

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re: ) Case No. 11 B 48903  
)  
CLARE OAKS, ) Hon. Pamela S. Hollis  
) Chapter 11  
Debtor. )

**NOTICE OF DEBTOR'S MOTION TO (I) APPROVE FOURTH AMENDMENT TO  
SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION LOAN  
AGREEMENT AND (II) AMEND FINAL ORDER REGARDING USE OF CASH  
COLLATERAL AND GRANTING ADEQUATE PROTECTION**

PLEASE TAKE NOTICE that on **June 21, 2012 at 10:30 a.m.**, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Pamela S. Hollis or any Judge sitting in her stead in Courtroom 644 in the United States Bankruptcy Court, 219 S. Dearborn Street, Chicago, Illinois and shall then and there present the **Debtor's Motion to (I) Approve Fourth Amendment to Senior Secured Super-Priority Debtor-in-Possession Loan Agreement and (II) Amend Final Order Regarding Use of Cash Collateral and Granting Adequate Protection**, a copy of which is hereby served upon you.

Dated: June 15, 2012

CLARE OAKS

by: /s/ George R. Mesires  
George R. Mesires (# 6276952)  
Patrick F. Ross (# 6296461)  
David R. Doyle (# 6303215)  
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*Counsel for the Debtor and  
Debtor-in-Possession*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re: ) Case No. 11 B 48903  
)  
CLARE OAKS, ) Hon. Pamela S. Hollis  
) Chapter 11  
Debtor. )  
) Hearing Date: June 21, 2012  
) Hearing Time: 10:30 a.m.

**DEBTOR'S MOTION TO (I) APPROVE FOURTH AMENDMENT TO SENIOR  
SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION LOAN AGREEMENT AND  
(II) AMEND FINAL ORDER REGARDING USE OF CASH COLLATERAL AND  
GRANTING ADEQUATE PROTECTION**

The above-captioned debtor and debtor-in-possession (the "Debtor"), pursuant to paragraph 1(ii) of the *Final Order Authorizing Debtor to Obtain Postpetition Financing* [Dkt. 179] (the "Final DIP Order") and paragraph 4 of the *Final Order Regarding Use of Cash Collateral and Adequate Protection* [Dkt. 178] (the "Final Cash Collateral Order"), hereby requests (i) entry of an order approving the Fourth Amendment to Senior Secured Super-Priority Debtor-in-Possession Loan Agreement (the "Fourth DIP Amendment"),<sup>1</sup> and (ii) entry of the *Amendment to Final Order Regarding Use of Cash Collateral and Adequate Protection* (the "Cash Collateral Order Amendment") (the "Motion").

On June 13, 2012, the Court entered an *Order Granting Debtor's Motion to Approve an Amendment to the DIP Documents* [Dkt. 252], which approved the Third Amendment to Senior Secured Super-Priority Debtor-in-Possession Loan Agreement (the "Third DIP Amendment") that, among other things, extended the maturity date and modified the sales milestones in the

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<sup>1</sup> All capitalized terms not defined in this Motion shall have the definitions set forth in the Final DIP Order.

Senior Secured Super-Priority Debtor-in-Possession Loan Agreement (the “DIP Loan Agreement”).

The Debtor has reached a further agreement with the DIP Lender to again extend the internal sale milestones for a short period of time – no more than two weeks – to accommodate the Debtor’s negotiations with the prospective stalking horse bidders and other constituents. The instant sale milestone extension will not extend the maturity date of the DIP Loan Agreement.

In support of the Motion, the Debtor states as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over the matters raised in this Motion pursuant to 28 U.S.C. §§ 157 and 1334.
2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

### **INTRODUCTION**

4. On December 5, 2011 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court for the Northern District of Illinois, Eastern Division.
5. The Debtor remains in possession of its assets and continues to operate its business as debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.
6. On December 19, 2011, the Office of the United States Trustee appointed an official committee of unsecured creditors in this case (the “Committee”).
7. No trustee or examiner has been appointed in this case.
8. The Debtor operates a continuing care retirement community (“CCRC”) in Bartlett, Illinois, known as Clare Oaks (the “Clare Oaks Campus”).

**RELIEF REQUESTED**

**A. Approval of the Fourth DIP Amendment.**

9. The Final DIP Order authorized the Debtor “to execute, deliver and perform one or more amendments, waivers, consents or other modifications to and under the DIP Documents not inconsistent with the terms of this Final Order by filing notice of such amendment, waiver, consent or other modification with this Court.” *See* Final DIP Order ¶ 1(ii).

10. A true and correct copy of the Fourth DIP Amendment is attached hereto as **Exhibit A**. As stated above, the Debtor’s primary purposes in seeking the Fourth DIP Amendment are to extend and modify the sales milestones in the DIP Loan Agreement by no more than two weeks. Specifically, the Fourth DIP Amendment modifies certain of the sales milestones by, among other things:

- (a) extending by two (2) weeks the date by which the Debtor must receive and deliver a reasonably acceptable Asset Purchase Agreement from a prospective purchaser to June 22, 2012;
- (b) extending by nine (9) days the date by which the Court must hold a hearing on a motion to establish bid procedures to July 26, 2012;
- (c) extending by one (1) week the date by which the Debtor must have conducted an auction for the assets of the Debtor to August 21, 2012; and
- (d) extending by one (1) week the date by which the Court must hold a hearing on the Debtor’s motion to approve a sale to August 23, 2012.

11. The Debtor has agreed to pay a fee of \$15,000 to the DIP Lender for such amendment.

12. The Debtor believes that the terms of the Fourth DIP Amendment are not inconsistent with and do not materially alter the Final DIP Order. Accordingly, the Debtor does not believe that further order of this Court is necessary in order to execute, deliver, and perform the terms of the Fourth DIP Amendment if no party-in-interest timely files an Amendment Challenge.

13. However, based on comments by the Office of the United States Trustee with respect to the Third DIP Amendment, and out of an abundance of caution, the Debtor hereby requests entry of an order approving the Fourth DIP Amendment and authorizing the Debtor to take all steps necessary to perform under the Fourth DIP Amendment.

**B. Entry of the Cash Collateral Order Amendment.**

14. Paragraph 4 of the Final Cash Collateral Order provides:

This Final Order shall not be amended without the express written consent of the Master Trustee and the Bank, which shall be at their respective sole discretion. Notice of any such amendment to this Final Order shall be filed with the Court and served on all parties entitled to notice. . . . Any such party may object to such amendment and request a hearing before the Court. If no such objection is made within five (5) days of such notice, such amendment to this Final Order shall become final.

15. The Cash Collateral Order Amendment amends the Final Cash Collateral Order by modifying and extending the sales milestones, in the same respects as modified by the Third DIP Amendment and the Fourth DIP Amendment. A true and correct copy of the Cash Collateral Order Amendment is attached hereto as **Exhibit B**.

16. The Debtor hereby requests that the Court enter the Cash Collateral Order Amendment and authorize the Debtor to take all steps necessary to perform under the Cash Collateral Order Amendment.

**NOTICE**

17. The Debtor has caused notice of this Motion to be given by electronic CM/ECF delivery to (a) the Office of the United States Trustee; (b) Neal Wolf & Associates, counsel to the Unsecured Creditors Committee; (c) Senior Care Development, LLC, the Debtor's postpetition DIP Lender; (d) Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., counsel to Wells Fargo Bank, National Association, in its capacity as Master Trustee under the Master Indenture; (e) Duane Morris, counsel to secured lender Sovereign Bank; (f) MB Financial Bank; (g) the Debtor's secured creditors; and (h) those persons who have formally appeared and requested service in these proceedings pursuant to Bankruptcy Rule 2002. The Debtor submits that no further notice of this Motion is necessary.

WHEREFORE, the Debtor respectfully requests that this Court: (a) grant the relief sought in the Motion; (b) enter an order approving the Fourth DIP Amendment; (c) enter the Cash Collateral Order Amendment; (d) authorize the Debtor to take all necessary steps under the Fourth DIP Amendment; (e) authorize the Debtor to take all necessary steps under the Cash Collateral Order Amendment; and (e) grant such other relief as the Court deems just and proper.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

Respectfully submitted,

Dated: June 15, 2012

CLARE OAKS

by: /s/ George R. Mesires  
George R. Mesires (# 6276952)  
Patrick F. Ross (# 6296461)  
David R. Doyle (# 6303215)  
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*Counsel for the Debtor and  
Debtor-in-Possession*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re:	)	Case No. 11 B 48903
	)	
CLARE OAKS,	)	Hon. Pamela S. Hollis
	)	Chapter 11
Debtor.	)	

**EXHIBIT A**



**FOURTH AMENDMENT TO SENIOR SECURED SUPER-PRIORITY  
DEBTOR-IN-POSSESSION LOAN AGREEMENT**

**THIS FOURTH AMENDMENT TO SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION LOAN AGREEMENT** (this “**Amendment**”) is entered into as of June \_\_, 2012, by and between **CLARE OAKS**, an Illinois not-for-profit corporation, as Borrower, Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code (“**Borrower**”) and **SENIOR CARE DEVELOPMENT, LLC**, a Delaware limited liability company, together with its successors and assigns (“**Lender**”).

**WITNESSETH**

**WHEREAS**, pursuant to the terms of that certain Senior Secured Super-Priority Debtor-in-Possession Loan Agreement dated as of December 22, 2011 (as amended by that certain First Amendment to Senior Secured Super-Priority Debtor-in-Possession Loan Agreement dated as of February 2, 2012, the Second Amendment to Senior Secured Super-Priority Debtor-In-Possession Loan Agreement dated as of March 8, 2012, the Third Amendment to Senior Secured Super-Priority Debtor-in-Possession Loan Agreement dated as of May 8, 2012 and as may be further amended, restated, supplemented or otherwise modified from time to time, the “**Agreement**”), the Lender has agreed to make loans to the Borrower;

**WHEREAS**, pursuant to the terms of the Agreement, the Borrower is to comply with certain milestones regarding the sale of all or substantially all of its assets; and

**WHEREAS**, the Lender is willing to amend the Agreement as requested in accordance with the terms hereof.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

§1. Definitions. Capitalized terms used herein without definition that are defined in the Agreement shall have the same meanings herein as therein.

§2. Ratification of Existing Agreements. All of the Borrower’s obligations and liabilities to the Lender as evidenced by or otherwise arising under the Agreement and the Loan Documents (collectively, the “**Financing Documents**”), except as otherwise expressly modified in this Amendment upon the terms set forth herein, are, by Borrower’s execution of this Amendment, ratified and confirmed in all respects. In addition, by Borrower’s execution of this Amendment, Borrower represents and warrants that no counterclaim, right of set-off, right of recoupment, or defense of any kind exists or is outstanding with respect to such obligations and liabilities. Borrower acknowledges and agrees that this Amendment shall be included in the definition of Loan Documents under the Agreement.

§3. Representations and Warranties. Borrower hereby represents and warrants to the Lender as follows:

(a) All of the representations and warranties made by the Borrower in the Agreement and the other Financing Documents are true and correct in all material respects on the date hereof as if made on and as of the date hereof, except to the extent that any of such representations and warranties relate by their terms to a prior date and for matters previously disclosed to the Lender in writing.

(b) No Default or Event of Default under and as defined in the Agreement or any of the Financing Documents has occurred and is continuing on the date hereof.

§4. Conditions Precedent. The effectiveness of the amendments contemplated hereby shall be subject to the satisfaction on or before the date hereof of each of the following conditions precedent:

(a) Representations and Warranties. All of the representations and warranties made by the Borrower herein, whether directly or incorporated by reference, shall be true and correct on the date hereof.

(b) Performance; No Event of Default. The Borrower shall have performed and complied in all material respects with all terms and conditions herein required to be performed or complied with by them prior to or at the time hereof, and there shall exist no Default or Event of Default or condition which, with either or both the giving of notice or the lapse of time, would result in a Default or an Event of Default upon the execution and delivery of this Amendment.

(c) Amendment. The Lender shall have received this Amendment, duly executed by the Borrower.

(d) Proceedings and Documents. All proceedings in connection with the transactions contemplated by this Amendment shall be satisfactory in substance and form to the Lender, and the Lender shall have received all information and such counterpart originals or certified or other copies of such documents as it may request.

(e) Amendment Fee. Lender's receipt of an amendment fee in an amount equal to Fifteen Thousand Dollars (\$15,000).

(f) Amendment Challenge. Either no Amendment Challenge (as defined in the Final Order) was timely filed and served or the relief sought in a timely filed and served Amendment Challenge was denied by the Court.

(g) Approval of Amendment. The Court shall have entered an order approving the Amendment.

(h) Final Cash Collateral Order. The Court shall have entered an order modifying paragraph 15 of the Final Cash Collateral Order to conform the milestones contained therein to the revised milestones contained in Section 5 of this Amendment.

§5. Amendment to the Agreement. Subject to the satisfaction of the conditions precedent set forth in §4, effective as of the date hereof Section 8.2(o) of the Agreement is hereby amended and restated in its entirety to read as follows:

“(o) **Certain Milestones.**

(i) [Intentionally omitted]

(ii) [Intentionally omitted]

(iii) [Intentionally omitted]

(iv) Not later than June 22, 2012, Borrower shall have (x) received and notified Lender of Borrower’s receipt of a reasonably acceptable asset purchase agreement for the purchase of all or substantially all of Borrower’s assets and (y) delivered to Lender a copy of such asset purchase agreement.

(v) Not later than June 29, 2012, Borrower shall have filed a motion for approval of certain bid procedures and authority to sell its assets to the stalking horse bidder or such other bidder making a higher and better offer for such assets, reasonably satisfactory in form and substance to Lender, which shall authorize Lender (or its designee as a potential purchaser that would receive an assignment from the Lender of all of the Obligations in accordance with Section 9.1 hereof immediately prior to the closing of the applicable transaction) to credit bid the outstanding amount of the Obligations.

(vi) Not later than July 26, 2012, the Bankruptcy Court shall have held a hearing on the motion described in preceding clause (v).

(vii) If applicable, on or before August 21, 2012, Borrower shall have conducted an auction for the purchase of all or substantially all of the Borrower’s assets.

(viii) Not later than August 23, 2012, the Bankruptcy Court shall have held a hearing to approve the sale of Borrower’s assets to the stalking horse bidder or such other bidder making a higher and better offer for such assets.

(ix) Borrower shall close the sale of all or substantially all of the Borrower’s assets on or before September 30, 2012.

If the Debtor selects another Person as the bidder for the purposes of satisfying the milestones contained in subsection 8.2(o)(iv) above (such Person, the “Potential Stalking

Horse Bidder”), the Lender confirms and agrees that it will not seek to become the potential stalking horse bidder for the acquisition of all or substantially all of the Debtor’s assets unless the Debtor does not enter into a definitive agreement with the Potential Stalking Horse Bidder and the Debtor undertakes to select a potential stalking horse bidder other than the Potential Stalking Horse Bidder. The confirmation and agreement of Lender set forth in the preceding sentence does not, and will not, prevent Lender from participating in any public auction for the sale of all or substantially all of the Debtor’s assets.”

§6. Miscellaneous.

(a) This Amendment shall be governed by and construed in accordance with the laws of the State of Illinois.

(b) Except as otherwise expressly provided by this Amendment, all of the respective terms, conditions and provisions of the Agreement shall remain the same. It is declared and agreed by each of the parties hereto that the Agreement, as amended hereby, shall continue in full force and effect, and that this Amendment and the Agreement be read and construed as one instrument, and all references in the Financing Documents to the Agreement shall hereafter refer to the Agreement, as amended by this Amendment.

(c) This Amendment may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto. A facsimile or other electronic transmission of an executed counterpart shall have the same effect as the original executed counterpart.

*[Signatures on next page]*

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Amendment to be executed in its name and behalf by its duly authorized officer, as applicable, as of the date first written above.

**BORROWER:**  
**CLARE OAKS**

By: \_\_\_\_\_  
Name: Paul Rundell  
Title: Chief Restructuring Officer

**LENDER:**  
**SENIOR CARE DEVELOPMENT, LLC**

By: \_\_\_\_\_  
Name:  
An Authorized Person

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re:	)	Case No. 11 B 48903
	)	
CLARE OAKS,	)	Hon. Pamela S. Hollis
	)	Chapter 11
Debtor.	)	

**EXHIBIT B**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re:	)	Case No. 11 B 48903
	)	
CLARE OAKS,	)	Hon. Pamela S. Hollis
	)	Chapter 11
Debtor.	)	

**AMENDMENT TO FINAL ORDER REGARDING USE OF CASH  
COLLATERAL AND ADEQUATE PROTECTION**

This matter coming before the Court on the motion of Clare Oaks (the “Debtor”) to (I) *Approve Fourth Amendment to Senior Secured Super-Priority Debtor-in-Possession Loan Agreement and (II) Amend Final Order Regarding Use of Cash Collateral and Granting Adequate Protection* (the “Motion,” and the capitalized undefined terms herein having the meanings set forth in the Motion) and upon terms agreed to by the Master Trustee and the Bank; the Court having jurisdiction over the subject matter of the Motion and the parties; due and proper notice having been given to necessary parties; the Court having considered the Motion and the statements of counsel appearing before the Court; and the Court being otherwise fully advised in the premises; it appears to the Court that:

A. On December 5, 2011, the Debtor filed its *Emergency Motion for the Entry of an Interim Order: (I) Authorizing Use of Cash Collateral; (II) Providing Adequate Protection; and (III) Scheduling a Final Hearing* [Dkt. No. 17] (the “Cash Collateral Motion”).

B. On March 8, 2012, the Court entered the Final Order Regarding Use of Cash Collateral and Adequate Protection (the “Final Order”) [Dkt. 178].

C. The Bank and the Master Trustee have consented to the proposed amendments to the Budget and the Final Order.

**NOW, THEREFORE, THE COURT HEREBY ORDERS AS FOLLOWS:**

1. Subject to the terms and provisions of this Order, each of the findings, conclusions, representations, recitals, stipulations, and orders contained in the Final Order, shall be and hereby are ratified and affirmed as if set forth herein in full, and shall remain in full force and effect except as expressly modified pursuant to the terms of this Order.

2. The term “Budget” includes the budget attached to this Order as Exhibit A.

3. Paragraph 15 of the Final Order is hereby amended and restated in its entirety to provide as follows:

15. Sale Milestones. The Debtor agrees to market and sell substantially all of their assets, in consultation with their advisors, and to meet the following milestones (collectively, the “Sale Milestones”):

(i) [Intentionally Omitted]

(ii) [Intentionally Omitted]

(iii) [Intentionally Omitted]

(iv) Not later than June 22, 2012, the Debtor shall have received and notified the Master Trustee, the Bank and the Committee (subject to the Committee’s execution and delivery of a confidentiality agreement acceptable to the Debtor, the Master Trustee, and the Bank) of the Debtor’s receipt of an asset purchase agreement for the purchase of all or substantially all of Debtor’s assets reasonably satisfactory to the Master Trustee and the Bank.

(v) Not later than June 29, 2012, the Debtor shall have filed a motion for approval of certain bid procedures and authority to sell its assets to the stalking horse bidder or such other bidder making a higher and better offer for such assets, reasonably satisfactory in form and substance to the Master Trustee and the Bank, which shall authorize the Master Trustee to credit bid the amount of the Bond Claim.

(vi) Not later than July 26, 2012, the Court shall have held a hearing on the motion described in preceding clause (v).



- (vii) If applicable, on or before August 21, 2012, the Debtor shall have conducted an auction for the purchase of all or substantially all of the Debtor's assets.
- (viii) Not later than August 23, 2012, the Court shall have held a hearing to approve the sale of Debtor's assets to the stalking horse bidder or such other bidder making a higher and better offer for such assets.
- (ix) Debtor shall close the sale of all or substantially all of the Debtor's assets (the "Affiliation/Sale") on or before September 30, 2012.

All proceeds from the Affiliation/Sale shall be remitted (i) first, to satisfy, or otherwise provide for the satisfaction, in full of all Budgeted Professional Expenses incurred or accrued through the closing date of the Affiliation/Sale, plus up to \$175,000 to pay the fees and expenses of the Debtor's professionals and up to \$20,000 to pay the fees and expenses of Committee's professionals retained in the Chapter 11 Case accrued after the closing date of the Affiliation/Sale and allowed by a final order of the Court (with any unused portion to be applied pursuant to clauses (ii) – (iv) below), (ii) second, to repay the DIP Lender on account of any amounts owed under the DIP Loan Agreement; (iii) third, to the Master Trustee for application to the Bond Claim in accordance with the Bond Documents; and (iv) fourth, to the extent there are proceeds from the Affiliation/Sale remaining after the Bond Claim has been paid in full, subject to further order of the Court, to the Debtor.

4. This Order shall become effective immediately upon entry of this Order by the Court.

DATED: June \_\_, 2012

\_\_\_\_\_  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
Eastern Division

In Re:	)	BK No.: 11-48903
CLARE OAKS,	)	
	)	
	)	Chapter: 11
	)	Honorable Pamela S. Hollis
	)	
Debtor(s)	)	

**ORDER GRANTING DEBTOR'S MOTION TO APPROVE FOURTH AMENDMENT TO  
SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION LOAN AGREEMENT**

This matter coming to be heard on the motion of the above-captioned debtor and debtor-in-possession (the "Debtor") for entry of an order approving the Fourth Amendment to Senior Secured Super-Priority Debtor-in-Possession Loan Agreement (the "Fourth DIP Amendment") (the "Motion," and all undefined capitalized terms herein having the meanings set forth in the Motion); the Court having jurisdiction of the Motion and the parties; due and proper notice of the Motion having been given to necessary parties; the Court having considered the Motion and the statements of counsel appearing before the Court; and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED THAT:

- 1.) The relief requested in the Motion is granted.
- 2.) The Fourth DIP Amendment, a copy of which is attached to this Order as Exhibit A, is hereby approved in all respects.
- 3.) The Debtor is authorized to take all actions necessary to perform under the Fourth DIP Amendment.

Enter:

Dated:

United States Bankruptcy Judge

**Prepared by:**

George R. Mesires (# 6276952)  
Patrick F. Ross (# 6296461)  
David R. Doyle (# 6303215)  
Ungaretti & Harris LLP  
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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re:	)	Case No. 11 B 48903
	)	
CLARE OAKS,	)	Hon. Pamela S. Hollis
	)	Chapter 11
Debtor.	)	

**EXHIBIT A**

**FOURTH AMENDMENT TO SENIOR SECURED SUPER-PRIORITY  
DEBTOR-IN-POSSESSION LOAN AGREEMENT**

**THIS FOURTH AMENDMENT TO SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION LOAN AGREEMENT** (this “**Amendment**”) is entered into as of June \_\_, 2012, by and between **CLARE OAKS**, an Illinois not-for-profit corporation, as Borrower, Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code (“**Borrower**”) and **SENIOR CARE DEVELOPMENT, LLC**, a Delaware limited liability company, together with its successors and assigns (“**Lender**”).

**WITNESSETH**

**WHEREAS**, pursuant to the terms of that certain Senior Secured Super-Priority Debtor-in-Possession Loan Agreement dated as of December 22, 2011 (as amended by that certain First Amendment to Senior Secured Super-Priority Debtor-in-Possession Loan Agreement dated as of February 2, 2012, the Second Amendment to Senior Secured Super-Priority Debtor-In-Possession Loan Agreement dated as of March 8, 2012, the Third Amendment to Senior Secured Super-Priority Debtor-in-Possession Loan Agreement dated as of May 8, 2012 and as may be further amended, restated, supplemented or otherwise modified from time to time, the “**Agreement**”), the Lender has agreed to make loans to the Borrower;

**WHEREAS**, pursuant to the terms of the Agreement, the Borrower is to comply with certain milestones regarding the sale of all or substantially all of its assets; and

**WHEREAS**, the Lender is willing to amend the Agreement as requested in accordance with the terms hereof.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

§1. Definitions. Capitalized terms used herein without definition that are defined in the Agreement shall have the same meanings herein as therein.

§2. Ratification of Existing Agreements. All of the Borrower’s obligations and liabilities to the Lender as evidenced by or otherwise arising under the Agreement and the Loan Documents (collectively, the “**Financing Documents**”), except as otherwise expressly modified in this Amendment upon the terms set forth herein, are, by Borrower’s execution of this Amendment, ratified and confirmed in all respects. In addition, by Borrower’s execution of this Amendment, Borrower represents and warrants that no counterclaim, right of set-off, right of recoupment, or defense of any kind exists or is outstanding with respect to such obligations and liabilities. Borrower acknowledges and agrees that this Amendment shall be included in the definition of Loan Documents under the Agreement.

§3. Representations and Warranties. Borrower hereby represents and warrants to the Lender as follows:

(a) All of the representations and warranties made by the Borrower in the Agreement and the other Financing Documents are true and correct in all material respects on the date hereof as if made on and as of the date hereof, except to the extent that any of such representations and warranties relate by their terms to a prior date and for matters previously disclosed to the Lender in writing.

(b) No Default or Event of Default under and as defined in the Agreement or any of the Financing Documents has occurred and is continuing on the date hereof.

§4. Conditions Precedent. The effectiveness of the amendments contemplated hereby shall be subject to the satisfaction on or before the date hereof of each of the following conditions precedent:

(a) Representations and Warranties. All of the representations and warranties made by the Borrower herein, whether directly or incorporated by reference, shall be true and correct on the date hereof.

(b) Performance; No Event of Default. The Borrower shall have performed and complied in all material respects with all terms and conditions herein required to be performed or complied with by them prior to or at the time hereof, and there shall exist no Default or Event of Default or condition which, with either or both the giving of notice or the lapse of time, would result in a Default or an Event of Default upon the execution and delivery of this Amendment.

(c) Amendment. The Lender shall have received this Amendment, duly executed by the Borrower.

(d) Proceedings and Documents. All proceedings in connection with the transactions contemplated by this Amendment shall be satisfactory in substance and form to the Lender, and the Lender shall have received all information and such counterpart originals or certified or other copies of such documents as it may request.

(e) Amendment Fee. Lender's receipt of an amendment fee in an amount equal to Fifteen Thousand Dollars (\$15,000).

(f) Amendment Challenge. Either no Amendment Challenge (as defined in the Final Order) was timely filed and served or the relief sought in a timely filed and served Amendment Challenge was denied by the Court.

(g) Approval of Amendment. The Court shall have entered an order approving the Amendment.

(h) Final Cash Collateral Order. The Court shall have entered an order modifying paragraph 15 of the Final Cash Collateral Order to conform the milestones contained therein to the revised milestones contained in Section 5 of this Amendment.

§5. Amendment to the Agreement. Subject to the satisfaction of the conditions precedent set forth in §4, effective as of the date hereof Section 8.2(o) of the Agreement is hereby amended and restated in its entirety to read as follows:

“(o) **Certain Milestones**.

(i) [Intentionally omitted]

(ii) [Intentionally omitted]

(iii) [Intentionally omitted]

(iv) Not later than June 22, 2012, Borrower shall have (x) received and notified Lender of Borrower’s receipt of a reasonably acceptable asset purchase agreement for the purchase of all or substantially all of Borrower’s assets and (y) delivered to Lender a copy of such asset purchase agreement.

(v) Not later than June 29, 2012, Borrower shall have filed a motion for approval of certain bid procedures and authority to sell its assets to the stalking horse bidder or such other bidder making a higher and better offer for such assets, reasonably satisfactory in form and substance to Lender, which shall authorize Lender (or its designee as a potential purchaser that would receive an assignment from the Lender of all of the Obligations in accordance with Section 9.1 hereof immediately prior to the closing of the applicable transaction) to credit bid the outstanding amount of the Obligations.

(vi) Not later than July 26, 2012, the Bankruptcy Court shall have held a hearing on the motion described in preceding clause (v).

(vii) If applicable, on or before August 21, 2012, Borrower shall have conducted an auction for the purchase of all or substantially all of the Borrower’s assets.

(viii) Not later than August 23, 2012, the Bankruptcy Court shall have held a hearing to approve the sale of Borrower’s assets to the stalking horse bidder or such other bidder making a higher and better offer for such assets.

(ix) Borrower shall close the sale of all or substantially all of the Borrower’s assets on or before September 30, 2012.

If the Debtor selects another Person as the bidder for the purposes of satisfying the milestones contained in subsection 8.2(o)(iv) above (such Person, the “Potential Stalking

Horse Bidder”), the Lender confirms and agrees that it will not seek to become the potential stalking horse bidder for the acquisition of all or substantially all of the Debtor’s assets unless the Debtor does not enter into a definitive agreement with the Potential Stalking Horse Bidder and the Debtor undertakes to select a potential stalking horse bidder other than the Potential Stalking Horse Bidder. The confirmation and agreement of Lender set forth in the preceding sentence does not, and will not, prevent Lender from participating in any public auction for the sale of all or substantially all of the Debtor’s assets.”

§6. Miscellaneous.

(a) This Amendment shall be governed by and construed in accordance with the laws of the State of Illinois.

(b) Except as otherwise expressly provided by this Amendment, all of the respective terms, conditions and provisions of the Agreement shall remain the same. It is declared and agreed by each of the parties hereto that the Agreement, as amended hereby, shall continue in full force and effect, and that this Amendment and the Agreement be read and construed as one instrument, and all references in the Financing Documents to the Agreement shall hereafter refer to the Agreement, as amended by this Amendment.

(c) This Amendment may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto. A facsimile or other electronic transmission of an executed counterpart shall have the same effect as the original executed counterpart.

*[Signatures on next page]*



**IN WITNESS WHEREOF**, each of the parties hereto has caused this Amendment to be executed in its name and behalf by its duly authorized officer, as applicable, as of the date first written above.

**BORROWER:**  
**CLARE OAKS**

By:\_\_\_\_\_

Name: Paul Rundell

Title: Chief Restructuring Officer

**LENDER:**  
**SENIOR CARE DEVELOPMENT, LLC**

By:\_\_\_\_\_

Name:

An Authorized Person

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re:	)	Case No. 11 B 48903
	)	
CLARE OAKS,	)	Hon. Pamela S. Hollis
	)	Chapter 11
Debtor.	)	

**AMENDMENT TO FINAL ORDER REGARDING USE OF CASH  
COLLATERAL AND ADEQUATE PROTECTION**

This matter coming before the Court on the motion of Clare Oaks (the “Debtor”) to (I) *Approve Fourth Amendment to Senior Secured Super-Priority Debtor-in-Possession Loan Agreement and (II) Amend Final Order Regarding Use of Cash Collateral and Granting Adequate Protection* (the “Motion,” and the capitalized undefined terms herein having the meanings set forth in the Motion) and upon terms agreed to by the Master Trustee and the Bank; the Court having jurisdiction over the subject matter of the Motion and the parties; due and proper notice having been given to necessary parties; the Court having considered the Motion and the statements of counsel appearing before the Court; and the Court being otherwise fully advised in the premises; it appears to the Court that:

A. On December 5, 2011, the Debtor filed its *Emergency Motion for the Entry of an Interim Order: (I) Authorizing Use of Cash Collateral; (II) Providing Adequate Protection; and (III) Scheduling a Final Hearing* [Dkt. No. 17] (the “Cash Collateral Motion”).

B. On March 8, 2012, the Court entered the Final Order Regarding Use of Cash Collateral and Adequate Protection (the “Final Order”) [Dkt. 178].

C. The Bank and the Master Trustee have consented to the proposed amendments to the Budget and the Final Order.

**NOW, THEREFORE, THE COURT HEREBY ORDERS AS FOLLOWS:**

1. Subject to the terms and provisions of this Order, each of the findings, conclusions, representations, recitals, stipulations, and orders contained in the Final Order, shall be and hereby are ratified and affirmed as if set forth herein in full, and shall remain in full force and effect except as expressly modified pursuant to the terms of this Order.

2. The term “Budget” includes the budget attached to this Order as Exhibit A.

3. Paragraph 15 of the Final Order is hereby amended and restated in its entirety to provide as follows:

15. Sale Milestones. The Debtor agrees to market and sell substantially all of their assets, in consultation with their advisors, and to meet the following milestones (collectively, the “Sale Milestones”):

(i) [Intentionally Omitted]

(ii) [Intentionally Omitted]

(iii) [Intentionally Omitted]

(iv) Not later than June 22, 2012, the Debtor shall have received and notified the Master Trustee, the Bank and the Committee (subject to the Committee’s execution and delivery of a confidentiality agreement acceptable to the Debtor, the Master Trustee, and the Bank) of the Debtor’s receipt of an asset purchase agreement for the purchase of all or substantially all of Debtor’s assets reasonably satisfactory to the Master Trustee and the Bank.

(v) Not later than June 29, 2012, the Debtor shall have filed a motion for approval of certain bid procedures and authority to sell its assets to the stalking horse bidder or such other bidder making a higher and better offer for such assets, reasonably satisfactory in form and substance to the Master Trustee and the Bank, which shall authorize the Master Trustee to credit bid the amount of the Bond Claim.

(vi) Not later than July 26, 2012, the Court shall have held a hearing on the motion described in preceding clause (v).

- (vii) If applicable, on or before August 21, 2012, the Debtor shall have conducted an auction for the purchase of all or substantially all of the Debtor's assets.
- (viii) Not later than August 23, 2012, the Court shall have held a hearing to approve the sale of Debtor's assets to the stalking horse bidder or such other bidder making a higher and better offer for such assets.
- (ix) Debtor shall close the sale of all or substantially all of the Debtor's assets (the "Affiliation/Sale") on or before September 30, 2012.

All proceeds from the Affiliation/Sale shall be remitted (i) first, to satisfy, or otherwise provide for the satisfaction, in full of all Budgeted Professional Expenses incurred or accrued through the closing date of the Affiliation/Sale, plus up to \$175,000 to pay the fees and expenses of the Debtor's professionals and up to \$20,000 to pay the fees and expenses of Committee's professionals retained in the Chapter 11 Case accrued after the closing date of the Affiliation/Sale and allowed by a final order of the Court (with any unused portion to be applied pursuant to clauses (ii) – (iv) below), (ii) second, to repay the DIP Lender on account of any amounts owed under the DIP Loan Agreement; (iii) third, to the Master Trustee for application to the Bond Claim in accordance with the Bond Documents; and (iv) fourth, to the extent there are proceeds from the Affiliation/Sale remaining after the Bond Claim has been paid in full, subject to further order of the Court, to the Debtor.

4. This Order shall become effective immediately upon entry of this Order by the Court.

DATED: June \_\_, 2012

\_\_\_\_\_  
United States Bankruptcy Judge