2021 with XCAL 2019-IL-1 Mortgage Trust, as lender, pursuant to which not less than \$33,038,340 is presently outstanding.
- Amended and Restated Loan Agreement dated August 5, 2020 with Column Financial, Inc. (as successor in interest to Sector Financial Inc.), as the administrative agent and collateral agent (in such capacity, the “Sector Agent”) and the ~~other~~ lenders party thereto (the “Sector Lenders”) pursuant to which not less than \$64,605,074 is presently outstanding.



- Amended and Restated Loan Agreement dated August 5, 2020 with GMF Petersen Note LLC, as the lender pursuant to which not less than \$26,400,302.55 is presently outstanding.
- Credit and Security Agreement (the “eCapital Credit Agreement”) dated October 4, 2023 with eCapital Healthcare Corp. (“eCapital” and such obligations of the Debtor under the eCapital Credit Agreement, the “eCapital Obligations”) as the lender pursuant to which not less than \$3,833,089.27 ~~is presently outstanding~~ which was paid in full in connection with the Interim Order.
- HUD Facilities and the lenders party thereto (collectively, together with their successors and assigns, the “HUD Lenders”):
  - Multiple FHA insured loans with Berkadia Commercial Mortgage LLC as lender and the applicable Debtor party thereto with not less than \$2,936,067 in the aggregate (net of escrows) is presently outstanding.
  - Multiple FHA insured loans with Grandbridge Real Estate Capital, LLC as lender and the applicable Debtor party thereto with not less than \$7,369,000 in the aggregate (net of escrows) presently outstanding.
  - Multiple FHA insured loans with Lument Real Estate Capital, LLC as lender and the applicable Debtor party thereto with not less than \$8,267,261 in the aggregate (net of escrows) presently outstanding.
  - ~~• An FHA-insured loan with Wells Fargo Mortgage— as lender and Debtor SJL Health Systems, Inc. is part to a loan agreement with Wells Fargo Bank, N.A. as servicer related to the Prairie Rose Health Care Facility (the “Wells Fargo Mortgage”). In the relevant default notice, it was alleged that approximately \$1,455,631 is as borrower with not less than \$1,826,279.02 (net of reserves) presently outstanding under the Wells Fargo Mortgage.~~
- Solutions Bank Loan. Debtor Petersen Healthcare, Inc. is party to various loan documents in favor of Solutions Bank (the “Solutions Bank Facility”), pursuant to which Petersen Healthcare Inc. granted to Solution Bank a security interest in certain assets related to an assisted living facility located at 160 E. Walton Street, Canton, Illinois known as “Courtyard Estates of Canton.” In the relevant default notice, it was alleged that approximately \$3,408,171 is outstanding under the Solutions Bank Facility.

- Community State Bank. Debtor Petersen Health Systems, Inc. is party to various loan documents in favor of Community State Bank (the “CSB Facility”), pursuant to which Petersen Health Systems, Inc. granted to Community State Bank a security interest in certain assets related to real property located at 13516 Townline Road, Green Valley Illinois known as “Courtyard Estates of Green Valley.” As of the Petition Date, approximately \$2,494,108 is outstanding under the CSB Facility.
- Bank of Farmington. Debtor Petersen Health Systems, Inc. is party to various loan documents in favor of Bank of Farmington (the “Farmington Facility”), pursuant to which Petersen Health Systems, Inc. granted to Bank of Farmington a security interest in certain assets related to an assisted living located at 1000 E. Fort Street, Farmington, IL known as “Courtyard Estates of Farmington.” As of the Petition Date, approximately \$2,845,278 is outstanding under the Farmington Facility.
- Hickory State Bank. Debtor CYE Girard HCO, LLC is party to various loan documents in favor of Hickory Point Bank & Trust (the “Hickory Point Facility”), pursuant to which CYE Girard HCO, LLC granted to Hickory Point Bank & Trust a security interest in certain assets related to an assisted living facility located at 1016 W North St, Girard, IL known as “Courtyard Estates of Girard.” As of the Petition Date, approximately \$1,839,599 is outstanding under the Farmington Facility.
- Bank of Rantoul. Debtor Petersen Health Systems, Inc. is the borrower under a certain loan facility with Bank of Rantoul, as lender (“Rantoul Facility”) secured by a mortgage and assignment of rents pertaining to the Courtyard Estates of Herscher healthcare facility located at 100 Harvest View Lane, Herscher, IL. As of the Petition Date, approximately \$2,352,907 in principal amount is outstanding under the Rantoul Facility.

(all of the foregoing, ~~together with the Prepetition Credit Agreement~~, as all of the same have heretofore been amended, supplemented, modified, extended, renewed, restated and/or replaced at any time prior to the Petition Date, collectively, the “Prepetition Loan Documents”).

- (b) Prepetition Secured Obligations. As of the Petition Date, the applicable Debtors were indebted to the Prepetition Secured Parties under the Prepetition Loan Documents in an aggregate outstanding principal amount of not less than \$179,103,915 plus interest accrued and accruing thereon, together with all costs, fees, expenses (including attorneys’ fees and legal expenses) and other charges accrued, accruing or chargeable with respect

thereto (the “Prepetition Secured Obligations”). The Prepetition Secured Obligations constitute allowed, legal, valid, binding, enforceable and non-avoidable obligations of Debtors, and are not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law, and Debtors do not possess, shall not assert, hereby forever release, and are forever barred from bringing any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the Prepetition Secured Obligations.

- (c) Prepetition Collateral. As of the Petition Date, the Prepetition Secured Obligations were secured pursuant to the applicable Prepetition Loan Documents by valid, perfected, enforceable and non-avoidable first-priority security interests and liens (the “Prepetition Liens”) granted by the Debtors party thereto to the applicable Prepetition Secured Parties under the applicable Prepetition Loan Documents as listed on Schedule 3 of the DIP Term Sheet, in certain real estate of the applicable Debtors as more fully set forth in the Prepetition Loan Documents ~~as listed on Schedule 3 of the DIP Term Sheet~~ and in accounts receivable of the applicable Debtors (the “Prepetition Collateral”), and such security interests are perfected and have priority over all other security interests. The Debtors do not possess and will not assert any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the Prepetition Secured Party’s liens, claims or security in the Prepetition Collateral.

~~(d) Proof of Claim. The acknowledgment by Debtors of the Prepetition Secured Obligations and the liens, rights, priorities and protections granted to or in favor of the Prepetition Secured Parties in respect of the Prepetition Collateral as set forth herein and in the Prepetition Loan Documents shall be deemed a timely filed proof of claim on behalf of the Prepetition Secured Parties in these Chapter 11 Cases.~~

- (d) ~~(e)~~ No Control. Subject to Paragraph 18 of this InterimFinal Order, the Debtors stipulate and this Court finds that in making decisions to advance loans to the Debtors, in administering any loans, in accepting the Initial DIP Budget or any future Approved Budget or in taking any other actions permitted by the InterimFinal Order, or the DIP Loan Documents in their capacity as DIP Lender, the DIP Lender shall not be deemed to be in control of the operations of the Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors.

S. ~~Q.~~ Adequate Protection. The Prepetition Secured Parties consent, ~~only as it relates to the Interim Advance, to the~~ senior priming liens and security interests in favor of the DIP Lender or are otherwise entitled to receive adequate protection on account of their interests in the Prepetition Collateral pursuant to sections 361, 362, and 363 of the Bankruptcy Code solely to the extent of any diminution in the value of their interests in the Prepetition Collateral and as it relates to the Cost Allocation as set forth herein. As part of the adequate protection, and, with respect to the Consenting Lenders (as defined herein), as it relates to the Cost Allocation herein, provided by this ~~Interim~~Final Order, the Prepetition Secured Parties shall receive, among other things, replacement liens, superpriority claims and reporting information ~~and (subject to any applicable intercreditor agreement) Prepetition Secured Parties who affirmatively consent to being primed prior to the first day hearing (all such parties, the “Consenting Secured Lenders”)~~ shall as set forth in this Final Order. Consenting Lenders (as defined herein) shall, in addition to their Consenting Lender Adequate Protection Claims (as defined herein) and their Consenting Lender Adequate Protection Liens (as defined herein), receive reimbursement of their reasonable professional fees, including those of their attorneys and financial advisors to the extent provided for in an Approved Budget; *provided* that any fees, costs and expenses paid as adequate protection for ~~the Prepetition Secured Parties~~ a Consenting Lender shall be recharacterized as payments of principal if ~~the Prepetition Secured Parties are~~ such Consenting Lender is later determined to be undersecured and not entitled to received post-petition interest, fees, costs and expenses. The terms of the Adequate Protection Obligations (as defined in paragraph 13 below) are fair and reasonable, reflect the Debtors’ prudent exercise of business judgment and are sufficient to allow the Debtors’ use of the Prepetition Collateral and to permit the relief granted in this ~~Interim~~Final Order.

T. ~~R.~~ Requisite Authority. Each Debtor has all requisite corporate or entity power and authority to execute and deliver the DIP Loan Documents to which it is a party and to perform its obligations thereunder.

U. ~~S.~~ Immediate Entry. Sufficient cause exists for immediate entry of this ~~Interim~~Final Order pursuant to Bankruptcy Rule 4001(c)(2). Absent granting the relief set forth in this ~~Interim~~Final Order, the Debtors' estates will be immediately and irreparably harmed. Consummation of the DIP Facility and the permitted use of Prepetition Collateral in accordance with this ~~Interim~~Final Order and the DIP ~~Term Sheet~~Loan Documents, are therefore in the best interests of the Debtors' estates and consistent with the Debtors' exercise of their fiduciary duties.

Based upon the foregoing findings and conclusions, the Motion and the record before this Court with respect to the Motion, and after due consideration and good and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED** that:

1. DIP Facility Approval. The ~~interim~~-relief sought in the Motion is granted to the extent set forth herein, the ~~interim~~-financing described herein is authorized and approved, and the Debtors' use of Cash Collateral ~~on an interim basis~~ is authorized, in each case subject to the terms and conditions set forth herein and in ~~the DIP Term Sheet and/or~~ the DIP Loan Documents. All objections to the Motion to the extent not withdrawn, waived, settled, or resolved are hereby denied and overruled on the merits; ~~however, notwithstanding the foregoing, the objections to the Motion [D.I. 57 and 73] (collectively, the "HUD Objections") filed by Grandbridge Real Estate Capital LLC, Berkadia Commercial Mortgage LLC, and Lument Real Estate Capital, LLC (collectively, the "Objecting HUD Lenders") shall be preserved for resolution by the Court at the Final Hearing.~~ The Debtors are authorized, pursuant to section 364 of the Bankruptcy Code, to execute, deliver, enter into and, as applicable, comply with and perform all of their obligations under the DIP ~~Term Sheet and/or the DIP~~ Loan Documents and such other and additional documents necessary or desired to implement the DIP Facility, and to obtain postpetition secured financing from the DIP Lender, to avoid immediate and irreparable harm to the Debtors' estates. Except as modified by this ~~Interim~~Final Order, including, for the avoidance of doubt, ~~paragraphs 33-36~~paragraph 38 below, all provisions of the DIP ~~Term~~

~~Sheet~~Loan Documents are incorporated herein and approved in their entirety, whether explicitly referenced or not. For the avoidance of doubt, if there are any inconsistencies between the terms of this InterimFinal Order and ~~the DIP Term Sheet and/or~~ the DIP Loan Documents, the terms of this InterimFinal Order shall control, and all references herein to the DIP ~~Term Sheet and/or the~~ DIP-Loan Documents shall mean as modified by this InterimFinal Order.

2. DIP Obligations. The DIP ~~Term Sheet (and/or the DIP~~-Loan Documents) shall constitute and evidence the valid and binding effect of the Debtors' obligations under the DIP Facility, which DIP Obligations shall be legal, valid, and binding obligations of the Debtors and enforceable against the Debtors, their estates, any successors thereto, including, without limitation, any trustee appointed in any of the Debtors' cases, or in any case under chapter 7 of the Bankruptcy Code upon the conversion of any such cases, or in any other proceedings superseding or related to any of the foregoing, any successors thereto, and any party determined to be the beneficial owner of the DIP Collateral by this Court. The Debtors and their successors shall be jointly and severally liable for repayment of any funds advanced pursuant to the DIP ~~Term Sheet (and/or the DIP~~-Loan Documents) and the DIP Obligations. No obligation, payment, transfer or grant of security under the DIP Loan Documents or this InterimFinal Order, with respect to the DIP Facility shall be stayed, restrained, voided, voidable or recoverable under the Bankruptcy Code or under any applicable non-bankruptcy law, or subject to any defense, reduction, setoff, recoupment or counterclaim.

3. Authorization to Borrow. The Debtors are hereby authorized to execute, deliver, enter into and, as applicable, comply with and perform all of their obligations, and to pay all fees, costs, expenses, indemnities, and other amounts contemplated, under the DIP ~~Term Sheet (and/or the DIP~~-Loan Documents) and to take such other and further acts as may be necessary, appropriate or desirable in connection therewith. Upon entry of this InterimFinal Order, the Debtors are authorized to borrow up to aggregate amount of the ~~Interim Advance~~DIP Commitment, and the Debtors are hereby authorized to provide a guaranty of payment and performance in respect of the DIP Obligations, in each case, in accordance with the DIP ~~Term~~

~~Sheet (and/or the DIP~~ Loan Documents), and the DIP Obligations up to the amount of the ~~Interim Advance~~ DIP Commitment are hereby approved (as and when such amounts become earned, due, and payable in accordance with this ~~Interim~~ Final Order, ~~the DIP Term Sheet (and/or the DIP~~ Loan Documents)) without the need to seek further Court approval. Once repaid, the ~~Interim Advance~~ DIP Commitment may not be re-borrowed.

4. Use of DIP Facility Proceeds. The Debtors shall use the ~~Interim Advance~~ DIP Commitment only for the express purposes specifically set forth in the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents), the Initial DIP Budget and this ~~Interim~~ Final Order. The Debtors are authorized to use the proceeds of the ~~Interim Advance~~ DIP Commitment to (a) fund the postpetition working capital needs of the Debtors during the pendency of the Chapter 11 Cases, (b) pay fees, costs, and expenses of the DIP Facility on the terms and conditions described in this ~~Interim~~ Final Order, the ~~Interim~~ Initial DIP Budget and ~~the DIP Term Sheet (any Approved Budget, and/or the DIP~~ Loan Documents), and (c) pay the allowed administrative costs and expenses of the Chapter 11 Cases, in each case, solely in accordance with the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents) (including, but not limited to, the ~~DIP~~ Approved Budget) and this ~~Interim~~ Final Order.

5. DIP Budget and DIP Facility Reporting. Except as otherwise provided herein or approved by the DIP Lender, the proceeds from the ~~Interim Advance~~ DIP Commitment shall be used only in compliance with the terms of this ~~Interim~~ Final Order, ~~the DIP Term Sheet (and/or the DIP~~ Loan Documents), and the Initial DIP Budget and any Approved Budget. The Debtors shall comply with the reporting requirements and obligations set forth in this ~~Interim~~ Final Order and ~~the DIP Term Sheet (and/or the DIP~~ Loan Documents).

6. Payment of DIP Facility Fees and Expenses.

(a) The ~~(i)~~ Commitment Fee (as defined in the DIP ~~Term Sheet~~) and ~~(ii)~~ Loan Documents) has been paid pursuant to the Interim DIP Order and the DIP Loan Documents and the Exit Fee (as defined in the ~~DIP Term Sheet~~) ~~are each hereby~~ Loan Documents) has been approved ~~and the Debtors are hereby authorized and directed to and shall pay such fees on a final~~



basis in accordance with, and on the terms set forth in the Interim DIP ~~Term Sheet (and/or Order.~~  
The Debtors are hereby authorized and directed to and shall pay the Exit Fee (as defined in the  
Loan Documents) in accordance with, and on the terms set forth in the Interim DIP Order, the  
 DIP Loan Documents), this ~~Interim~~Final Order and the Initial DIP Budget and any Approved  
 Budget. The Debtors are also hereby authorized and directed to pay upon demand, all other  
 reasonable and documented fees, costs, expenses and other amounts payable under the terms of  
 the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents) and this ~~Interim~~Final Order and all other  
 reasonable and documented fees and out-of-pocket costs and expenses of the DIP Lender in  
 accordance with the terms of the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents) and this  
InterimFinal Order, including, without limitation, all reasonable and documented fees and  
 out-of-pocket costs and expenses of Norton Rose Fulbright US LLP and Morris James LLP as  
 counsel to the DIP Lender (the “DIP Professional Fees and Expenses”), subject to receiving a  
 written invoice therefor. None of such fees, costs, expenses or other amounts shall be subject to  
 further application to or approval of this Court, and shall not be subject to allowance or review  
 by this Court or subject to the U.S. Trustee’s fee guidelines, and no attorney or advisor to the  
 DIP Lender shall be required to file an application seeking compensation for services or  
 reimbursement of expenses with this Court; provided, however, that copies of any such invoices  
 shall be provided contemporaneously to the U.S. Trustee, counsel ~~to~~for the  
~~Consenting~~Prepetition Secured Parties and counsel to ~~any Creditors~~the Committee; ~~if any~~  
 (together with the Debtors, the “Review Parties”), provided further, however, that such invoices  
 may be redacted or modified to the extent necessary to delete any information subject to the  
 attorney-client privilege, any information constituting attorney work product, or any other  
 confidential information, and the provision of such invoices shall not constitute a waiver of the  
 attorney-client privilege or any benefits of the attorney work product doctrine. Any objections  
 raised by any Review Party with respect to such invoices must be in writing and state with  
 particularity the grounds therefor and must be submitted to the affected professional within ten  
 (10) calendar days after delivery of such invoices to the Review Parties (such ten (10) day



calendar period, the “Review Period”). If no written objection is received prior to the expiration of the Review Period from the Review Parties, the Debtors shall pay such invoices within five (5) business days following the expiration of the Review Period. If an objection is received within the Review Period, the Debtors shall promptly pay the undisputed amount of the invoice within five (5) business days, and the disputed portion of such invoice shall not be paid until such dispute is resolved by agreement between the affected professional and the objecting party or by order of this Court. Any hearing to consider such an objection to the payment of any fees, costs or expenses set forth in a professional fee invoice hereunder shall be limited to the reasonableness of the fees, costs and expenses that are the subject of such objection. All such unpaid fees, costs, expenses and other amounts owed or payable to the DIP Lender shall be secured by the DIP Collateral and afforded all of the priorities and protections afforded to the DIP Obligations under the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents) and this ~~Interim~~Final Order.

(b) ~~Notwithstanding anything to the contrary, the Debtors are authorized and directed to pay the following: upon the Interim Advance, the Debtors shall pay in full in cash all unpaid DIP Professional Fees and Expenses arising through and including the Interim Advance, without the need for any professional engaged by or on behalf of the DIP Lender to first deliver a copy of its invoice to any of the Review Parties (other than Debtors).~~Reserved.

(c) Notwithstanding anything contained in this ~~Interim~~Final Order to the contrary, any and all payments, premiums, fees, costs, expenses, and other amounts paid at any time by any of the Debtors to the DIP Lender pursuant to the requirements of this ~~Interim~~Final Order ~~or the DIP Term Sheet (and/or the DIP~~ Loan Documents) shall be non-refundable and irrevocable, are hereby approved, and shall not be subject to any challenge, objection, defense, claim or cause of action of any kind or nature whatsoever, including, without limitation, avoidance (whether under chapter 5 of the Bankruptcy Code or under applicable law (including any applicable state law Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law)), reduction, setoff, offset, recoupment, recharacterization,

subordination (whether equitable, contractual, or otherwise), reclassification, disgorgement, disallowance, impairment, marshaling, surcharge, or recovery or any other cause of action, whether arising under the Bankruptcy Code, applicable non-bankruptcy law or otherwise, by any person or entity (subject, solely in the case of the DIP Professional Fees and Expenses, to paragraph 6(a) of this ~~Interim~~Final Order).

7. Cash Management. Until such time as all DIP Obligations are Paid in Full, the Debtors shall maintain the cash management system in accordance with the applicable “first day” order and such deposit accounts shall, upon the request of the DIP Lender, be subject to a control agreement in favor of the DIP Lender as required by the DIP ~~Term Sheet~~Loan Documents (excluding for the avoidance of doubt, the Carve Out Account, and subject to any mandatory prepayment obligations owed to the DIP Lender, any account into which proceeds of any asset sales are escrowed and any account into which a government payor deposits accounts receivable).

8. Indemnification. The Debtors are hereby authorized to and hereby agree to indemnify and hold harmless the DIP Lender and its affiliates, directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing the DIP Lender (collectively, an “Indemnified Party”) from and against: (a) all obligations, demands, claims, damages, losses and liabilities (including, without limitation, reasonable fees and disbursements of counsel) (collectively, “Indemnity Claims”) as set forth in the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents) including those asserted by any other party in connection with the transactions contemplated by the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents); and (b) all losses or expenses incurred, or paid by the DIP Lender from, following, or arising from the transactions contemplated by the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents), including reasonable and documented attorneys’ fees and expenses, except for Indemnity Claims and/or losses directly caused by the DIP Lender’s fraud, gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is

brought by any of the Debtors or any of their respective directors, security holders or creditors, an Indemnified Party, or if any other Person or Indemnified Party is otherwise a party thereto, and whether or not the transactions contemplated hereby are consummated. No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any Debtor or any of its subsidiaries or any shareholders or creditors of the foregoing for or in connection with the transactions contemplated hereby, except to the extent such liability is determined by a court of competent jurisdiction in a final non-appealable judgment or order to have resulted solely from such Indemnified Party's gross negligence, willful misconduct or material breach of the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents). All indemnities of the Indemnified Parties shall constitute DIP Obligations secured by the DIP Collateral and afforded all of the priorities and protections afforded to the DIP Obligations under the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents) and this ~~Interim~~Final Order.

9. DIP Superpriority Claims. In accordance with section 364(c)(1) of the Bankruptcy Code, the DIP Obligations shall constitute allowed senior administrative expense claims against each Debtor and their estates (the "DIP Superpriority Claims") with priority in payment over any and all administrative expenses at any time existing or arising, of any kind or nature whatsoever, including, without limitation, the kinds specified or ordered pursuant to any provision of the Bankruptcy Code, including, but not limited to, sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 and 1114 of the Bankruptcy Code or otherwise, including those resulting from the conversion of any of the Chapter 11 Cases pursuant to section 1112 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment; provided, however, that the DIP Superpriority Claims shall be subject to and subordinate to only the Carve Out ~~and the eCapital Obligations until such time as the eCapital Obligations are paid in full in cash;~~ provided, further that the DIP Superpriority Claims shall have recourse to and be payable from all prepetition and postpetition property and assets of the Debtors and the estates and all DIP Collateral and all proceeds thereof, ~~and (a) any and all avoidance power claims or causes of action;~~ provided that,

the DIP Lender may seek payment from the following DIP Collateral only after using commercially reasonable efforts to seek payment from all other DIP Collateral and so long as such payment is otherwise in accordance with the DIP Documents, and in any event no sooner than December 15, 2024: (a) proceeds (“Tort Claim Proceeds”) of commercial tort claims, and claims, actions, suits, causes of action, if any, that may be brought by the Debtors or their estates against parties that are current or former “insiders” of the Debtors as such term is defined in 11 U.S.C. § 101(31), or are current or former “affiliates” of the Debtors as such term is defined in 11 U.S.C. § 101(31), including, but not limited to, the Debtors’ current and former direct and indirect parent entities and the Debtors’ current and former insiders (“Tort Claims”) and (b) proceeds (“Avoidance Action Proceeds”) of any actions, claims, or remedies under sections 544, 545, 547, 548 ~~through 551~~, and ~~553(b)~~550 of the Bankruptcy Code ~~(the or other similar or related state or federal statutes or common law, including fraudulent transfer laws (“Avoidance Actions”)), (b) the proceeds thereof (the “Avoidance Action Proceeds”), and (c) prepetition tort claims, including claims against the Debtors’ current and former directors and officers (if any) and the proceeds thereof.~~ The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this ~~Interim~~Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise. Any Avoidance Action Proceeds and Tort Claim Proceeds received by the Debtors shall be retained by the Debtors until the DIP Obligations are paid in full. No Avoidance Action Proceeds or Tort Claim Proceeds shall be used to repay the DIP Obligations without at least five (5) business days’ notice to Committee, during which time the Committee may seek expedited relief from the Court for a determination whether the obligation to use commercially reasonable efforts to seek payment from all other DIP Collateral has been satisfied.

#### 10. DIP Liens.

(a) ~~Effective immediately and automatically as of the entry of this Interim Order, as~~As security for the DIP Obligations, the DIP Lender is granted continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected priming first lien

security interests in and liens (collectively, the “DIP Liens”) on the DIP Collateral as collateral security for the prompt and complete performance and payment when due (whether at the Maturity Date (as defined in the DIP ~~Term Sheet~~Credit Agreement), by acceleration, or otherwise) of the DIP Obligations under the terms of the DIP ~~Term Sheet (and/or the DIP Loan Documents)~~ and this ~~Interim~~Final Order. The term “DIP Collateral” means collectively all of the Debtors’ right, title and interest in, to and under all of the Debtors’ assets, including, but not limited to the following, in each case, whether now owned or existing or hereafter acquired, created or arising and wherever located: all assets and property of such Debtor and its estate, real or personal, tangible or intangible, now owned or hereafter acquired, whether arising before or after the Petition Date, including, without limitation, all fee-owned real properties listed on Schedule 34.11(b) of the DIP ~~Term Sheet~~Credit Agreement, contracts, contract rights, licenses, general intangibles, instruments, equipment, accounts, documents, goods, inventory, fixtures, documents, cash, cash equivalents, accounts receivables, chattel paper, letters of credit and letter of credit rights, investment property (including, without limitation, all equity interests owned by any Loan Party in its current and future subsidiaries), ~~commercial tort claims~~, arbitration awards, money, insurance, receivables, receivables records, deposit accounts, collateral support, supporting obligations and instruments, fixtures, all interests in leaseholds and real properties, all patents, copyrights, trademarks, all trade names and other intellectual property (whether such intellectual property is registered in the United States or in any foreign jurisdiction), together with all books and records relating to the foregoing, all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing (as such terms are defined in the Uniform Commercial Code as in effect from time to time in the State of New York) and, ~~subject to the entry of a Final Order,~~ (i) proceeds of actions brought under section 549 of the Bankruptcy Code to recover any postpetition transfer of DIP Collateral and (ii) the Avoidance Action Proceeds and Tort Claim Proceeds; provided, however, that DIP Collateral shall not include Tort Claims or Avoidance Actions.

(b) To the fullest extent permitted by the Bankruptcy Code or applicable law, and except as otherwise set forth herein, any provision of any lease other than a real property lease, loan document, easement, use agreement, proffer, covenant, license, contract, organizational document, or other instrument or agreement that requires the consent or the payment of any fees or obligations to any entity in order for any of the Debtors to pledge, grant, mortgage, sell, assign, or otherwise transfer any fee or leasehold interest or the proceeds thereof or other DIP Collateral, shall have no force or effect with respect to the DIP Liens on such leasehold interests or other applicable DIP Collateral or the proceeds of any assignment and/or sale thereof by any Debtor, in favor of the DIP Lender in accordance with the terms of the DIP ~~Term Sheet (and/or the DIP Loan Documents)~~ or this ~~Interim~~Final Order.

11. Priority of DIP Liens.

(a) To secure the DIP Obligations, immediately and automatically upon and effective as of entry of this ~~Interim~~Final Order, the DIP Liens granted to the DIP Lender ~~on an interim basis~~ under this ~~Interim~~Final Order are continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected first priority priming DIP Liens in the DIP Collateral as follows, in each case subject to the Carve Out, ~~the eCapital Obligations until such time as the eCapital Obligations are paid in full in cash,~~ and the Permitted Prior Liens:

(i) *Liens Priming the Prepetition Liens.* ~~Contemporaneously with the payment in full in cash of the eCapital Obligations, pursuant to~~Pursuant to section 364(d)(1) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected priming first priority senior liens and security interests in the DIP Collateral, regardless of where located, which senior priming liens and security interests in favor of the DIP Lender shall be senior to the Prepetition Liens. For the avoidance of doubt, as a result of the priming of the Prepetition Liens pursuant to this ~~Interim~~Final Order, the DIP Lender shall have a first priority senior priming lien and security interest in; ~~among other things, (A) all of the assets of Debtors (and any entities that become debtors in these Chapter 11 Cases in the future), including, but not limited to, the "Collateral" as defined in any of the Prepetition Loan Documents, and (B) the Debtors' prepetition and postpetition commercial tort claims, including but not limited to all claims and causes of action (i) against the Debtors' officers and directors, and (ii) all other prepetition tort claims, and the proceeds thereof~~

~~(regardless of whether such proceeds arise from damages to the Prepetition Collateral);~~

(ii) *Liens on Unencumbered Property.* Pursuant to section 364(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected first priority liens on and security interests in all DIP Collateral that is not otherwise subject to any valid, enforceable, and non-avoidable liens on and security interests in the DIP Collateral that (A) were perfected prior to the Petition Date (or perfected on or after the Petition Date to the extent permitted by Section 546(b) of the Bankruptcy Code), and (B) are not subject to avoidance, disallowance, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law, ~~and (C) is a Permitted Prior Lien~~ the “Unencumbered Property”; provided, however, that the DIP Liens shall have priority over all Prepetition Liens; and

(iii) *Liens Junior to Certain Other Liens.* Pursuant to section 364(c)(3) of the Bankruptcy Code, valid, enforceable, non-avoidable automatically and fully perfected junior liens on and security interests in all DIP Collateral (other than as set forth in clauses (i) and (ii)) encumbered by the Permitted Prior Liens.

(b) Except as expressly set forth herein, the DIP Liens and the DIP Superpriority Claims shall not be made junior to or *pari passu* with (1) any lien, security interest or claim heretofore or hereinafter granted in any of the Chapter 11 Cases or any successor cases (collectively, the “Successor Cases”), and shall be valid and enforceable against the Debtors, their estates, any trustee or any other estate representative appointed or elected in the Chapter 11 Cases or any Successor Cases and/or upon the dismissal or conversion of any of the Chapter 11 Cases or any Successor Cases, (2) any lien that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or otherwise, (3) any intercompany or affiliate lien or claim, and (4) any liens arising after the Petition Date excluding any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, or board for any liability of the Debtors.

(c) Notwithstanding anything herein or in the ~~Term Sheet~~ DIP Loan Documents to the contrary, the priming liens granted pursuant to section 364(d)(1) of the Bankruptcy Code in this ~~Interim~~ Final Order shall not apply to encumber the ~~real property and any improvements thereon, including any funds in escrow or reserves relating to such real~~

~~property, and such other property of the relevant Debtors as is required by the National Housing Act or HUD regulations to be subject to the senior liens of the HUD lender, subject to HUD insured mortgage loans~~ Excluded HUD Mortgage Collateral (as defined below) owned by the following Debtors (the “HUD Debtors”): Petersen Health Care – Illini, LLC; Petersen Roseville, LLC; Petersen 23 LLC; Petersen 26 LLC; Petersen 27 LLC; Petersen 29 LLC Petersen 30 LLC; South Elgin, LLC; Jonesboro, LLC; Macomb, LLC; Petersen Roseville, LLC; ~~Heritage Nursing Center, LLC;~~ and SJL Health Systems, Inc. ~~The rights of the Debtor to seek to have these properties included in the priming liens granted pursuant to section 364(d)(1) of the Bankruptcy Code pursuant to the Final Order are preserved, as are the rights of the applicable lenders and the United States to object to such relief.~~ “Excluded HUD Mortgage Collateral” means the “real property” portion of the HUD Lenders’ collateral, with real property defined specifically to be the ground, buildings, fixtures (as defined in Article 9, § 102 of the UCC) , together with, in each case related thereto, (i) claims under any real property insurance and the proceeds thereof, (ii) condemnation claims, awards and proceeds; and (iii) any funds held by HUD Lenders in escrow or reserves relating to such real property or loan secured thereby (“Reserves”). For the avoidance of doubt, the Excluded HUD Mortgage Collateral does not include accounts, contract rights, chattel paper, cash (to the extent such cash is not Reserves or proceeds of any other Excluded HUD Mortgage Collateral), general intangibles, machinery, equipment, goods, inventory, furniture, letter of credit rights, books and records, deposit accounts, documents, instruments, commercial tort claims, leases and leaseholds and rents, or the going concern value of any of the Debtors’ business operations, including any government issued licenses issued in connection with the operations of the Debtors’ business. Funds shall be released from Reserves to pay any real estate tax obligations owed by the applicable HUD Debtor that come due during the pendency of the Chapter 11 Cases, up to a cap in the aggregate of \$1,000,000. HUD Lenders are authorized to use Reserves to pay mortgage insurance premiums consistent with prepetition amounts of such insurance in

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accordance with applicable loan documents and/or regulations as the same come due during the pendency of the Chapter 11 Cases. For the avoidance of doubt, in the event of a dispute as to the valuation of any part of the Excluded HUD Mortgage Collateral, such part of the Excluded HUD Mortgage Collateral shall be valued on an unoccupied market value basis and shall not be valued on a going concern, in-use, or as-occupied basis; provided, however, the Reserves shall not be subject to such valuation method.

12. Use of Cash Collateral. The Debtors are authorized to use Cash Collateral to fund the postpetition working capital needs of the Debtors during the pendency of the Chapter 11 Cases that are not funded with the DIP ~~Loans~~Facility and to pay the allowed administrative costs and expenses of the Chapter 11 Cases not funded by the DIP ~~Loans~~Facility, each solely in accordance with the DIP ~~Term-Sheet~~Loan Documents, the Initial DIP Budget and any Approved Budget and this ~~Interim-DIP~~Final Order, provided that the Debtors' performance against the ~~DIP~~Approved Budget shall be subject to variance permitted in the DIP ~~Term-Sheet~~Credit Agreement, and provided further that funds in Reserves held by HUD Lenders may be used by the Debtors and/or HUD Lenders (as applicable) only for the payment, when and as due post-petition, of real estate taxes owed on the HUD Debtor's property that is the subject of such Reserve and the mortgage insurance premiums as set forth in paragraph 11(c) herein. The Initial DIP Budget ~~is~~was attached to ~~this~~the Interim Order. Each proposed DIP Budget shall only become an Approved ~~DIP~~ Budget for the use of Cash Collateral and DIP Obligations as set forth in this ~~Interim~~Final Order and the ~~Term-Sheet~~DIP Loan Documents when it is agreed upon by the Debtors (after consultation with the Committee) and DIP Lender. The Debtors' use of Cash Collateral shall automatically terminate upon the occurrence of an Event of Default (as defined below). Any increase in the amounts budgeted for the Committee's professionals' fees and expenses in any proposed Budget shall be subject to prior written consent of the Prepetition Secured Parties or further Court order.

13. Adequate Protection of Prepetition Secured Parties. ~~The~~Each Prepetition Secured ~~Parties are~~Party is entitled, pursuant to sections 361, 362, 363(c)(2), 363(e) and 507 of the

Bankruptcy Code, to adequate protection of ~~their interests in all the~~ its interest in its respective Prepetition Collateral, (i) in an amount equal to the aggregate diminution in value of the such Prepetition Secured ~~Parties'~~ Party's interests in ~~the~~ its respective Prepetition Collateral from and after the Petition Date, if any, for any reasons provided under the Bankruptcy Code, and (ii) in respect of the Cost Allocation. In consideration for the foregoing, ~~the each~~ Prepetition Secured ~~Parties, are~~ Party is hereby granted the following in the amount of such diminution or in respect of the Cost Allocation, as applicable (collectively, together with the payment of the professional fees of certain Prepetition Secured Parties as detailed in paragraph S of this Final Order, the “Adequate Protection Obligations”):

(a) Adequate Protection Claims and Liens for Consenting Lenders. Each Prepetition Secured Party who does not object at the Final Hearing and affirmatively consents in writing within 15 days of entry of this Final Order to being primed by the DIP Lender and the Consenting Lender Cost Allocation Adequate Protection Claims as and to the extent provided in this Final Order (any such Prepetition Secured Party, a “Consenting Lender”) is hereby granted an allowed claim against all Debtors in the amount equal to the diminution in value of such Consenting Lender’s interests in its respective Prepetition Collateral from and after the Petition Date, if any, for any reasons provided under the Bankruptcy Code (with respect to each such Consenting Lender, the “Consenting Lender Diminution Adequate Protection Claim”), which is hereby secured (effective and perfected upon the date of this Final Order and without the necessity of any mortgages, security agreements, pledge agreements, financing statements, or other agreements) by a valid, perfected replacement security interest in and lien (with respect to each such Consenting Lender, the “Consenting Lender Diminution Adequate Protection Liens”) on the DIP Collateral, but not including the Excluded HUD Mortgage Collateral or the Specified Assets (as defined below) (with respect to each such Consenting Lender, the “Consenting Lender Diminution Adequate Protection Collateral”). Each Consenting Lender’s Consenting Lender Diminution Adequate Protection Lien shall be (i) *pari passu* with each other Consenting Lender’s Consenting Lender Diminution Adequate Protection Lien, (ii) junior only to the DIP

Liens, Permitted Prior Liens, the Carve Out, Prepetition Liens (including without limitation the Prepetition Liens on the Excluded HUD Mortgage Collateral) and the Consenting Lender Cost Allocation Adequate Protection Liens, and (iii) senior to the Non-Consenting Lender Adequate Protection Liens.

(b) ~~(a) Adequate Protection Liens. The Prepetition Secured Parties are hereby granted~~ In addition, each of the Consenting Lenders is hereby granted an allowed claim against all Debtors, in the amount equal to such Consenting Lender's Cost Allocation Overpayment (as defined below), if any (with respect to each such Consenting Lender, the "Consenting Lender Cost Allocation Adequate Protection Claim" and, with the Consenting Lender Diminution Adequate Protection Claim, the "Consenting Lender Adequate Protection Claim"), which is hereby secured (effective and perfected upon the date of this ~~Interim~~ Final Order and without the necessity of any mortgages, security agreements, pledge agreements, financing ~~statement~~ statements, or other agreements), ~~in the amount equal to the aggregate diminution in value of the interests in the Prepetition Collateral from and after the Petition Date, if any, for any reasons provided under the Bankruptcy Code (the "Adequate Protection Claim"),~~ by a valid, perfected replacement security interest in and lien on ~~all of the assets of Debtors (and any entities that become debtors in these Chapter 11 Cases in the future)~~ the DIP Collateral, but not including the Excluded HUD Mortgage Collateral or (i) Avoidance Action Proceeds, or (ii) Tort Claims Proceeds ((i) and (ii), collectively, the "Specified Assets") (with respect to each such Consenting Lender, the "Consenting Lender Cost Allocation Adequate Protection Liens" and, with the Consenting Lender Diminution Adequate Protection Liens, the "Consenting Lender Adequate Protection Liens"), including, but not limited to, the "Collateral" as defined in any of the Prepetition Loan Documents, the Prepetition Collateral ~~(the "~~, and the DIP Collateral (with respect to each such Consenting Lender, the "Consenting Lender Cost Allocation Adequate Protection Collateral" and, with the Consenting Lender Diminution Adequate Protection Collateral, the "Consenting Lender Adequate Protection Collateral"), ~~subordinate only to (i) the DIP Liens, (ii) the Permitted Prior Liens, (iii) the eCapital Obligations until such time as the~~

~~eCapital Obligations are paid in full in cash, and (iv) the Carve Out (the “~~Such Consenting Lender Cost Allocation Adequate Protection Liens”) ~~shall be (i) pari passu with each other Consenting Lender’s Consenting Lender Cost Allocation Adequate Protection Lien, and (ii) senior in priority to (x) Prepetition Liens (other than on Excluded HUD Mortgage Collateral), (y) Consenting Lender Diminution Adequate Protection Liens, and (z) Non-Consenting Lender Adequate Protection Liens.~~ Notwithstanding the foregoing, the Prepetition Secured Parties’ right to seek and receive additional adequate protection under any subsequent orders entered by this Court, including monthly cash payments, is hereby reserved and nothing herein shall be deemed a waiver of such rights. No Consenting Lender Cost Allocation Adequate Protection Claim may be recovered from any other Consenting Lender’s Prepetition Collateral in an amount that would cause repayment of the DIP Obligation and Consenting Lender Cost Allocation Adequate Protection Claims in excess of such other Consenting Lender’s Attributable Cost Allocation.

(c) ~~(b)~~ 507(b) Claims. ~~The Prepetition Secured Parties are for Consenting Lenders. Each Consenting Lender is~~ hereby granted, ~~an~~ allowed superpriority administrative expense claim as provided in section 507(b) of the Bankruptcy Code against all Debtors in the amount of ~~the~~ such Consenting Lender’s Consenting Lender Adequate Protection Claim with, except as set forth in this ~~Interim~~ Final Order, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the “Consenting Lender 507(b) Claims”); which Consenting Lender 507(b) Claims shall have recourse to and be payable only from the Consenting Lender Adequate Protection Collateral. ~~The~~ in the same order of priority as the Consenting Lender Adequate Protection Liens and, for the avoidance of doubt, shall not be payable from the Specified Assets. The Consenting Lender 507(b) Claims shall, in all instances, be subject and subordinate only to (i) the Carve Out, and (ii) ~~the eCapital Obligations, until such time as the eCapital Obligations are paid in full in cash, and (iii)~~ the DIP Superpriority Claims. The ~~Prepetition Secured Parties~~ Consenting Lenders shall not receive or retain any payments, property, or other amounts in respect of the Consenting Lender 507(b) Claims unless and until the DIP Obligations (other than contingent

indemnification obligations as to which no claim has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated; ~~provided that for the avoidance of doubt, nothing in this paragraph 13(b) shall limit the ability of Consenting Secured Parties to receive payment of professional fees to the extent allowed under this Interim Order and an Approved Budget.~~ The Consenting Lender 507(b) Claims shall be senior to the Non-Consenting Lender 507(b) Claims in all respects.

(d) Adequate Protection Claims and Liens for Non-Consenting Lenders.

Each Prepetition Secured Party that is not a Consenting Lender (each, a “Non-Consenting Lender”) is hereby granted a claim against the Debtors that are obligors under the Non-Consenting Lender’s Prepetition Loan Documents, in the amount equal to the diminution in value of such Non-Consenting Lender’s interest in its respective Prepetition Collateral from and after the Petition Date, if any, for any reasons provided under the Bankruptcy Code (the “Non-Consenting Lender Adequate Protection Claim,” together with the Consenting Lender Adequate Protection Claim, the “Adequate Protection Claims”), which is hereby secured (effective and perfected upon the date of this Final Order and without the necessity of any mortgages, security agreements, pledge agreements, financing statements, or other agreements) by a valid, perfected replacement security interest in and lien on such Non-Consenting Lender’s Prepetition Collateral (the “Non-Consenting Lender Adequate Protection Liens,” together with the Consenting Lender Adequate Protection Liens, the “Adequate Protection Liens”), including, but not limited to, the “Collateral” as defined in any of the Prepetition Loan Documents to which such Non-Consenting Lender was granted Prepetition Collateral (with respect to each such Non-Consenting Lender, the “Non-Consenting Lender Adequate Protection Collateral,” together with the Consenting Lender Adequate Protection Collateral, the “Adequate Protection Collateral”); provided, however, that the Non-Consenting Lender Adequate Protection Collateral shall not include the Specified Assets. For the avoidance of doubt, and notwithstanding anything to the contrary herein, other than with respect to Consenting Lender Cost Allocation Adequate Protection Claims, no Prepetition Secured Party shall be entitled to payment on account of an

asserted Adequate Protection Claim without further order of the Court determining (i) that such Prepetition Secured Party's interest in its Prepetition Collateral has diminished in value and (ii) the amount of such diminution in value.

(e) 507(b) Claims for Non-Consenting Lenders. Each Non-Consenting Lender is hereby granted, an allowed superpriority administrative expense claim as provided in section 507(b) of the Bankruptcy Code against the Debtors that are obligors under the Non-Consenting Lender's Prepetition Loan Documents in the amount of the Non-Consenting Lender Adequate Protection Claim with, except as set forth in this Final Order, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the "Non-Consenting Lender 507(b) Claims," together with the Consenting Lender 507(b) Claims, the "507(b) Claims"). The Non-Consenting Lender 507(b) Claims shall be payable only from the Non-Consenting Lender Adequate Protection Collateral and, for the avoidance of doubt, shall not be payable from the Specified Assets. The Non-Consenting Lender 507(b) Claims shall, in all instances, be subject and subordinate only to (i) the Carve Out, (ii) the DIP Superpriority Claims, and (iii) claims of Consenting Lenders with respect to the Cost Allocation Overpayment. The Non-Consenting Lenders shall not receive or retain any payments, property, or other amounts in respect of the Non-Consenting Lender 507(b) Claims unless and until the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated.

(f) Defined Terms.

(i) "Cost Allocation" shall mean (i) the direct costs allocable to a home (e.g., food, medicine, utilities, payroll) minus the revenue from such home ("Direct Costs") (which, if it yields a negative number, will be credited against Indirect Costs) plus (ii) each home's pro rata portion of the general costs of the Chapter 11 Cases, calculated by the Debtors on a per bed basis (i.e., determined by using number of beds in such home as of the Petition Date as the numerator, and the aggregate number as of the Petition Date of all beds in all homes owned by Debtors other than Receivership Debtors as the denominator), minus, solely with respect to Consenting Lenders, the Exit Fee Discount (defined below) ("Indirect

Costs”). Each Prepetition Secured Party’s pro rata portion of Indirect Costs shall be fixed for the duration of the Chapter 11 Cases, subject only to any decrease or increase to the total number of Debtors in the Chapter 11 Cases and the allocations described in the definition of Exit Fee Discount below. The Cost Allocation for Direct Costs shall be updated within ten (10) business days of each month to reflect actual incurred Direct Costs, filed with the Court, and served on all Prepetition Secured Parties, the Committee, and the U.S. Trustee.

(ii) The “Exit Fee Discount” shall mean an amount equal to 25% of the Exit Fee if there are any Non-Consenting Lenders, and \$0 of the Exit Fee if there are no Non-Consenting Lenders. The Exit Fee Discount shall be allocated ratably to all Non-Consenting Lenders, if any, as part of the Cost Allocation. To the extent the Exit Fee Discount cannot be recovered in full from the Non-Consenting Lenders’ collateral, any such portion of the Exit Fee Discount will be reallocated to the Consenting Lenders pro rata using the per bed calculation used for the general costs of the Chapter 11 Cases.

(iii) “Attributable Cost Allocation” for any Prepetition Secured Party shall mean the Cost Allocation attributable to the homes that are part of such Prepetition Secured Party’s Prepetition Collateral.

(iv) “Cost Allocation Overpayment” for any Consenting Lender means that portion of the DIP Facility repaid from such Consenting Lender’s Prepetition Collateral in excess of such Consenting Lender’s Attributable Cost Allocation.

(g) *Sale Proceeds Reconciliation Period.* All sale proceeds of DIP Collateral in excess of the aggregate Cost Allocation Overpayment for the Collateral sold at such time shall be held in escrow by the Debtors for thirty (30) days prior to being used to pay down the DIP Facility if sale proceeds then on hand are deficient to repay the entire Cost Allocation Overpayment to the affected Consenting Lender(s) at that time.

(h) *Reporting.* As additional adequate protection, all Prepetition Secured Parties and counsel for HUD shall receive monthly cash flow reporting and all reports required to be delivered under the DIP Facility (substantially concurrently with delivery to the DIP Lender). The Debtors shall provide copies of all such reports to the Committee concurrently with delivery to the DIP Lender and the Prepetition Secured Parties.

(i) Notwithstanding anything to the contrary contained herein, any Consenting Lender Adequate Protection Claim of the Sector Lenders shall (a) have priority over

any Consenting Lender Adequate Protection Claim of the HUD Lenders on the first \$1.5 million of any proceeds of the sale of assets of the Receivership Debtors, Petersen Health Care X, LLC, Petersen Health Network, LLC, and, solely to the extent such entities become Debtors, Charleston HCC, LLC, Charleston HCO, LLC, Cumberland HCC, LLC, and Cumberland HCO, LLC, received by the Debtors' estates, and (b) share *pari passu* with any Consenting Lender Adequate Protection Claim of the HUD Lenders on the next \$2.9 million of any such proceeds, up to \$4.4 million; provided, however, that (x) as to proceeds of the sale of assets of the Receivership Debtors, (i) the first \$3.3 million of such proceeds can be used to pay Consenting Lender Adequate Protection Claims and (ii) such proceeds in excess of \$3.3 million shall not be available to pay any Adequate Protection Claims and shall not be subject to any Adequate Protection Liens; and (y) as to proceeds of the sale of assets of Petersen Health Care X, LLC, Petersen Health Network, LLC, and, solely to the extent such entities become Debtors, Charleston HCC, LLC, Charleston HCO, LLC, Cumberland HCC, LLC, and Cumberland HCO, LLC, any such proceeds in excess of the \$1.1 million for Consenting Lender Adequate Protection Claims may be used to pay Consenting Lender Diminution Adequate Protection Claims but no other Adequate Protection Claims. Any Consenting Lender Diminution Adequate Protection Claims of the Sector Lenders and HUD Lenders that are not otherwise repaid pursuant to this Final Order shall, in addition to all other protections afforded to such parties and claims by this Final Order, be allowed as unsecured claims in the bankruptcy estates of the Receivership Debtors, Petersen Health Care X, LLC, Petersen Health Network, LLC, and, solely to the extent such entities become Debtors, Charleston HCC, LLC, Charleston HCO, LLC, Cumberland HCC, LLC, and Cumberland HCO, LLC.

(j) In the event all Prepetition Secured Obligations and Adequate Protection Claims are paid in full, the Debtors and the Committee shall work in good faith to agree on allocating the DIP Obligations, the Direct Costs, and the Indirect Costs among the Debtors for purposes of distributions to unsecured creditors.

14. DIP Termination Event; Exercise of Remedies.

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(a) DIP Termination Events. An “Event of Default” shall exist upon the occurrence of any of the events ~~listed in Section 25 of the DIP Term Sheet~~ that triggers the DIP Termination Date (as defined in the DIP ~~Term Sheet~~Loan Documents, a “DIP Termination Event”).

(b) Exercise of Remedies. Upon the occurrence of a DIP Termination Event, without further notice to, hearing of, application to, or order from this Court, the automatic stay provisions of section 362 of the Bankruptcy Code shall be vacated and modified to the extent necessary to permit the DIP Lender to take any of the following actions, at the same or different time: (i) deliver a written notice (which may be via electronic mail) to counsel for the Debtors, the U.S. Trustee, ~~and counsel for the Creditors Committee, if any,~~ (the “Remedies Notice”) declaring the occurrence of a DIP Termination Event (such date, the “DIP Termination Declaration Date”) and/or deliver a Carve Out Trigger Notice (as defined and in the manner described below), (ii) declare the termination, reduction or restriction of the commitments under the DIP Facility (to the extent any such commitment remains), (iii) declare all DIP Obligations to be immediately due and payable, without presentment, demand or protest or other notice of any kind, all of which are expressly waived by the Debtors, (iv) declare the termination, restriction or reduction of the DIP Facility and the ~~Term Sheet (and/or the DIP Loan Documents)~~ as to any further liability or obligation thereunder, but without affecting the DIP Liens, the DIP Superpriority Claims, or the DIP Obligations, (v) charge default interest at the default rate set forth in the DIP ~~Term Sheet~~Loan Documents, and (vi) declare the termination, restriction, or revocation of the ability of the Debtors to use Cash Collateral. The Debtors shall promptly provide any Remedies Notice to counsel for the Consenting Lenders.

(c) Waiting Period Procedures. The Debtors may seek an emergency hearing during the period beginning on the DIP Termination Date and prior to the expiration of ~~the~~ ~~fifteen~~ ~~(510)~~ calendar days following the DIP Termination Date (such period, the “Waiting Period”). During the Waiting Period, the Debtors shall continue to have the right to use DIP Collateral (including Cash Collateral) in accordance with the terms of this ~~Interim Order, solely~~

~~to pay any expenses which are necessary to (a) preserve the Debtors' going concern value or (b) contest in good faith the occurrence of the Maturity Date or Event of Default~~ Final Order and the Approved Budget; provided, however, that the professional fees and expenses of the Professional Persons (as defined below) shall be governed by Paragraph 16 and subject to the Approved Budget. The DIP Lender shall not (x) object to any motion filed by the Debtors during the Waiting Period seeking an expedited hearing with respect to the Remedies Notice or (y) seek to reduce such Waiting Period.

(d) Rights and Remedies Following Termination Date. Following a DIP Termination Date and unless this Court has entered an order prior to the expiration of the Waiting Period finding that an Event of Default has not occurred, the DIP Lender shall be entitled to exercise all rights and remedies in accordance with the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents), this ~~Interim~~ Final Order, and applicable law and the automatic stay of section 362 of the Bankruptcy Code shall automatically, without further order, be lifted, to allow the DIP Lender to pursue all rights and remedies in accordance with the ~~Term Sheet (and/or the DIP~~ Loan Documents), this ~~Interim~~ Final Order, and applicable law.

(e) Leased Premises. Following a DIP Termination Event (subject to the terms of paragraph 14 herein), the DIP Lender shall be entitled to enter upon any leased premises in accordance with (i) a separate agreement with the landlord by and between the DIP Lender and the applicable landlord, (ii) consent of the landlord, (iii) upon entry of an order of this Court, upon notice to the landlord and a hearing, or (iv) in accordance with the rights of the DIP Lender under applicable non-bankruptcy law.

15. No Waiver by Failure to Seek Relief. The rights and remedies of the DIP Lender specified herein are cumulative and not exclusive of any rights or remedies that the DIP Lender may have under this ~~Interim~~ Final Order, ~~the DIP Term Sheet (and/or the DIP~~ Loan Documents), applicable law, or otherwise. The failure or delay on the part of the DIP Lender to seek relief or otherwise exercise its rights and remedies under this ~~Interim~~ Final Order, ~~the DIP Term Sheet (and/or the DIP~~ Loan Documents), or applicable law, as the case may be, shall not constitute a

waiver of any of its respective rights hereunder, thereunder, or otherwise. Except as expressly set forth herein, none of the rights or remedies of the DIP Lender under this ~~Interim~~Final Order ~~or the DIP Term Sheet (and/or the DIP Loan Documents)~~ shall be deemed to have been amended, modified, suspended, or waived unless such amendment, modification, suspension, or waiver is express, in writing and signed by the DIP Lender. No consents required hereunder by the DIP Lender shall be implied by any inaction or acquiescence by the DIP Lender.

16. Carve Out.

(a) Priority of Carve Out. The DIP Liens and the DIP Superpriority Claims shall be subject and subordinate to payment of the Carve Out. The Carve Out shall be senior to all claims and liens over all assets of the Debtors, including any DIP Collateral, as set forth in this ~~Interim~~Final Order.

(b) Carve Out. The term “Carve Out” shall mean the sum of (i) all fees required to be paid to the Clerk of this Court and to the U.S. Trustee under 28 U.S.C. § 1930(a), together with any interest thereon pursuant to 31 U.S.C. § 3717 (“Statutory Fees”), which shall not be subject to the Approved Budget; (ii) Court-allowed fees and expenses of a trustee appointed under section 726(b) of the Bankruptcy Code in an amount not to exceed \$25,000, (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”), ~~or any~~ the Patient Care Ombudsman appointed pursuant to the Order Directing the Appointment of a Patient Care Ombudsman (Docket No. 137) and her professionals (the “PCO Professionals”)<sup>4</sup> and persons or firms retained by the Committee(s), if ~~any~~, pursuant to sections 328 or 1103 of the Bankruptcy Code (the “Committee Professionals,” together with the Debtor Professionals, the Patient Care Ombudsman and the PCO Professionals,

<sup>4</sup> The PCO Professionals shall be permitted to seek and obtain compensation pursuant to the procedures and timeline set forth in the Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals [Dkt #235].

the “Professional Persons”), at any time before or on the first business day following delivery by the DIP Lender of a Carve Out Trigger Notice (as defined below), whether allowed by this Court prior to or after delivery of a Carve Out Trigger Notice (the “Pre-Trigger Date Fees”), subject to and not to exceed the Approved Budget and any limits by this ~~Interim~~Final Order, provided that Professional Persons may carry forward and carry backward budgeted but unused disbursements set forth in the Approved Budget for any week for use in any prior or subsequent week; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed ~~\$500,000~~750,000 incurred after the first calendar day following delivery by the DIP Lender of the Carve Out Trigger Notice (the “Trigger Date”), to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve Out Trigger Notice Cap” and together with the Pre-Trigger Date Fees, the “Carve Out Cap”); provided, however, that nothing herein shall be construed to impair the ability of the DIP Lender to object to the fees, expenses, reimbursement, or compensation described in clauses (iii) or (iv) above, on any grounds. Prior to the occurrence of the Trigger Date, the Carve-Out for Professional Persons shall be funded on a weekly basis to a trust or segregated account in the amounts specified in the Approved Budget for distribution to such Professional Persons once such fees and expenses are allowed by the Court. Following the occurrence of the Trigger Date, any remaining fees and expenses in the amount specified in the Approved Budget for the Professional Persons through the Trigger Date, including the Pre-Trigger Date Fees, shall be funded to a trust or segregated account and distributed to such Professionals once such fees and expenses are allowed by the Court.

(c) For purposes of the foregoing, “Carve Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the DIP Lender or its counsel to the Debtors, their counsel, the U.S. Trustee, counsel ~~to~~for any Consenting ~~Secured Parties~~Lenders and counsel to ~~any~~the Committee, which notice may be delivered only following the occurrence and during the continuation of an Event of Default and acceleration of the DIP ~~Loans~~Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked. On the day

on which a Carve Out Trigger Notice is received by the Debtors, the Carve Out Trigger Notice shall constitute a demand to the Debtors to transfer cash to the Carve Out Account in an amount equal to the Carve Out Cap.

(d) Carve Out Account. Immediately upon the delivery of a Carve Out Trigger Notice, and prior to the payment of any DIP Obligations, the Debtors shall be required to deposit cash in the amount of the Carve Out Cap into a segregated account not subject to the control of the DIP Lender (the “Carve Out Account”). The amounts in the Carve Out Account shall be available only to satisfy amounts included in the Carve Out until such amounts are paid in full. The amount in the Carve Out Account shall be reduced on a dollar-for-dollar basis for amounts included in the Carve Out that are paid after the delivery of the Carve Out Trigger Notice, and the Carve Out Account shall not be replenished for such amounts so paid. The failure of the Carve Out Account to satisfy in full the amount set forth in the Carve Out shall not affect the priority of the Carve Out.

(e) Carve Out Draw. Subject to exhaustion of the DIP Commitments, the Debtors shall be permitted to draw on the DIP Facility in the amount of the Carve Out less the amounts contained in the Carve Out Account, notwithstanding any default, Event of Default, or the occurrence of a Trigger Date; provided, however, the DIP Lender shall not have any obligation to fund any Carve Out shortfall beyond what it is obligated to fund under the DIP Commitments. Any Carve Out Trigger Notice shall be deemed a consent by the DIP Lender to the Debtors depositing Cash Collateral or proceeds of the DIP Facility into the Carve Out Account in an amount equal to the sum of the Carve Out Cap.

(f) Payment of Allowed Professional Fees Prior to the Trigger Date. Any payment or reimbursement made prior to the occurrence of the Trigger Date in respect of any Allowed Professional Fees shall not reduce the Carve Out. Nothing herein shall be deemed to abridge the rights of any Professional Persons from submitting an application for allowance of professional fees in an amount greater than the amount identified in the Budget.

(g) No Direct Obligation to Pay Professional Fees; No Waiver of Right to Object to Fees. The DIP Lender and the Prepetition Secured Parties shall not be responsible for the direct payment or reimbursement of any fees or disbursements of any of the Professional Persons incurred in connection with the Chapter 11 Cases or any Successor Cases under any chapter of the Bankruptcy Code. Nothing in this ~~Interim~~Final Order or otherwise shall be construed to obligate the DIP Lender or any Prepetition Secured Party in any way to pay compensation to, or to reimburse expenses of, any of the Professional Persons, or to guarantee that the Debtors or their estates has sufficient funds to pay such compensation or reimbursement. Notwithstanding any provision in this paragraph to the contrary, no portion of the Carve Out, any Cash Collateral, any DIP Collateral or any proceeds of the DIP Facility (including any disbursements set forth in the Approved Budget or obligations benefitting from the Carve Out) shall be utilized for the payment of professional fees and disbursements to the extent restricted under paragraph 16 herein. Nothing herein shall be construed as consent to the allowance of any fees and/or expenses of any Professional Persons in the Chapter 11 Cases or any Successor Cases, or of any other person or entity, or shall affect the right of the Debtors, the DIP Lender, the Prepetition Secured Parties or any other party in interest to object to the allowance and/or payment of any such fees and expenses or amounts incurred or requested.

17. Limitations on Use of DIP Proceeds, Cash Collateral and Carve Out.

(a) ~~17. Limitations on Use of DIP Proceeds, Cash Collateral and Carve Out.~~

The DIP Facility, DIP Collateral, ~~Prepetition Collateral, Adequate Protection Collateral,~~ (including Cash Collateral), and Carve Out may not be used in connection with: ~~(a)~~ (i) preventing, hindering, or delaying any of the DIP Lender's enforcement or realization upon any of the DIP Collateral ~~or Adequate Protection Collateral;~~ (b) using or seeking to use Cash Collateral without the permission of the DIP Lender or selling or otherwise disposing of DIP Collateral without the consent of the DIP Lender or as permitted by the ~~Term Sheet (and/or the DIP Loan Documents);~~ (c) after payment in full of the DIP Obligations, selling or otherwise disposing of Adequate Protection Collateral without the consent of the Prepetition Secured Parties; ~~(d)~~

(iii) using or seeking to use any insurance proceeds constituting DIP Collateral without the consent of the DIP Lender; (eiv) seeking to amend or modify any of the rights granted to the DIP Lender ~~or the Prepetition Secured Parties~~ under this ~~Interim~~Final Order, ~~the Term Sheet (and/ or the DIP Loan Documents), or the Prepetition~~ Loan Documents, including seeking to use Cash Collateral, ~~Adequate Protection Collateral~~ and/or DIP Collateral on a contested basis; (fv) litigating, objecting to, challenging or contesting in any manner in any way the DIP Liens, DIP Obligations, DIP Superpriority Claims, DIP Collateral (including Cash Collateral) ~~or, as the case may be, Prepetition Collateral, the Adequate Protection Obligations, the Adequate Protection Claims, the 507(b) Claims, the Adequate Protection Collateral, the Adequate Protection Liens,~~ or any other claims, held by or on behalf of ~~any of the DIP Lender or the Prepetition Secured Parties, respectively;~~ (gvi) asserting, commencing or prosecuting any claims or causes of action whatsoever, including, without limitation, Avoidance Actions or applicable state law equivalents or actions to recover or disgorge payments, against the DIP Lender or any of its respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees; (hvi) litigating, objecting to, challenging, or contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the DIP Obligations, the DIP Liens, ~~the Prepetition Liens, the Adequate Protection Liens~~ or any other liens or interests of ~~any of the DIP Lender or the Prepetition Secured Parties;~~ or (iix) seeking to subordinate, recharacterize, disallow or avoid the DIP Obligations, ~~or the Adequate Protection Obligations; provided, however, that the Carve Out and such collateral proceeds and loans under the DIP Loan Documents may be used for allowed fees and expenses, in an amount not to exceed \$25,000 in the aggregate (the "Investigation Budget Amount"), incurred solely by a Committee, in investigating (but not prosecuting or challenging) the validity, enforceability, perfection, priority or extent of the Prepetition Liens within thirty (30) calendar days following appointment of the Creditors Committee. Notwithstanding anything to the contrary, any fees, expenses or costs incurred by the Creditors Committee or its professionals in excess of the Investigation Budget Amount or in excess of the amount budgeted for Committee's Case Professionals set~~

~~forth in the DIP Budget shall not constitute an allowable administrative expense claim, including for purposes of section 1129(a)(9)(A) of the Bankruptcy Code.~~

(b) The Prepetition Collateral and Adequate Protection Collateral (including any Cash Collateral that constitutes Prepetition Collateral or Adequate Protection Collateral) may not be used in connection with: (i) after payment in full of the DIP Obligations, selling or otherwise disposing of Adequate Protection Collateral without the consent of the Prepetition Secured Parties; (ii) seeking to amend, challenge or modify any of the rights granted to the Prepetition Secured Parties under this Final Order or the Prepetition Loan Documents, including seeking to use Cash Collateral or Adequate Protection Collateral on a contested basis; (iii) litigating, objecting to, challenging or contesting in any manner in any way the Prepetition Collateral, the Adequate Protection Obligations, the Adequate Protection Claims, the 507(b) Claims, the Adequate Protection Collateral, the Adequate Protection Liens or any other claims, held by or on behalf of any of the Prepetition Secured Parties, respectively; (iv) litigating, objecting to, challenging, or contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the Prepetition Liens, the Adequate Protection Liens or any other liens or interests of any of the Prepetition Secured Parties; or (v) seeking to subordinate, recharacterize, disallow or avoid the Adequate Protection Obligations or the liens or claims of any Prepetition Secured Parties. For the avoidance of doubt, and notwithstanding anything to the contrary herein, the Carve Out and the proceeds of the DIP Facility may be used for allowed fees and expenses incurred by the Committee in investigating the validity, enforceability, perfection, priority or extent of the Prepetition Liens.

18. Effect of Stipulation on Third Parties.

(a) *Generally.* The admissions, stipulations, agreements, releases, and waivers set forth in this ~~Interim~~Final Order (collectively, the “Prepetition Lien and Claim Matters”) are and shall be binding on the Debtors, any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties-in-interest and all of their successors in interest and assigns, including, without limitation,



the Committee, unless, and solely to the extent that, a ~~part-in-interest~~party-in-interest that has sought and obtained standing and the requisite authority to commence a Challenge (as defined below) (other than the Debtors, as to which any Challenge is irrevocably waived and relinquished): (i) has timely filed the appropriate pleadings, and timely commenced the appropriate proceeding required under the Bankruptcy Code and Bankruptcy Rules, including, without limitation, as required pursuant to Part VII of the Bankruptcy Rules (in each case subject to the limitations set forth in this paragraph ~~15~~18 of this ~~Interim~~Final Order) challenging the Prepetition Lien and Claim Matters, but in no event the DIP Liens or the Adequate Protection Liens, as set forth in paragraph 23 of this ~~Interim~~Final Order (each such proceeding or appropriate pleading commencing a proceeding or other contested matter, a “Challenge”), by no later than ~~seventy-five (75) days following the entry of this Interim Order~~July 8, 2024, for any party-in-interest with requisite standing (each the “Challenge Deadline”), as such applicable date may be extended in writing from time to time in the sole discretion of ~~the~~each Prepetition Secured ~~Parties~~Party with respect to its respective Prepetition Claim and Lien Matters, or by this Court for good cause shown pursuant to an application filed by a party in interest prior to the expiration of the Challenge Deadline, ~~and~~or (ii) this Court enters judgment in favor of the plaintiff or movant in any such timely and properly commenced Challenge proceeding and any such judgment has become a final judgment that is not subject to any further review or appeal.

If, prior to the Challenge Deadline, these Chapter 11 Cases convert to cases under chapter 7, or if a chapter 11 trustee is appointed ~~prior to the Challenge Deadline~~, the Challenge Deadline shall be extended for any such chapter 7 or chapter 11 trustee ~~to 14~~until the later of (i) July 8, 2024, or (ii) 30 days after ~~their~~such appointment. The Committee shall have standing to commence a Challenge without further order of the Court.

(b) *Binding Effect.* To the extent no Challenge is timely and properly commenced by the Challenge Deadline, or to the extent such proceeding does not result in a final and non-appealable judgment or order of this Court that is inconsistent with the Prepetition Lien and Claim Matters, then, without further notice, motion, or application to, order of, or hearing

before, this Court and without the need or requirement to file any proof of claim, the Prepetition Lien and Claim Matters shall, pursuant to this ~~Interim~~Final Order, become binding, conclusive, and final on any person, entity, or party-in-interest in the Chapter 11 Cases, and their successors and assigns, and in any Successor Case for all purposes and shall not be subject to challenge or objection by any party-in-interest, including, without limitation, a trustee, responsible individual, examiner with expanded powers, or other representative of the Debtors' estates. Notwithstanding anything to the contrary herein, if any such proceeding is properly and timely commenced, the Prepetition Lien and Claim Matters shall nonetheless remain binding on all other parties-in-interest and preclusive as provided in subparagraph (a) above except to the extent that any of such Prepetition Lien and Claim Matters is expressly the subject of a timely and properly filed Challenge, which Challenge is successful as set forth in a final judgment as provided in subparagraph (a) above, and only as to plaintiffs or movants that have complied with the terms hereof. To the extent any such Challenge proceeding is timely and properly commenced, the Prepetition Secured Parties shall be entitled to payment of the reasonable related costs and expenses, including, but not limited to reasonable attorneys' fees, incurred under the Prepetition Loan Documents in defending themselves in any such proceeding as adequate protection; provided that the payment of such attorneys' fees shall be subject to the same notice requirements, objection procedures, and Review Period as are applicable to the DIP Professional Fees and Expenses under paragraph 6(a) of this Order. Upon a successful Challenge brought pursuant to this paragraph 18, this Court may fashion any appropriate remedy.

19. Bankruptcy Code Sections 506(c) and 552(b) Waivers. ~~Subject to entry of the Final Order, without~~Without limiting the Carve Out, the Debtors irrevocably waive and shall be prohibited from asserting (i) any surcharge claim, under section 506(c) of the Bankruptcy Code or otherwise, for any costs and expenses incurred in connection with the preservation, protection or enhancement of, or realization by the DIP Lender upon the DIP Collateral and no costs or expenses of administration that have been or may be incurred in any of the Chapter 11 Cases at any time shall be charged against the DIP Lender or its respective claims or liens (including any

claims or liens granted pursuant to this ~~Interim~~Final Order), and (ii) the “equities of the case” exception under section 552(b) of the Bankruptcy Code in connection with the DIP Facility and the use of Cash Collateral.

20. Application of Proceeds. ~~Subject to entry of the Final Order~~Except (i) as it relates to the Cost Allocation with respect to the Prepetition Secured Parties and (ii) as set forth in Paragraph 9 with respect to Avoidance Action Proceeds and Tort Claim Proceeds, in no event shall the DIP Lender, with respect to the DIP Collateral, or the Prepetition Secured Parties, with respect to the Adequate Protection Collateral, be subject to the equitable doctrine of “marshaling” or any other similar doctrine, and all proceeds of such DIP Collateral and Adequate Protection Collateral shall be received and used in accordance with this ~~Interim~~Final Order.

~~21. Disposition of Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, other than in the ordinary course of business or in connection with the payments contemplated under this Interim Order, without the prior written consent of the DIP Lender (and no such consent shall be implied from any other action, inaction or acquiescence by the DIP Lender or from any order of this Court). 100% of any net cash proceeds of any sale of DIP Collateral outside of the ordinary course of business shall, subject to the satisfaction of the Carve Out and the lien priorities outlined in paragraph 11 herein and subject to paragraphs 33-36, be used to immediately satisfy the DIP Obligations. Following payment in full of the DIP Obligations, the Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the Adequate Protection Collateral, other than in the ordinary course of business or in connection with the payments contemplated under this Interim Order, without the prior written consent of the Prepetition Secured Parties (and no such consent shall be implied from any other action, inaction or acquiescence by the Prepetition Secured Parties or from any order of this Court). Notwithstanding anything otherwise provided herein, following payment in full of the DIP Obligations, 100% of any net cash proceeds of any sale of Adequate Protection Collateral outside of the ordinary course of business shall, subject to the satisfaction of the Carve Out and the lien priorities outlined in paragraph 11 herein, be used~~

~~to immediately satisfy the Adequate Protection Obligations and next to satisfy the Prepetition Secured Obligations.~~

21. [Reserved].

22. Restrictions on Granting Postpetition Liens. Other than the Carve Out or as otherwise provided in this ~~Interim~~Final Order, ~~the DIP Term Sheet,~~ or the DIP Loan Documents, no claim or lien having a priority superior or *pari passu* with those granted by this ~~Interim~~Final Order to the DIP Lender shall be granted or permitted by any order of this Court in the Chapter 11 Cases heretofore or hereafter, and the Debtors will not grant any such mortgages, security interests or liens in the DIP Collateral (or any portion thereof) or the Adequate Protection Collateral (or any portion thereof) or to any other parties pursuant to section 364(d) of the Bankruptcy Code or otherwise, while (i) any portion of the DIP Facility, ~~any DIP Loans~~ or any other DIP Obligations, are outstanding, or (ii) the DIP Lender has any Commitment under the DIP Loan Documents. For avoidance of doubt, there shall be no restriction and this paragraph shall not apply to and excludes any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Debtors.

23. Automatic Effectiveness of Liens. The DIP Liens and the Adequate Protection Liens shall not be subject to a Challenge and shall attach and become valid, perfected, binding, enforceable, non-avoidable and effective by operation of law as of the date of the entry of this ~~Interim~~Final Order, automatically, without any further action by the Debtors, the DIP Lender or the Prepetition Secured Parties, respectively, and without the necessity of execution by the Debtors or the filing or recordation, of any financing statements, security agreements, deposit control agreements, vehicle lien applications, mortgages, filings with a governmental unit, or other documents or the taking of any other actions. All DIP Collateral shall be free and clear of other liens, claims and encumbrances, except as provided in the ~~Term Sheet (and/or the DIP Loan Documents),~~ and this ~~Interim~~Final Order. All Adequate Protection Collateral shall be free and clear of other liens, claims and encumbrances, except as provided in this ~~Interim~~Final Order.

If the DIP Lender hereafter requests that the Debtors execute and deliver to such party financing statements, security agreements, pledge agreements, control agreements, collateral assignments, mortgages, or other instruments and documents considered by the DIP Lender to be reasonably necessary or desirable to further evidence the perfection of the DIP Liens or the Adequate Protection Liens, as applicable, the Debtors are hereby authorized and directed to execute and deliver such financing statements, security agreements, pledge agreements, control agreements, mortgages, collateral assignments, instruments, and documents, and the DIP Lender is hereby authorized to file or record such documents in its discretion without seeking modification of the automatic stay under section 362 of the Bankruptcy Code, in which event all such documents shall be deemed to have been filed or recorded at the time and on the date of the entry of this ~~Interim~~Final Order; provided, however, no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens or the Adequate Protection Liens. The DIP Lender, in its sole discretion, may file a photocopy of this ~~Interim~~Final Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to, or in lieu of, such financing statements, notices of liens or similar statements.<sup>45</sup>

24. Protection Under Section 364(e) of the Bankruptcy Code. The DIP Lender has acted in good faith in connection with this ~~Interim~~Final Order and its reliance on this ~~Interim~~Final Order is in good faith. For the avoidance of doubt, the DIP Lender is entitled to all the protections of section 364(e) of the Bankruptcy Code.

25. Reservation of Rights of the DIP Lender and the Prepetition Secured Parties. Notwithstanding any other provision of this ~~Interim~~Final Order to the contrary, the entry of this ~~Interim~~Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair: (i) any of the rights of the DIP Lender or the Prepetition Secured Parties under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right of any of such parties to (a) request modification of the automatic stay of section 362 of

<sup>45</sup> The provisions of section 1146(a) of the Bankruptcy Code do not apply herein.

the Bankruptcy Code, (b) request dismissal of any of these Chapter 11 Cases, conversion of any of these Chapter 11 Cases to cases under chapter 7, or appointment of a chapter 11 trustee or examiner with expanded powers in any of these Chapter 11 Cases, (c) seek to propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans; or (ii) any other rights, claims, or privileges (whether legal or equitable or otherwise) of the DIP Lender or the Prepetition Secured Parties. The delay in or failure of the DIP Lender or the Prepetition Secured Parties to seek relief or otherwise exercise their respective rights and remedies shall not constitute a waiver of any of the DIP Lender's or the Prepetition Secured Parties' rights and remedies.

26. Modification of Stay. Subject to the terms set forth herein, the automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms, rights, benefits, privileges, remedies and provisions of this ~~Interim~~Final Order and ~~the DIP Term Sheet (and/or the DIP Loan Documents),~~ including without limitation, to permit the DIP Lender to exercise all rights and remedies provided for in the DIP ~~Term Sheet (and/or the DIP Loan Documents)-~~ and this ~~Interim~~Final Order and to take any and all actions provided therein, in each case, without further notice, application to, order of or hearing before this Court, including those set forth in paragraph 24 of this ~~Interim~~Final Order.

27. Survival of DIP Liens, DIP Superpriority Claims, Adequate Protection Liens, Adequate Protection Obligations and Other Rights. If, in accordance with section 364(e) of the Bankruptcy Code, this ~~Interim~~Final Order does not become a final non-appealable order, or if any of the provisions of this ~~Interim~~Final Order are hereafter modified, amended, vacated or stayed by subsequent order of this Court or any other court, such termination or subsequent order shall not affect the priority, validity, enforceability or effectiveness of (or subordination to the Carve Out of) any lien, security interests or any other benefit or claim authorized hereby with respect to any DIP Obligations or Adequate Protection Obligations incurred prior to the effective date of such termination or subsequent order. All such liens, security interests, claims and other benefits shall be governed in all respects by the original provisions of this ~~Interim~~Final Order,

and the DIP Lender and Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted herein, including the liens and priorities granted herein, with respect to ~~any~~the DIP ~~Loan~~Facility and Adequate Protection Obligations, subject to the Carve Out and the Permitted Prior Liens.

28. Proof of Claim. The DIP Lender ~~and the Prepetition Secured Parties~~ shall not be required to file proofs of claim with respect to any DIP Obligations or other obligations existing under ~~DIP Term Sheet (and/or the DIP Loan Documents)~~ or this ~~Interim~~Final Order, and the evidence presented with the Motion and the record established at the ~~Interim~~Final Hearing are deemed sufficient to, and do, constitute proofs of claim with respect to ~~their obligations~~the DIP Obligations, secured status, and priority.

29. Survival of this ~~Interim~~Final Order.

(a) The provisions of this ~~Interim~~Final Order and any actions taken pursuant hereto shall survive the entry of any order: (i) confirming any plan of reorganization in any of the Chapter 11 Cases; (ii) converting any of the Chapter 11 Cases to a chapter 7 case; or (iii) dismissing any of the Chapter 11 Cases, and the terms and provisions of this ~~Interim~~Final Order as well as the DIP Superpriority Claims, the DIP Liens in DIP Collateral granted pursuant to this ~~Interim~~Final Order, ~~the DIP Term Sheet, and/~~ or the DIP Loan Documents, the Adequate Protection Liens, the 507(~~a~~b) Claims, and the Adequate Protection Obligations shall continue in full force and effect notwithstanding the entry of any such order.

(b) The DIP Liens and the DIP Superpriority Claims shall maintain their priority as provided by this ~~Interim~~Final Order, ~~the DIP Term Sheet, and/~~ or the DIP Loan Documents, and to the maximum extent permitted by law, until all of the DIP Obligations are indefeasibly paid in full in cash and discharged or otherwise treated under a plan of reorganization, which is reasonably acceptable to the DIP Lender. In no event shall any plan of reorganization be allowed to alter the terms of repayment of any of the DIP Obligations from those set forth in the DIP ~~Term Sheet, and/or the DIP~~ Loan Documents unless agreed to by and among the Debtors and the DIP Lender.

30. Modifications of DIP ~~Term Sheet~~Loan Documents. The Debtors and the DIP Lender are hereby authorized to implement, in accordance with the terms of the DIP ~~Term Sheet~~Loan Documents any non-material modifications of the DIP ~~Term Sheet~~Loan Documents without further notice, motion or application to, order of or hearing before, this Court; provided that the Debtors and the DIP Lender shall provide notice to the Committee and the Prepetition Secured Parties of any such non-material modifications of the DIP Loan Documents. Any material modification or amendment to the DIP ~~Term Sheet~~Loan Documents shall only be permitted pursuant to an order of this Court, after being submitted to this Court upon five (5) days' notice to the U.S. Trustee, Prepetition Secured Parties, and counsel to the Committee; provided, that any forbearance from, or waiver of, (i) a breach by the Debtors of a covenant representation or any other agreement or (ii) a default or an Event of Default, in each case under the DIP ~~Term Sheet~~Loan Documents shall not require an order of this Court. In the event of any inconsistency between this ~~Interim~~Final Order and ~~the DIP Term Sheet, and/or~~ the DIP Loan Documents, this ~~Interim~~Final Order shall control.

31. Insurance Policies. On each insurance policy maintained by the Debtors which in any way relates to the DIP Collateral: (i) the DIP Lender shall be, and shall be deemed to be, without any further action by or notice to any person, named as additional insureds; and (ii) the DIP Lender shall be and shall be deemed to be, without any further action by or notice to any person, named as loss payee for DIP Collateral on which the DIP Lien holds a first priority lien. The Debtors are hereby authorized on an interim basis, to and shall take any actions necessary to have the DIP Lender be added as an additional insured and loss payee on each insurance policy maintained by the Debtors consistent with this ~~Interim~~Final Order and ~~the DIP Term Sheet (and/or the DIP Loan Documents)~~, which in any way relates to the DIP Collateral.

32. Financial Information. The Debtors shall deliver to the DIP Lender, HUD and the Prepetition Secured Parties such financial and other information concerning the business and affairs of the Debtors and any of the DIP Collateral and the Adequate Protection Collateral as may be required pursuant to the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents), the



Prepetition Loan Documents and/or as the DIP Lender or the Prepetition Secured Parties shall reasonably request from time to time. The Debtors shall provide copies to the Committee of any such financial and other information delivered to the DIP Lender or Prepetition Secured Parties. The Debtors shall allow the DIP Lender and the Prepetition Secured Parties access to the premises in accordance with the terms of the DIP ~~Term Sheet (and/or the DIP~~ Loan Documents) or Prepetition Loan Documents for the purpose of enabling such parties to inspect and audit the DIP Collateral, the Adequate Protection Collateral and the Debtors' books and records.

33. Reserved.

34. Reserved.

35. Reserved.

~~33. Siloing. The Debtors, the DIP Lender and the Prepetition Secured Parties shall endeavor, in good faith, to agree on an allocation of the Prepetition Collateral in an equitable manner on or before April 23, 2024. Notwithstanding anything in this Interim Order to the contrary, no proceeds of any DIP Collateral, as applicable, will be paid to the DIP Lender until either (i) a Prepetition Collateral siloing mechanism is approved by further order of the Court or (ii) the Court holds a hearing to determine the equitable allocation of the Prepetition Collateral among the various Prepetition Secured Parties.~~

~~34. Prior to the entry of a Final Order, in the event the DIP Lenders seeks to exercise remedies to repay the Interim Advance, the DIP Lender shall use commercially reasonable efforts to collect \$3 million from DIP Collateral constituting accounts receivable prior to seeking recovery from other DIP Collateral.~~

~~35. For the avoidance of doubt, the failure of any Prepetition Secured Party to object to the Interim Advance approved by this Interim Order shall not constitute a consent to any future DIP Advances, and all rights and objections of the Prepetition Secured Parties to any requests for approval of additional advances under the DIP Facility are fully preserved and not waived by consenting to the Interim Advance or as a result of the entry of this Interim Order. For the avoidance of doubt the DIP Lender's priming liens are absolute and any proceeds held in escrow~~

~~either prior to or following the establishment of a Prepetition Collateral siloing mechanism shall be subject to a priming first lien by the DIP Lender at all times until the DIP Obligations as defined in the DIP Term Sheet and this Interim Order or any further DIP Orders are indefeasibly paid in full.~~

~~36. To the extent the foregoing paragraphs 33-35 are inconsistent with any other provision contained in this Interim Order or the DIP Term Sheet (other than paragraph 39), the foregoing paragraphs 33-35 shall control.~~

36. ~~37.~~ Immediate Effect of Order. The terms and conditions of this ~~Interim~~Final Order shall be effective and immediately enforceable upon its entry by the Clerk of the Court notwithstanding any potential application of Bankruptcy Rule 6004(h) or otherwise. Furthermore, to the extent applicable, the notice requirements and/or stays imposed by Bankruptcy Rules 4001(a)(3), 6003(b), and 6004(a) are hereby waived for good and sufficient cause. The requirements of Bankruptcy Rules 4001 and 6004, in each case to the extent applicable, are satisfied by the contents of the Motion.

37. ~~38.~~ Refinancing of eCapital ObligationsReserved.

~~(a) Paydown of eCapital Obligations. As soon as practicable following entry of this Interim Order, the Debtors shall wire cash in the amount of the eCapital Obligations to eCapital at an account to be designated in writing by eCapital.~~

~~(b) Allowance of eCapital Obligations. The eCapital Obligations constitute allowed, legal, valid, binding, enforceable and non-avoidable obligations of Debtors, and are not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law, and Debtors do not possess, shall not assert, hereby forever release, and are forever barred from bringing any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the eCapital Obligations.~~

~~(c) eCapital Indemnification. The Debtors are hereby authorized to and hereby agree to indemnify and hold harmless eCapital and its affiliates, directors, officers, employees,~~

~~agents, attorneys, or any other Person affiliated with or representing eCapital (collectively, the “eCapital Indemnified Party”) from and against: (a) all obligations, demands, claims, damages, losses and liabilities (including, without limitation, reasonable fees and disbursements of counsel) (collectively, “eCapital Indemnity Claims”) including those asserted by any other party in connection with the paydown contemplated by this Interim DIP Order; and (b) all losses or expenses incurred, or paid by the eCapital from, following, or arising from the paydown contemplated by this Interim DIP Order, including reasonable and documented attorneys’ fees and expenses, except for eCapital Indemnity Claims and/or losses directly caused by the eCapital’s fraud, gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any of the Debtors or any of their respective directors, security holders or creditors, an eCapital Indemnified Party, or if any other eCapital Indemnified Party is otherwise a party thereto, and whether or not the transactions contemplated hereby are consummated. No eCapital Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any Debtor or any of its subsidiaries or any shareholders or creditors of the foregoing for or in connection with the transactions contemplated hereby. All indemnities of the eCapital Indemnified Parties shall constitute eCapital Obligations.~~

~~(d) Release of DACAs. Following payment in full in cash of the eCapital Obligations, eCapital shall work in good faith with the Debtors and the DIP Lender to release any applicable deposit account control agreements or similar control agreements.~~

38. ~~39.~~ Receivership Debtors. Notwithstanding anything herein to the contrary, this Order, and no finding or order herein, shall be binding upon or apply to Debtors El Paso HCC, LLC; Flanagan HCC, LLC; Kewanee AL, LLC; Knoxville AL, LLC; Legacy Estates AL, LLC; Marigold HCC LLC; Monmouth AL LLC; Polo LLC; El Paso HCO, LLC; Flanagan HCO, LLC; CYE Kewanee HCO, LLC; CYE Knoxville HCO, LLC; Legacy HCO, LLC; Marigold HCO, LLC; CYE Monmouth HCO LLC; and Polo HCO, LLC (collectively, “Receivership Debtors”),

any assets of Receivership Debtors or X-Caliber Funding LLC, in its capacity as servicer for U.S. Bank, N.A., as trustee of XCAL 2019-IL-1 MORTGAGE TRUST (“X-Caliber”), except as set forth in this paragraph ~~39~~38 and paragraph 40. In addition:

(a) *X-Caliber’s Reservation of Rights.* X-Caliber shall have the full opportunity to object on factual and legal bases to any subsequent request by Debtors to bind ~~X-Caliber~~X-Caliber and/or Receivership Debtors to provisions of this Order (other than this paragraph ~~39~~38) at a later date and its factual and legal arguments in response thereto shall not be limited, by any finding or order set forth herein, including, without limitation, all findings and/or grants of adequate protection, granting of liens, granting of superpriority and/or administrative claims, waivers under 506(c) and 552(b), identification and fees.

(b) *X-Caliber Financing for Receivership Debtors.* Until a final order is entered on X-Caliber’s Motion to Dismiss [~~Dkt~~Docket. No. 60] and Motion to Prohibit Turnover [~~Dkt~~Docket. No. 59], Receiver may use X-Caliber’s cash collateral and borrower funds from X-Caliber pursuant to the Receivership Order (“Interim Receiver Financing”); provided that Receiver must provide Receivership Debtors, with a copy to the Committee, at least ~~forty~~eightforty-eight hours’ notice of funds being expended. If Receivership Debtors object to any expenditure and are unable to resolve it, they may raise the matter to the Court before the expenditure is made (and if such expenditure is an emergency, the parties shall request the Court’s expedited consideration of the dispute).

(c) *X-Caliber Superpriority Claims.* X-Caliber is hereby granted an allowed senior administrative expense claim against Receivership Debtors and their estates (the “X-Caliber Superpriority Claims”) with priority in payment over any and all administrative expenses at any time existing or arising, of any kind or nature whatsoever, including, without limitation, the kinds specified or ordered pursuant to any provision of the Bankruptcy Code, including, but not limited to, sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 and 1114 of the Bankruptcy Code or otherwise, including those resulting from the conversion of any of the Chapter 11 Cases pursuant to section 1112 of the Bankruptcy Code,

whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment; provided ~~further~~ that the X-Caliber Superpriority Claims shall have recourse to and be payable from all prepetition and postpetition property and assets of Receivership Debtors and their estates and all proceeds thereof, except that the X-Caliber Superpriority Claims shall not be payable from Avoidance Actions, Avoidance Action Proceeds, Tort Claims or Tort Claim Proceeds. The X-Caliber Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this ~~Interim~~Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(d) *X-Caliber DIP Liens*. Effective immediately and automatically as of the entry of this ~~Interim~~Final Order, as security for the Interim Receiver Financing, X-Caliber is granted continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected priming first lien security interests in and liens (collectively, the “X-Caliber DIP Liens”) on assets of Receivership Debtors as collateral security for the prompt and complete performance and payment of the Interim Receiver Financing. Pursuant to section 364(d)(1) of the Bankruptcy Code, the X-Caliber DIP Liens are valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected priming first priority senior liens and security interests in all of Receivership Debtors assets; provided that the X-Caliber DIP Liens shall not include any liens on or interests in Avoidance Actions, Avoidance Action Proceeds, Tort Claims or Tort Claim Proceeds.

(e) *X-Caliber Adequate Protection Claim*. X-Caliber is further granted a valid, perfected replacement lien on and security interest in its pre-petition collateral in an amount equal to the aggregate diminution of value of its interest thereon by Receiver’s use of its cash collateral (“X-Caliber Adequate Protection Claim”).

(f) *X-Caliber 507(b) Claim*. X-Caliber is further granted an allowed superpriority administrative expense claim as provided in section 507(b) of the Bankruptcy Code in the amount of the X-Caliber Adequate Protection Claim with, except as set forth in this

~~Interim~~Final Order, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the “X-Caliber’s 507(b) Claims”); which 507(b) Claims shall have recourse to and be payable from Receivership Debtors’ assets; provided that the X-Caliber’s 507(b) Claims shall not have recourse to or be payable from Avoidance Actions, Avoidance Action Proceeds, Tort Claims or Tort Claim Proceeds.

(g) For the avoidance of doubt, if neither of X-Caliber’s Motion to Dismiss or Motion to Prohibit Turnover are granted, the Receivership Debtors reserve the right to request that their assets be subject to the DIP priming first lien and superpriority claim granted to the DIP Lender hereunder and all of X-Caliber’s rights with respect thereto are reserved.]

39. ~~40.~~ Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the provisions of this ~~Interim~~Final Order, and this retention of jurisdiction shall survive the confirmation and consummation of any chapter 11 plan for any one or more of the Debtors notwithstanding the terms or provisions of any such chapter 11 plan or any order confirming any such chapter 11 plan.

~~41. Final Hearing. The Final Hearing to consider entry of a Final Order shall be held on April 23, 2024 at 11:00 a.m. (prevailing Eastern Time) and any objections or responses to the DIP Motion shall be filed on or prior to April 16, 2024 at 4:00 p.m. (prevailing Eastern Time). At the Final Hearing the Court will hear arguments preserved in the HUD Objections relating to the ability of the Court to enter orders granting priming liens on real property securing HUD-insured loan facilities (the “Priming Dispute”). On or before April 8, 2024 at 5:00 p.m. (prevailing Eastern Time), the Debtors and/or the DIP Lender shall file with the Court written briefing on the Priming Dispute. To the extent the HUD Objectors and/or the United States desire to file additional briefing on the Priming Dispute, such briefing shall be filed on or before April 18, 2024 at 5:00 p.m. (prevailing Eastern Time).~~

~~42. Objections. Any party in interest objecting to the relief sought at the Final Hearing shall file with this Court and serve written objections, which objections shall be served upon~~

~~(a) the Debtors, Winston & Strawn LLP, 35 West Wacker Drive, Chicago, IL 60601 (Attn.: Greg Gartland, Dan McGuire and Joel Mudd) and 200 Park Avenue, New York, New York 10166 (Attn.: Carrie Hardman) and Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801 (Attn.: Andrew L. Magaziner, Shella Borovinskaya, and Carol E. Cox); (b) the Office of the United States Trustee for the District of Delaware (Attn: Linda Richenderfer and Jon Lipshie); (c) counsel to the Creditors Committee, if appointed; (d) counsel for the DIP Lender, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019 (Attn: Robert Hirsh and Francisco Vazquez) and Morris James LLP, 500 Delaware Avenue, Suite 1500, Wilmington, DE 19801 (Attn: Eric J. Monzo); (e) counsel for Column Financial, Inc., Holland & Knight, LLP, 511 Union Street, Ste. 2700, Nashville, Tennessee 37219 (Attn: Tyler Layne) and Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, P.O. Box 2087, Wilmington, DE 19899 (Attn: Adam Landis and Rick Cobb); and (f) counsel for all other Prepetition Secured Parties (collectively, the “Notice Parties”).~~

40. Surety Matters. Nothing in the Final Order, the Interim Order relating to the DIP Financing or the DIP Financing Documents shall in any way prime or affect the rights of Hartford Fire Insurance Company, or their past, present or future parents, subsidiaries or affiliates (individually and collectively as the “Surety”) as to (a) any funds it is holding and/or being held for it presently or in the future, whether in trust, as security, or otherwise, including any proceeds due or to become due any of the Debtors or their non-debtor affiliates in relation to obligations bonded by the Surety; or (b) any substitutions or replacements of said funds including accretions to and interest earned on said funds (collectively (a) and (b), the “Surety Assets”). In addition:

(a) Nothing in the Final Order, the Interim Order relating to the DIP Financing or the DIP Financing Documents shall affect the rights of the Surety under any current or future indemnity, collateral, trust or related agreements between or involving the Surety and any of the Debtors or any of the Debtors’ non-debtor affiliates as to the Surety Assets or otherwise, including, but not limited to, the General Indemnity Agreement dated May 1, 2023

executed by certain of the Debtors and non-debtors, including Petersen Health Operations, LLC; Petersen Health Care-Farmer City, LLC; Petersen Health Care-Illini, LLC; Midwest Health Operations, LLC; Petersen Health Network, LLC; Petersen Health Care-Roseville, LLC; Swansea HCO, LLC; Watseka HCO, LLC; Bement HCO, LLC; Eastview HCO, LLC; Prairie City HCO, LLC; Tarkio HCO, LLC; Westside HCO, LLC; XCH, LLC; Collinsville HCO, LLC; Effingham HCO, LLC; Robings HCO, LLC; Tuscola HCO, LLC; Shangri La HCO, LLC; Havana HCO, LLC; Rosiclare HCO, LLC; Petersen Health Care Management, LLC; Twin HCO, LLC; SABL, LLC; Lebanon HCO, LLC; Royal HCO, LLC; Petersen Health Care, Inc; Vandalia HCO, LLC; Aledo HCO, LLC; McLeansboro HCO, LLC; Shelbyville HCO, LLC; Arcola HCO, LLC; Piper HCO, LLC; SJL Health Systems, Inc.; Petersen Management Company, LLC; Petersen Health Junction, LLC (non-debtor); Petersen Health & Wellness, LLC; Petersen Health Quality, LLC; Petersen Health Properties, LLC; Petersen Health Business, LLC; Petersen Health Group, LLC; Sullivan HCO, LLC, Aspen HCO, LLC; Decatur HCO, LLC; Pleasant View HCO, LLC; Petersen Health Care II, Inc.; Charleston HCO, LLC (non-debtor); Cumberland HCO, LLC (non-debtor); El Paso HCO, LLC; Flanagan HCO, LLC; Marigold HCO, LLC; Polo HCO, LLC; Casey HCO, LLC; Kewanee HCO, LLC; North Aurora HCO, LLC and non-debtor Mark B. Petersen.

(b) Nothing in the Final Order, the Interim Order or the DIP Financing Documents shall prime or otherwise impact (x) current or future setoff and/or recoupment rights and/or the lien rights of the Surety or any party to whose rights the Surety has or may be subrogated; and/or (y) any existing or future subrogation or other common law rights of the Surety. In addition, notwithstanding anything in the Final Order, the Interim Order relating to the DIP Financing, or the DIP Financing Documents to the contrary, and subject to the Bankruptcy Code, the rights, claims and defenses of the Debtors and of the Surety, including, but not limited to, the Surety's rights under any properly perfected lien and claims and/or claim for equitable rights of subrogation, and rights of the Debtors and of any successors in interest to any of the Debtors and any creditors, to object to any such liens, claims and/or equitable subrogation



and other rights, are fully preserved. Nothing herein is an admission by the Surety or the Debtors, or a determination by the Bankruptcy Court, regarding any claims under any bonds, and the Surety and the Debtors reserve any and all rights, remedies and defenses in connection therewith.

(c) Additionally, all Resident Trust Accounts that are governed by the Illinois Nursing Home Care Act or the Missouri Omnibus Nursing Home Act do not constitute property of the Debtors' bankruptcy estate, and, as such, are not subject to any prepetition or post-petition liens. Moreover, Debtors will abide by all obligations required by way of any bonds, account agreements, state law and/or regulations that pertain to the use of funds in the Resident Trust Accounts.

(d) No liens, including, for the avoidance of doubt, DIP Liens, shall attach to the Adequate Assurance Deposit Account, except as to any reversionary interest of the Debtors.

41. ~~43.~~ For the avoidance of doubt, and except for the DIP Liens and the Adequate Protection Liens, nothing in this InterimFinal Order shall (i) create new liens for the benefit of or improve the lien position of any of the Prepetition Secured Parties, ~~nor shall it~~ or (ii) grant any lien for any party on any collateral that was not granted to that party prior to the Petition Date.

42. Refinancing of eCapital Obligations.

(a) Paydown of eCapital Obligations. Following entry of the Interim DIP Order, the Debtors wired cash in the amount of the eCapital Obligations to eCapital.

(b) Allowance of eCapital Obligations. Prior to payment in full, the eCapital Obligations constituted allowed, legal, valid, binding, enforceable and non-avoidable obligations of Debtors, and were not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law, and Debtors did not possess, will not assert, hereby forever release, and are forever barred from bringing any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the eCapital Obligations.

(c) eCapital Indemnification. The Debtors are hereby authorized to and hereby agree to indemnify and hold harmless eCapital and its affiliates, directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing eCapital (collectively, the “eCapital Indemnified Party”) from and against: (a) all obligations, demands, claims, damages, losses and liabilities (including, without limitation, reasonable fees and disbursements of counsel) (collectively, “eCapital Indemnity Claims”) including those asserted by any other party in connection with the paydown contemplated by this [Final DIP Order](#); and (b) all losses or expenses incurred, or paid by the eCapital from, following, or arising from the paydown contemplated by this [Final DIP Order](#), including reasonable and documented attorneys’ fees and expenses, except for eCapital Indemnity Claims and/or losses directly caused by the eCapital’s fraud, gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any of the Debtors or any of their respective directors, security holders or creditors, an eCapital Indemnified Party, or if any other eCapital Indemnified Party is otherwise a party thereto, and whether or not the transactions contemplated hereby are consummated. No eCapital Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any Debtor or any of its subsidiaries or any shareholders or creditors of the foregoing for or in connection with the transactions contemplated hereby. All indemnities of the eCapital Indemnified Parties shall constitute eCapital Obligations.

(d) Release of DACAs. Following payment in full in cash of the eCapital Obligations, [released all](#) applicable deposit account control agreements or similar control agreements.

43. [Notwithstanding anything to the contrary herein, the Bank of Rantoul’s retains the right to object to any revised Cost Allocation that includes an Attributable Cost Allocation to the Bank of Rantoul’s real property Collateral in excess of \\$156,000.00. The current amount of the Bank of Rantoul’s loan and mortgage on the Herscher property is \\$2,352,907. The priming DIP](#)

Lien shall not prime the Bank of Rantoul's lien of approximately \$505,000 on approximately 10 motor vehicles, to the extent that such liens, mortgages, and other security interests are valid and perfected, and have priority status. The Bank of Rantoul reserves all rights including the rights to object to the sale and to request that its liens attach to the proceeds of the sale and that the Bank of Rantoul shall be immediately paid in full at the closing of the sale, including additional applicable penalties, interest, costs and fees, and the right to seek relief from stay to repossess the vehicles as depreciating assets. As a result of the foregoing, the Bank of Rantoul shall be a Consenting Lender.

44. The Debtors shall promptly serve copies of this ~~Interim~~Final Order (which shall constitute adequate notice of the Final Hearing) to the parties having been given notice of the ~~Interim~~Final Hearing and to any party that has filed a request for notices with this Court in these Chapter 11 Cases.

45. Nothing in this ~~Interim~~Final Order is intended to create an injunction, but injunctive relief may be sought.

*[Different first page setting changed from on in original to off in modified.]*

**EXHIBIT 1**

**DIP ~~Term Sheet~~ Credit Agreement**

*[Intentionally Omitted]*

*[Different first page setting changed from on in original to off in modified.]*