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ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	**CASE NO. 14-32821-11**
	§	
SEARS METHODIST RETIREMENT SYSTEM, INC., *et al.* [1]	§	**CHAPTER 11**
	§	
	§	**Jointly Administered**
Debtors.	§	

MOTION OF DEBTOR SEARS TYLER METHODIST RETIREMENT CORPORATION FOR ORDERS (I) (A) AUTHORIZING AND APPROVING BID PROCEDURES TO BE EMPLOYED IN CONNECTION WITH THE PROPOSED SALE OF SUBSTANTIALLY ALL OF THE ASSETS OF THE DEBTOR; (B) APPROVING CERTAIN BID PROTECTIONS; (C) SCHEDULING AN AUCTION, SALE HEARING AND RELATED DEADLINES THERETO; (D) AUTHORIZING AND APPROVING THE ASSIGNMENT PROCEDURES TO BE EMPLOYED IN CONNECTION WITH THE IDENTIFICATION, ASSUMPTION AND ASSIGNMENT OF CERTAIN CONTRACTS AND LEASES; AND (E) APPROVING THE MANNER AND FORM OF NOTICE OF THE AUCTION, SALE HEARING AND ASSIGNMENT PROCEDURES; AND (II) AUTHORIZING (A) THE SALE OF ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS, SUBJECT TO HIGHER AND/OR OTHERWISE BETTER OFFERS AND (B) GRANTING RELATED RELIEF

Sears Tyler Methodist Retirement Corporation ("Tyler," and together with the other

[1] The debtors in these chapter 11 cases, along with the last four (4) digits of their taxpayer identification numbers, are: Sears Methodist Retirement System, Inc. (6330), Canyons Senior Living, L.P. (8545), Odessa Methodist Housing, Inc. (9569), Sears Brazos Retirement Corporation (8053), Sears Caprock Retirement Corporation (9581), Sears Methodist Centers, Inc. (4917), Sears Methodist Foundation (2545), Sears Panhandle Retirement Corporation (3233), Sears Permian Retirement Corporation (7608), Sears Plains Retirement Corporation (8233), Sears Tyler Methodist Retirement Corporation (0571) and Senior Dimensions, Inc. (4016). The mailing address of each of the debtors, solely for purposes of notices and communications, is 2100 Ross Avenue, 21st Floor, c/o Paul Rundell, Dallas, Texas 75201.

debtors and debtors in possession in the above-captioned cases, the "Debtors"), as a debtor and debtor in possession in the above-captioned cases, by undersigned counsel, hereby submits this motion (the "Motion"), pursuant to sections 105(a), 363 and 365 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, 6006 and 9007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for entry of (i) an order, substantially in the form attached hereto as Exhibit A (the "Bid Procedures Order"), (a) authorizing and approving certain bid procedures, substantially in the form attached to the Bid Procedures Order as Exhibit 1 (the "Bid Procedures"), to be employed in connection with the sale (the "Sale") of all or substantially all of Tyler's assets (the "Assets"); (b) authorizing Tyler to offer certain bid protections to ER Propco CO, LLC, a Delaware limited liability company (the "Stalking Horse"); (c) scheduling an auction (the "Auction"), a hearing to consider approval of the Sale (the "Sale Hearing") and deadlines related thereto; (d) authorizing and approving procedures (the "Assignment Procedures") to be employed in connection with the identification, assumption and assignment of certain executory contracts and unexpired leases (collectively, the "Assumed Contracts"); and (e) approving the manner and form of notice of the Auction and Sale Hearing, substantially in the form attached to the Bid Procedures Order as Exhibit 2, and the Assignment Procedures, substantially in the form attached to the Bid Procedures Order as Exhibit 3; and (ii) an order, substantially in the form to be filed subsequently (the "Sale Order"), (a) authorizing the Sale of the Assets free and clear of all liens, claims, encumbrances and interests other than those liabilities expressly assumed under the APA or Modified Agreement (as defined herein and as may be applicable) (collectively, as defined in the APA, the "Claims and Encumbrances"); and (b) granting related relief. In support of this Motion, Tyler respectfully represents as follows:

Preliminary Statement[2]

Tyler, after consultation with its advisors, believes that the Sale of its Assets is in the best interests of its estate, creditors, residents and other parties in interest and will maximize recovery to those same parties under a plan of liquidation it intends to file with the Court as soon as practicable. In addition, Tyler believes that the selection of the Stalking Horse and the Bid Procedures, including but not limited to the Bid Protections, are reasonable and necessary to ensure a fair and competitive bidding process. Without the ability to select a Stalking Horse Bidder and offer the Bid Protections, the Debtors will face greater uncertainty with respect to the Auction, to the potential detriment of the Debtors, its estate, creditors, residents and other parties in interest.

Therefore, pursuant to this Motion, Tyler seeks entry of two orders seeking the following general relief: (i) an order approving the Bid Procedures and providing certain bid protections to the Stalking Horse in connection with its offer to purchase the Assets of Tyler for Twenty Million Dollars ($20,000,000) (the "Stalking Horse Bid"), including (a) the payment in cash of a break-up fee in the amount of Six Hundred Thousand Dollars ($600,000) (the "Break-Up Fee") in the event the Stalking Horse is not the Successful Bidder at the Auction, and (b) an expense reimbursement in the amount of Fifty Thousand Dollars ($50,000) in the event the APA is terminated for reasons set forth therein (the "Expense Reimbursement," and together with the Break-Up Fee, the "Bid Protections"); and (ii) an order authorizing the sale of substantially all of Tyler's Assets free and clear of Claims and Encumbrances to the party making the Successful Bid (the "Successful Bidder") after implementation of the Bid Procedures.

[2] All capitalized terms used in the Preliminary Statement section shall have the meanings provided in this Motion.

Jurisdiction and Venue

1. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are sections 105(a), 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006 and 9007.

The Chapter 11 Cases

4. On June 10, 2014 (the "Petition Date"), the Debtors commenced these cases by each filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors have continued in the possession of their properties and have continued to operate and manage their businesses as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

5. On June 19, 2014, the Office of the United States Trustee appointed a committee of unsecured creditors (the "Committee") pursuant to section 1102(a)(1) of the Bankruptcy Code. No trustee or examiner has been appointed in any of the Debtors' chapter 11 cases.

6. Additional factual background regarding each of the Debtors, including their current and historical business operations and the events precipitating these chapter 11 filings, is set forth in detail in the *Declaration of Paul B. Rundell in Support of First Day Motions* [Docket No. 3] (the "Rundell Declaration"), incorporated herein by reference.

Tyler's Business Operations

A. Tyler's Organizational Structure.

7. Tyler, a Texas non-profit corporation, is controlled by Sears Methodist Retirement System, Inc. and its mailing address is 2100 Ross Avenue, 21st Floor, Dallas, Texas

75201. Tyler has 123 employees. Tyler owns Meadow Lake Retirement Community ("Meadow Lake"), a senior living facility located in Tyler, Texas.

8. Meadow Lake offers 35 executive homes, 20 assisted living apartments, 80 independent living apartments, 35 memory enhancement beds and 30 nursing beds. As of May 2014, Meadow Lake had 161 residents and a 79.8% (YTD) occupancy rate.

9. As of January 2014, on a book value basis, Tyler had approximately $56.3 million in assets and $67.8 million in liabilities. Tyler's main assets consist of: (i) approximately $2.2 million in cash and cash equivalents; (ii) approximately $787,000 in accounts receivable; and (iii) approximately $49.5 million in property and equipment. Tyler's main liabilities are: (i) approximately $43,050,000 in respect of the Tyler Bonds (as defined below) issued by HFDC of Central Texas, Inc. ("HFDC"); (ii) approximately $1.5 million in accrued interest payable; (iii) approximately $350,000 in accounts payable; and (iv) approximately $380,000 in contingent refundable residency fees.

10. In May 2013, Tyler received approximately $1.7 million in Medicare payments.

B. Tyler's Prepetition Capital Structure.

11. In 2009, construction at Meadow Lake was initially financed with proceeds of $8,545,000 Series 2009A Term Retirement Facility Revenue Bonds and an additional $27,555,000 Series 2009A Term Retirement Facility Revenue Bonds (collectively, the "Series 2009A Bonds") and $7,850,000 Series 2009B Term Retirement Facility Revenue Bonds (the "Series 2009B Bonds" and together with the Series 2009A Bonds, the "Series 2009 Bonds"), issued pursuant to that certain Indenture of Trust, dated as of November 1, 2009 (the "Original Tyler Bond Indenture") between HFDC and UMB Bank, N.A., as successor trustee (the "Tyler Trustee"). HFDC loaned the proceeds of the Series 2009 Bonds to Tyler pursuant to that certain

Loan Agreement, dated as of November 1, 2009 (the "Original Tyler Loan Agreement"), between HFDC and Tyler and provided for the repayment of such loans by Tyler pursuant to certain notes issued by Tyler as required by the Original Tyler Loan Agreement (the "Series 2009 Notes"). The Series 2009A Bonds accrue interest at 7.75% and mature on either November 2029 or November 15, 2044. The Series 2009B Bonds accrue interest at 6.375% and mature on November 15, 2019.

12. The second phase of Meadow Lake's construction was financed with the proceeds of $3,895,000 Series 2011A Retirement Facility Revenue Bonds (the "Series 2011A Bonds") and $1,500,000 Series 2011B Retirement Facility Revenue Bonds (the "Series 2011B Bonds" and together with the Series 2011A Bonds, the "Series 2011 Bonds"), issued pursuant to that certain Supplemental Bond Indenture No. 1, dated as of February 1, 2011, between the HFDC and the Tyler Trustee (the "Supplemental Bond Indenture No. 1," and collectively with the Original Tyler Bond Indenture, the "Tyler Bond Indenture"). The Series 2011 Bonds and the Series 2009 Bonds are collectively referred to herein as the "Tyler Bonds." HFDC loaned the proceeds of the Series 2011 Bonds to Tyler pursuant to Amendment No. 1 to the Original Tyler Loan Agreement, dated as of February 1, 2011 ("Amendment No. 1," and collectively with the Original Tyler Loan Agreement, the "Tyler Loan Agreement"), between HFDC and Tyler and provided for the repayment of such loans by Tyler pursuant to the Series 2011 Note (the "Series 2011 Note," and together with the Series 2009 Notes, the "Tyler Notes"), issued by Tyler as required by Amendment No. 1. The Series 2011A Bonds accrue interest at 8.50% and the Series 2011B Bonds accrue interest at 7.25%. Each of the Series 2011 Bonds mature on November 15, 2044. On November 15, 2019, the interest rate on any outstanding Series 2011B Bonds will increase to 10.0% per annum.

13. To secure the payment of the Tyler Bonds and the Tyler Notes, Tyler and the Tyler Trustee entered into that certain Master Trust Indenture, Deed of Trust and Security Agreement, dated as of November 1, 2009 (the "Original Tyler Master Indenture"), as supplemented by Supplemental Indenture Number 1, dated as of November 11, 2009 ("Supplemental Indenture No. 1"), Supplemental Indenture Number 2, dated as of February 1, 2011 ("Supplemental Indenture No. 2"), and Supplemental Indenture Number 3, dated as of May 1, 2012 ("Supplemental Indenture No. 3," and collectively with the Original Tyler Master Indenture, Supplemental Indenture No. 1 and Supplemental Indenture No. 2, the "Tyler Master Indenture"). The proceeds of the Series 2011 Bonds were intended to: (i) pay a portion of the costs of completing the acquisition, construction, furnishing and equipping of Meadow Lake; (ii) fund an increase in the debt service reserve fund securing the Tyler Bonds; (iii) fund interest on the Series 2011 Bonds for approximately three months; and (iv) pay the costs of issuance of the Series 2011 Bonds. As of May 2014, the outstanding balance owed in respect of the Tyler Bonds was approximately $43,050,000 and the monthly debt service payment was approximately $290,000. Tyler has not made any payments to the Tyler Trustee since May 2013, other than in connection with the forbearance agreements described below.

14. A number of events of default under the Tyler Bonds and the Tyler Master Indenture have occurred and are continuing, including: (i) Tyler has not remitted any of the required interest payments since May 1, 2012; (ii) Tyler did not begin replenishment payments to a certain debt service reserve fund as required under the Tyler Bond documents; (iii) Tyler has not deposited its gross revenues in a certain revenue fund since July 1, 2012; (iv) Tyler failed to maintain cumulative cash from operations at amounts set forth in the loan documents; and (v) Tyler failed to maintain an occupancy covenant (collectively, the "Tyler Events of Default").

15. As a result of the Tyler Events of Default, Tyler and certain holders of the Tyler Bonds engaged in negotiations regarding the terms of a permanent restructuring. In the course of these negotiations, on November 15, 2013, Tyler and the beneficial owners of at least 66-2/3% in aggregate principal amount of the Tyler Bonds entered into a Forbearance Agreement (the "Tyler Forbearance Agreement"), pursuant to which the bondholders agreed to, among other things, forbear from exercising any remedies available with respect to the payment defaults until March 31, 2014. In connection therewith, Tyler deposited $150,000 with the Tyler Trustee to be used for fees and expenses related to the Tyler Forbearance Agreement. On March 31, 2014, the Tyler Trustee agreed to forbear from initiating any formal legal action to accelerate the Tyler Bonds or to foreclose upon the underlying collateral until April 15, 2014.

16. On April 15, 2014, the Tyler Trustee and Tyler entered into a separate Forbearance Agreement (the "2014 Forbearance Agreement"), pursuant to which the Tyler Trustee agreed to, among other things, forbear on exercising any rights or remedies against Tyler available to the Tyler Trustee under the Tyler Loan Agreement, the Tyler Master Indenture or any other document governing the Tyler Bonds until the earlier of (i) July 14, 2014 or (ii) the occurrence of any Forbearance Termination Event (as defined therein). The Tyler Trustee may, in its sole discretion, extend the forbearance period for an additional ninety (90) days beyond July 14, 2014, to the extent that the Tyler Trustee is satisfied with the progress made towards implementing a restructuring or sale transaction and in the absence of contrary direction from the holders of the Tyler Bonds.

17. Pursuant to the 2014 Forbearance Agreement, Tyler agreed to, among other things, (i) establish a fee escrow account with the Tyler Trustee, consisting of an initial deposit

of $100,000 and subsequent deposits of $100,000 on May 15, 2014, and June 16, 2014, respectively, and (ii) deliver a restructuring plan to the Tyler Trustee on or before May 30, 2014. If the Tyler Trustee and Tyler are unable to agree on the terms of the restructuring plan, or if the Tyler Trustee determines that the restructuring plan is not feasible or desirable, then the Tyler Trustee is required to inform Tyler of such determination on or before June 16, 2014.

18. In connection with the issuance of the Series 2009 Bonds, Tyler entered into an Operating Support Agreement with Senior Dimensions, Inc. ("SDI"), a Debtor-affiliate, dated as of November 1, 2009 (the "Operating Support Agreement"), pursuant to which, among other things, SDI (i) agreed to deposit all of its net cash flow from the contracts with the Veterans Land Board (the "VLB Contracts") into an operating support fund, and (ii) granted to Tyler a continuing security interest in and to all right, title and interest of SDI in its right to receive payments of money under the VLB contracts. Based on historical operations and future projections there is no Net Cash Flow (as defined in the Operating Support Agreement) distributable to Tyler.

The Selection of the Stalking Horse Bidder

19. Tyler, together with its advisors, and after consultation with the Tyler Trustee and its advisors, determined that a sale of its Assets would be in the best interests of its estate, creditors and other parties in interest and would maximize the return to those same parties. Therefore, since the Petition Date, the Debtors have made efforts to market Tyler to potential purchasers.

20. To assist with their marking efforts, the Debtors sought approval on July 30, 2014 to retain RBC Capital Markets, LLC ("RBC") as their investment banker [Docket No. 280] (the "RBC Retention Application"). On August 19, 2014, the Court entered an order approving the

RBC Retention Application [Docket No. 338]. Since its retention, RBC has extensively marketed Tyler's Assets.

21. After considering all available alternatives, Tyler negotiated and agreed to enter into, subject to the Court's approval, the Asset Purchase and Sale Agreement ("APA") with the Stalking Horse, substantially in the form attached hereto as Exhibit B. The salient terms of the APA are as follows:[3]

- Purchase of significantly all of Tyler's Assets (except for cash and certain other Assets);
- Payment by the Stalking Horse of the purchase price of $20,000,000 in cash at closing (the "Purchase Price");
- Payment by the Stalking Horse of a $2,000,000 earnest money deposit within five (5) business days after the APA is fully executed (the "Earnest Money Deposit");
- Assumption of all residency agreements with the residents of Meadow Lake (collectively, the "Resident Agreements") and any obligations related thereto;
- Purchase of Tyler's Assets free and clear of all Claims and Encumbrances;
- Payment to the Stalking Horse of a break-up fee in the amount of $600,000 in the event the Stalking Horse is not the Successful Bidder at the Auction, including in the event Tyler closes on the Sale to the Tyler Trustee or its designee pursuant to a credit bid;
- Payment of an expense reimbursement of $50,000 in the event the APA is terminated for reasons articulated therein;
- Establishment of an escrow account in which a portion of the Purchase Price in an amount equal to Four Hundred Thousand Dollars ($400,000) will be held in escrow for the benefit of the Seller Indemnification Obligations until the expiration of the Indemnification Period (as such terms are defined the APA); and
- Execution of the Operations Transfer Agreement to be agreed upon between the parties.

[3] The summary of the terms of the APA is provided solely for the convenience of the Court and interested parties. Interested parties should refer to the APA for the complete and detailed terms thereof. In the event of any inconsistencies between this summary and the APA, the APA shall govern.

22. The APA between Tyler and the Stalking Horse will serve as the opening bid for Tyler's assets in the Auction that Tyler proposes be held, subject to Court approval, on January 21, 2015.[4]

23. Given the extensive marketing and diligence process prior to the execution of the APA, Tyler, in consultation with its advisors, has determined that the Stalking Horse provides the best offer to purchase substantially all of Tyler's Assets on the terms and conditions contained in the APA. Tyler and the Stalking Horse negotiated the terms of the APA at arm's length, and Tyler submits that, pending a higher or better offer pursuant to the Bid Procedures, the Sale to the Stalking Horse reflects the best outcome available to Tyler under the circumstances.

The Bid Procedures

24. This section summarizes key provisions of the Bid Procedures which Tyler proposes to employ in connection with the Auction of its Assets. The Bid Procedures are designed to ensure a fair and competitive bidding process and to maximize the value of the Assets for the benefit of Tyler's estate, creditors and other interested parties. Capitalized terms used, but not defined in this section, shall have the meanings provided in the Bid Procedures. The descriptions of the Bid Procedures herein are qualified in their entirety by reference to the Bid Procedures attached to the Bid Procedures Order as Exhibit 1 and incorporated herein by reference.

[4] All dates proposed in this Motion are subject to the Court's calendar and will, assuming this Motion is granted, be finalized at the hearing on the Bid Procedures.

Participation Requirements. Any person desiring to submit a competing bid for all or part of Tyler's assets (a "Potential Bidder") will be required to deliver the following (the "Participation Requirements") to Tyler: (1) an executed confidentiality agreement in form and substance satisfactory to Tyler; and (2) satisfactory written evidence of available funds or a firm commitment for financing sufficient for the Potential Bidder to consummate the Sale. The financial information and credit-quality support of any Potential Bidder must demonstrate the financial capability of the Potential Bidder to timely consummate the Sale pursuant to a Qualified Bid.

Due Diligence. Tyler will afford any Potential Bidder who satisfies the Participation Requirements, such due diligence access or additional information as Tyler, in its business judgment, determines to be reasonable and appropriate; provided, however, that the same access and information must also be made available to the Stalking Horse. Additional due diligence will not be provided after the Bid Deadline.

Interested parties requesting information about the qualification process, and Qualified Bidders requesting information in connection with their due diligence, should contact David B. Fields, RBC Capital Markets, LLC, One Logan Square, 130 North 18th Street, Philadelphia, PA 19103-6933 (david.fields@rbccm.com).

Bid Deadline. The deadline for any bids shall be January 19, 2015 at 4:00 p.m. (prevailing Central Time) (the "Bid Deadline"). Bids must be received by U.S. mail and electronic mail by the following parties on or before the Bid Deadline: (1) counsel for Tyler, DLA Piper LLP (US), 1251 Avenue of the Americas, New York, NY 10020, Attn: Thomas R. Califano (thomas.califano@dlapiper.com) and DLA Piper LLP (US), 1717 Main Street, Suite 4600, Dallas, TX 75201, Attn: Vincent Slusher (vince.slusher@dlapiper.com); (2) RBC Capital Markets, LLC; One Logan Square, 130 North 18th Street, Philadelphia, PA 19103-6933 Attn: David B. Fields (david.fields@rbccm.com); (3) Alvarez & Marsal Healthcare Industry Group, LLC, 55 West Monroe, Chicago, IL 60603, Attn: Paul Rundell (prundell@alvarezandmarsal.com); (4) Counsel for the Tyler Trustee, McDermott, Will & Emery, LLP, 227 West Monroe Street, Chicago, IL, 60606, Attn: Nathan F. Coco (ncoco@mwe.com); (5) Counsel for the Committee, Greenberg Traurig LLP, 2200 Ross Avenue, Suite 5200, Dallas, TX 75201, Attn: Clifton R. Jessup (jessupC@gtlaw.com) and Greenberg Traurig LLP, 77 West Wacker Drive, Suite 3100, Chicago, IL 60601, Attn: Nancy A. Peterman (petermann@gtlaw.com); and (6) the Texas Attorney General's Office, Bankruptcy & Collections Division, P. O. Box 12548- MC 008, Austin, Texas 78711-2548, Attn: Casey Roy (Casey.Roy@texasattorneygeneral.gov); (7) the Texas Department of Aging and Disability Services, c/o the Texas Attorney General's Office, Bankruptcy & Collections Division, P.O. Box 12548-MC 008, Austin, Texas 78711, Attn: Casey Roy (Casey.Roy@texasattorneygeneral.gov); and (8) the Centers for Medicare & Medicaid Services, 1301 Young Street, Rm. 714, Dallas Texas 75202 (collectively, the "Notice Parties").

Designation of Stalking Horse Bidder. Tyler has selected the Stalking Horse Bid, on the terms set forth in the APA, as the current highest and best bid and to serve as the opening bid for the Auction. The bidding at the Auction will start at the Initial Bid Amount and continue in increments of at least $200,000 in cash or cash equivalents.

Bid Requirements. To be eligible to participate in the Auction, each bid and each Potential Bidder submitting such a bid must, subject to Tyler's sole satisfaction:

1. Offer to consummate the Sale on terms no less favorable to Tyler than those set forth in the APA;
2. Include a marked copy of the APA to show any proposed amendments thereto (the "Modified Agreement") and a clean and executed Modified Agreement;
3. Include a statement that there are no conditions precedent to the Potential Bidder's ability to enter into a definitive agreement and that all necessary internal and shareholder approvals have been obtained prior to the bid;
4. State that such offer is binding and irrevocable until the consummation of the Sale;
5. Offer to pay a purchase price that is greater than $21,000,000 (the "Initial Bid Amount");
6. Disclose the identity of each entity that will be bidding or otherwise participating in connection with such bid, and the complete terms of any such participation;
7. Include the names and contact information of members of the bidder who will be available to answer questions regarding the offer, including advisors and related parties;
8. State that they intend to assume all Residency Agreements and honor all resident obligations;
9. Include a good-faith deposit in immediately available funds in the amount of $2,000,000 (the "Earnest Money Deposit");
10. Provide satisfactory written evidence of available funds or a firm commitment for financing sufficient to consummate the Sale;
11. Provide for the purchase of all or some of Tyler's assets; and
12. Provide information on the operational and financial capabilities of the proposed bidder sufficient to allow the Debtors and interested parties to determine such bidder's ability to assume the Residency Agreements.

Bids are not required to adopt the business structure as set forth in the APA, and may provide for a not-for-profit entity as the operator of Meadow Lake, as is currently the case with Tyler. Tyler will consider all bids submitted whether or not they conform to the form set forth in the APA.

To the extent any Potential Bidder proposes to include non-cash consideration in its bid (other than assumption of debt), such non-cash consideration must be freely marketable and such bid must be accompanied by the form of note or other type of instrument in connection with such non-cash consideration (and the bid must include at least sufficient cash consideration to pay the Break-Up Fee). The Tyler Trustee shall be entitled to credit bid (subject to payment of the Break-Up Fee in cash to the Stalking Horse), pursuant to Bankruptcy Code section 363(k)

or otherwise at the conclusion of the Auction. In the event of a credit bid, Tyler shall determine, subject to Court approval, and in consultation with the Committee, whether such credit bid constitutes the highest and/or best bid.

Qualified Bidders and Bids. Potential Bidders who have satisfied the Participation Requirements will be deemed "Qualified Bidders." Bids that contain all bid requirements, as determined by Tyler, will be deemed "Qualified Bids." Credit bids will be entertained (so long as they provide for payment of the Break-Up Fee in cash).

Tyler will advise each Potential Bidder whether they are deemed to be a Qualified Bidder and whether their bid is a Qualified Bid before the Auction. The Stalking Horse is deemed a Qualified Bidder and the Stalking Horse Bid is a Qualified Bid in all respects. The Tyler Trustee or its designee shall also be deemed a Qualified Bidder and any credit bid of the Tyler Trustee is a Qualified Bid in all respects. Tyler will provide copies of the Qualified Bids to the Tyler Trustee, the Committee, the Stalking Horse, and the Texas Attorney General.

Tyler reserves the right, in its sole reasonable discretion, to waive noncompliance with any one or more of these requirements and deem an otherwise not Qualified Bid to be a Qualified Bid. Tyler will advise all Qualified Bidders of any such waiver and the basis for which it was granted at the Auction.

Auction Participation. Unless otherwise agreed to by Tyler, only Qualified Bidders, members of the Committee, the Tyler Trustee, and their legal or financial professionals are eligible to attend or participate at the Auction. Subject to the other provisions of these Bid Procedures, if Tyler does not receive any Qualified Bids other the Stalking Horse Bid or if no Qualified Bidder other than the Stalking Horse has indicated its intent to participate in the Auction, Tyler will not hold an Auction and the Stalking Horse will be named the Successful Bidder, subject to the Tyler Trustee's right to credit bid as provided for herein.

Auction. If any Qualified Bid other than the Stalking Horse Bid for any of Tyler's assets has been received and any Qualified Bidder other than the Stalking Horse has indicated its intent to participate in the Auction, Tyler will conduct the Auction for the sale of substantially all of its assets. Each Qualified Bidder participating at the Auction will be required to confirm that it has not engaged in any collusion with respect to the bidding or the Sale.

The Auction shall take place at 10:00 am (prevailing Central Time) on January 21, 2015 at the offices of DLA Piper LLP (US), 1717 Main Street, Suite 4600, Dallas, TX 75201. At the Auction, only the Stalking Horse and other Qualified Bidders will be permitted to increase their bids or make any subsequent bids. Tyler may conduct the Auction in the manner it reasonably determines, in its business judgment, will promote the goals of the bid process, will achieve the maximum value for all parties in interest and is not inconsistent with any of the provisions of these Bid Procedures, the APA, the Bankruptcy Code or any order of the Bankruptcy Court entered in connection herewith.

Closing the Auction. The Auction shall continue until there is only one offer that Tyler determines, subject to Bankruptcy Court approval, is the highest or best offer from among the Qualified Bidders (including the Stalking Horse) submitted at Auction (the "Successful Bid"). The Qualified Bidder submitting such Successful Bid shall become the "Successful Bidder," and shall have such

> rights and responsibilities of a purchaser, as set forth in the APA (or Modified Agreement, as applicable).
>
> Immediately prior to the conclusion of the Auction, Tyler shall (1) review each bid made at the Auction on the basis of financial and contractual terms and such other factors as may be relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale; (2) identify the Successful Bid; and (3) notify all Qualified Bidders at the Auction, prior to its conclusion, of the name or names of the Successful Bidder and the amount and other material terms of the Successful Bid.
>
> Tyler shall also select a back-up bid (the "Back-Up Bid"), which shall remain open and irrevocable until one (1) business day after the closing of the Sale with the Successful Bidder, but in no event more than seventy-five (75) days after the Auction. In the event that, for any reason, the Successful Bidder fails to close the transaction contemplated by the Successful Bidder, Tyler may elect to regard the Back-Up Bid as the highest or best bid for the Assets, and Tyler will be authorized to consummate the transaction contemplated by the Back-Up Bid without further order of the Bankruptcy Court.

The Bid Protections

25. The Stalking Horse has expended, and likely will continue to expend, considerable time, money and energy pursuing the Sale and has engaged in arm's length and good faith in negotiations with Tyler in connection therewith. In recognition of this expenditure of time, energy and resources, and the benefits of securing an opening bid, Tyler has agreed to provide customary bid protections to the Purchaser.

26. In particular, the APA provides that the payment of the Break-Up Fee shall be payable on the day of any sale, lease, transfer or foreclosure of any of the Assets or material consummation of any Alternative Transaction (as defined in the APA) from the first proceeds thereof and, second, from Tyler's cash (although the Bid Procedures provide that any Qualified Bid, including a credit bid, must have a cash component, so in all cases there should be proceeds to pay the Break-Up Fee). The APA further provides that the Expense Reimbursement shall only be payable upon the occurrence of certain limited conditions causing the termination of the APA as described in more detail therein. The Break-Up Fee (or the Expense Reimbursement, where applicable) shall constitute an administrative expense claim in the bankruptcy case under

sections 503(b) and 507(a)(2) of the Bankruptcy Code, and shall be a super-priority administrative claim and superior to all claims in the case, other than the claim of Tyler's existing DIP lender, whose DIP loan shall be superior.

27. The Bid Protections were a material inducement for, and a condition of, the Stalking Horse's entry into the APA. As set forth more fully below, Tyler believes that the Bid Protections are fair and reasonable and will maximize the value realized by the Tyler's estate, creditors and other interested parties.

Notice of Sale Hearing, Auction and Related Deadlines

28. Subject to the Court's calendar, Tyler proposes to schedule the Sale Hearing on January 23, 2015 at 9:30 a.m. (prevailing Central time), or as soon thereafter as the Court's calendar permits. Tyler further requests that the Court set the deadline to file and serve any objection and supporting evidence with respect to the Sale of the Assets free and clear of Claims and Encumbrances as January 19, 2015 at 4:00 p.m. (prevailing Central time).

29. Within two (2) business days following entry of the Bid Procedures Order, Tyler proposes to serve the Auction and Sale Notice, substantially in the form attached to the Bid Procedures Order as Exhibit 2, setting forth the pertinent dates and deadlines related to the Sale, Auction and Sale Hearing, on all known creditors of Tyler and other parties in interest, including, without limitation: (i) the Office of the United States Trustee for the Northern District of Texas, (ii) counsel to the Stalking Horse, (iii) counsel to the Committee, (iv) counsel to Tyler's prepetition secured lenders, (v) all entities known by Tyler to have expressed an interest in acquiring Tyler's assets in the previous calendar year, (vi) all entities known to have asserted any lien, interest or encumbrance upon Tyler's assets; (vii) appropriate state and federal regulatory

agencies; and (viii) all other parties who filed requests for notice under Bankruptcy Rule 2002 in these cases.

Assignment Procedures

30. Tyler proposes to establish the Assignment Procedures to be employed in connection with the identification, assumption and assignment of Assumed Contracts in accordance with the APA or Modified Agreement, as applicable.

31. In particular, the APA provides that the Stalking Horse has until the later of Closing (as defined in the APA) or determination of cure amounts, to determine which of Tyler's executory contracts and unexpired leases will be Assumed Contracts. In connection with approval of the Bid Procedures, Tyler anticipates filing with the Court a list identifying proposed Assumed Contracts and the amounts necessary to cure defaults thereunder (the "Cure Amounts") that it intends to assume and assign to the Successful Bidder. Tyler will also serve the counterparties to all Assumed Contracts with a notice, substantially in the form attached to the Bid Procedures Order as Exhibit 3 (the "Assumption Notice"), providing a list of proposed Assumed Contracts and the corresponding Cure Amounts that Tyler is seeking to assume and assign to the Successful Bidder. Furthermore, the Assumption Notice will also notify counterparties of the deadline to object to the assumption and assignment of the Assumed Contracts, which will be fourteen (14) days following service of the Assumption Notice. No assumption or assignment will be binding on Tyler or the Stalking Horse until consummation of the Sale and the filing of a Notice of Closing (as defined in the APA). Tyler will reject any executory contract and unexpired lease not assumed and assigned to the Successful Bidder.

Relief Requested

32. By this Motion, Tyler respectfully requests the entry of two orders. First, Tyler requests entry of the Bid Procedures Order, substantially in the form attached hereto as Exhibit A,

(a) Authorizing and approving the Bid Procedures in connection with the Sale of Tyler's Assets, substantially in the form attached to the Bid Procedures Order as Exhibit 1;

(b) Authorizing and approving the Bid Protections offered to the Stalking Horse;

(c) Approving the form and manner of notice of the Auction, Sale Hearing and related deadlines; and

(d) Authorizing and approving the Assignment Procedures.

33. Second, Tyler respectfully requests that, at or after the Sale Hearing, the Court enter the Sale Order, in the form to be filed subsequently, (a) approving the sale of the Assets to the Successful Bidder free and clear of Claims and Encumbrances and in accordance with the terms of the APA or Modified Agreement, as applicable; and (b) granting related relief.

Basis for the Requested Relief

34. Tyler believes that cause exists to grant both orders being sought by this Motion. The proposed Bid Procedures and the Auction and Sale Notice are reasonable and necessary to effectuate the sale process and provide sufficient notice and opportunity to permit other bidders to participate in the Auction. Upon conclusion of the Auction, Tyler believes that sufficient cause exists to enter an order approving the proposed sale to the Stalking Horse or to any bidder that submits a higher or better bid pursuant to the Bid Procedures.

A. The Proposed Bid Procedures Should be Approved.

35. Tyler believes it is in the best interests of its estate, creditors, residents and employees to commence a process for soliciting potential bidders to participate in the Auction. Tyler seeks approval of the Bid Procedures in an effort to maximize the likelihood of higher and better bids being made for Tyler's Assets. Tyler believes that the Bid Procedures will provide interested parties with a reasonable opportunity to evaluate whether to propose a bid for Tyler's Assets that is higher or otherwise better than the Stalking Horse Bid for the same Assets.

36. Pursuant to Bankruptcy Rule 6004(f)(1), Tyler may sell property outside the ordinary course of business by private sale or by public auction. In this case, Tyler believes that an auction will expose the Assets to a broad and diverse market and ensure a sale for the highest or otherwise best offer.

37. If the Bid Procedures are approved, Tyler will solicit competing Qualified Bids for the Assets. The Bid Procedures describe, among other things, the Assets available for sale, the manner in which bidders and bids become "qualified," the coordination of diligence efforts among bidders and Tyler, the receipt, negotiation and qualification of bids received, the conduct of the Auction, if any, and the selection and approval of a Successful Bidder.

1. The Proposed Bid Procedures Are Reasonable and Necessary.

38. The Bid Procedures were developed consistent with Tyler's competing needs to expedite the sale process and promote participation and active bidding. Moreover, the Bid Procedures reflect Tyler's objective of conducting the Auction in a controlled, fair and open fashion.

39. Tyler believes the Auction and Bid Procedures will promote active bidding from interested parties and will identify the highest or otherwise best offer for the Assets. The Bid

Procedures will allow Tyler to conduct the Auction in a manner that will encourage participation by financially capable bidders who demonstrate the ability to close on the Sale. Tyler believes the Bid Procedures are: (a) sufficient to encourage bidding for the Assets; (b) consistent with other procedures previously approved by the Court; and (c) appropriate under the relevant standards governing auction proceedings and bidding incentives in bankruptcy proceedings. Further, the Bid Procedures are designed to maximize value for Tyler's estate, while ensuring an orderly sale process.

40. Once Tyler articulates a valid business justification, the business judgment rule provides that there "is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company.'" In re S.N.A. Nut Co., 186 B.R. 98, 102 (Bankr. N.D. Ill. 1995) (quoting Smith v. Van Gorkom, 448 A.2d 858,872 (Del. 1985); In re Integrated Res., Inc., 147 B.R. 650, 656 (S.D.N.Y. 1992); Comm. of Asbestos-Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.), 60 B.R. 612, 615–16 (Bankr. S.D.N.Y. 1986) ("[A] presumption of reasonableness attaches to a debtor's management decisions.").

41. Courts have made clear that a debtor's business judgment is entitled to substantial deference with respect to the procedures to be used in selling assets from the estate. See, e.g., Integrated Res., 147 B.R. at 656–57 (noting that overbid procedures and break-up fee arrangements that have been negotiated by a debtor are to be reviewed according to the deferential "business judgment" standard, under which such procedures and arrangements are "presumptively valid"); In re 995 Fifth Ave. Assocs., L.P., 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (same).

42. The paramount goal in any proposed auction of property of the estate is to maximize the proceeds received by the estate. See, e.g., In re Food Barn Stores, Inc., 107 F.3d 558, 564–65 (8th Cir. 1997) (in bankruptcy sales, "a primary objective of the Code [is] to enhance the value of the estate at hand"); Integrated Res., 147 B.R. at 659 ("It is a well-established principle of bankruptcy law that the . . . duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate.") (quoting In re Atlanta Packaging Prods., Inc., 99 B.R. 124, 130 (Bankr. N.D. Ga. 1988)).

43. To that end, courts uniformly recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value received by the estate and therefore are appropriate in the context of bankruptcy transactions. See, e.g., Integrated Res., 147 B.R. at 659 (finding that procedures that encourage bidding and maximize the value of the debtor's assets are enforceable); In re Fin. News Network, Inc., 126 B.R. 152, 156 (Bankr. S.D.N.Y. 1991), ("[C]ourt-imposed rules for the disposition of assets . . . [should] provide an adequate basis for comparison of offers, and [should] provide for a fair and efficient resolution of bankrupt estates.").

44. Tyler has sound business justifications for seeking approval of the Bid Procedures at this juncture. Tyler believes it is in the best interests of its estate, creditors, residents and employees to commence a bidding procedure immediately, as Tyler has limited funding and resources to try to maximize the value of its assets. In addition, the sale of the assets provides a realistic means for the continuation of certain resident care services for the residents of Meadow Lake with minimal interruption and inconvenience. For these reasons, Tyler has determined, based upon its business judgment, that the best option for maximizing the value of its estate for

the benefit of its creditors, residents, employees and other parties in interest is through the Sale pursuant to the Bid Procedures.

45. Tyler believes that the Bid Procedures will establish the parameters under which the Sale with the Stalking Horse may be tested at the Auction. The Bid Procedures are designed to encourage competitive bidding in an orderly manner and to maximize value for Tyler's estate, creditors, residents and employees. The proposed procedures contain terms typical for a process through which a sale of this nature is consummated and will increase the likelihood that Tyler will receive the greatest possible consideration because they will ensure a competitive and fair bidding process.

46. As additional support, Bankruptcy Code section 105(a) provides that the Court "may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). As described above, approval of the Bid Procedures will greatly assist Tyler in maximizing the value that it may obtain for all or portions of its Assets. Therefore, Tyler respectfully submits that granting the requested relief is "appropriate" under the circumstances.

2. The Bid Protections Are in the Best Interests of Tyler's Estate.

47. To induce the Stalking Horse to expend the time, energy and resources necessary to submit the Stalking Horse Bid, Tyler has agreed to provide the Stalking Horse, and seek this Court's approval of, the Bid Protections as set forth in the Bid Procedures and the APA.

48. Tyler proposes to provide the Stalking Horse with the Bid Protections as described in the Bid Procedures Order. Such protections have induced the Stalking Horse's entry into the APA and its offering of the Stalking Horse Bid. Tyler believes that the Bid Protections are fair and reasonable in light of (a) the intensive analysis, due diligence

investigation, and negotiation undertaken by the Stalking Horse in connection with the transaction and (b) the fact that, if the Break-Up Fee is triggered, Tyler will have closed on a higher or otherwise better offer for the Assets, to the benefit of Tyler's creditors, residents and employees.

49. Although bidding incentives in favor of a Stalking Horse are measured against a business judgment standard, to receive administrative expense priority pursuant to Bankruptcy Code section 503(b), the bidding incentive must provide some post-petition benefit to the estate. See In re O'Brien Envtl. Energy, Inc., 181 F.3d 527, 533 (3d Cir. 1999). The O'Brien court identified two instances in which such a benefit to the estate may be found. The first instance is where the incentive promoted a more competitive bidding process, "such as by inducing a bid that otherwise would not have been made and without which bidding would have been limited." Id. at 537. The second instance is where bidding incentives induce a bidder to research the value of the debtor and submit a bid that serves as the floor bid on which other bidders can rely. Id.

50. The amount of the Break-Up Fee and Expense Reimbursement proposed by this Motion is reasonable and appropriate in light of the size and nature of the transaction. Moreover, the Break-Up Fee and Expense Reimbursement are consistent with the Third Circuit's test articulated in O'Brian; they were an inducement for the Stalking Horse to expend time and resources in order to provide a competitive floor bid.

51. Tyler submits that the Bid Protections are normal, and often necessary components of sales outside the ordinary course of business under Bankruptcy Code section 363. See, e.g., In re Kupp Acquisition Corp., Case No. 96-1223 (PJW) (Bankr. D. Del. March 3, 1997); In re Kmart, Case No. 02-B-02474 (SPS) (Bankr. N.D. Ill. May 10, 2002) (authorizing a termination fee and overbid amounts for potential bidders); In re Comdisco, Inc., Case No. 01-

24795 (RB) (Bankr. N.D. Ill. Aug. 9, 2002) (approving a termination fee as, *inter alia*, an actual and necessary cost and expense of preserving the Tyler's estate, of substantial benefit to Tyler's estate, and a necessary inducement for, and a condition to, the proposed purchaser's entry into the purchase agreement); In re Crowthers McCall Pattern, Inc., 114 B.R. 877 (Bankr. S.D.N.Y. 1990) (approving an overbid requirement in an amount equal to the approved break-up fee).

52. In sum, Tyler's ability to offer the Bid Protections to the Stalking ensures a Sale of its Assets to the Stalking Horse at a price it believes to be fair, while also keeping open the opportunity for higher and better bids. Thus, the Bid Protections should be approved.

53. Moreover, payment of the Break-Up Fee will not diminish the funds available for distribution to creditors, because, as stated above, Tyler will only be required to pay the Break-Up Fee if Tyler consummates a sale with an alternative bidder in an amount that not only exceeds the consideration offered by the Stalking Horse for the Assets, but also provides for sufficient funds to pay the Break-Up Fee.

B. The Sale Order Should Be Approved.

1. The Proposed Sale is an Exercise of Tyler's Sound Business Judgment and Should Be Approved.

54. Tyler submits that ample authority exists for the approval of the Sale. Bankruptcy Code section 363, which authorizes a debtor to sell assets of the estate other than in the ordinary course of business, provides, in relevant part: "[t]he trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate . . . ." 11 U.S.C. § 363(b)(1).

55. Although Bankruptcy Code section 363 does not set forth a standard for determining when it is appropriate for a court to authorize the sale or disposition of a debtor's assets, courts have held that approval of a proposed sale of property pursuant to section 363(b) is

appropriate if the transaction represents the reasonable business judgment of the debtor. See Comm. of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063 (2d Cir. 1983); see also In re Delaware & Hudson Ry. Co., 124 B.R. 169, 176 (D. Del. 1991) (holding that a court must be satisfied that there is a "sound business reason" justifying the preconfirmation sale of assets); In re Phoenix Steel Corp., 82 B.R. 334, 335–36 (Bankr. D. Del. 1987) (stating that the elements necessary for approval of a section 363 sale in a Chapter 11 case are "that the proposed sale is fair and equitable, that there is a good business reason for completing the sale and the transaction is in good faith").

56. If a valid business justification exists for the sale, as it does in this case, Tyler's decision to sell property out of the ordinary course of business enjoys a strong presumption "that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in an honest belief that the action taken was in the best interests of the company." In re Integrated Res., Inc., 147 B.R. at 656. Therefore, parties objecting to Tyler's proposed Sale must make a showing of "bad faith, self-interest or gross negligence." Id. at 656; see also In re Johns-Manville Corp., 60 B.R. at 616 ("Where the debtor articulates a reasonable basis for its business decisions (as distinct from decisions made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct.").

57. Courts typically consider the following factors in determining whether a proposed sale satisfies this standard: (a) whether a sound business justification exists for the sale; (b) whether adequate and reasonable notice of the sale was given to interested parties; (c) whether the sale will produce a fair and reasonable price for the property; and (d) whether the parties have acted in good faith. See, e.g., In re Delaware & Hudson Ry. Co., 124 B.R. at 176; In re Phoenix Steel Corp., 82 B.R. at 335–36. The proposed Sale satisfies all of these factors.

58. First, Tyler has proposed the Sale after thorough consideration of all viable alternatives and has concluded that the Sale is supported by a number of sound business reasons. Due to its liquidity constraints, a sale is critical to maintaining the going concern value of Tyler's business operations. Moreover, a prompt sale of Tyler's assets will preserve value for its estate. The maximization of asset value for the benefit of creditors reflects a sound business purpose that warrants authorization of the proposed Sale.

59. Second, Tyler will provide notice of the Bid Procedures as provided in the Bid Procedures Order, including notice to creditors, potential bidders and other parties in interest. Tyler submits that such notice constitutes adequate and reasonable notice to interested parties.

60. Third, the value Tyler will receive for the Assets as a going concern pursuant to the APA, or through such other purchase agreement(s) between Tyler and any Successful Bidder, exceeds any value Tyler could get for the assets if Tyler was required to liquidate its assets piecemeal, while maintaining appropriate services for residents.

61. Finally, as described in more detail below, the Sale as provided in the APA was negotiated in the utmost good faith and at arm's length.

62. For the foregoing reasons, Tyler submits that approval of the Sale and all related transactions are appropriate and warranted under Bankruptcy Code section 363.

2. The Proposed Sale Should Be Free and Clear of all Claims and Encumbrances.

63. Tyler further submits that it is appropriate to sell its Assets free and clear of all Claims and Encumbrances, subject to the terms of the APA and pursuant to Bankruptcy Code section 363(f), with any such Claims and Encumbrances attaching to the net sale proceeds of the Assets, as and to the extent applicable. Section 363(f) of the Bankruptcy Code authorizes a debtor to sell assets free and clear of liens, claims, interests and encumbrances if:

> (1) applicable non-bankruptcy law permits sale of such property free and clear of such interests;
>
> (2) if such entity consents;
>
> (3) such interest is a lien and the price at which such property is to be sold is greater than the value of all liens on such property;
>
> (4) such interest is in bona fide dispute; or
>
> (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

64. Because Bankruptcy Code section 363(f) is drafted in the disjunctive, satisfaction of any one of its five (5) requirements will suffice to permit the sale of Tyler's assets "free and clear" of liens and interests. Michigan Employment Sec. Comm'n v. Wolverine Radio Co. (In re Wolverine Radio Co.), 930 F.2d 1132, 1147 n.24 (6th Cir. 1991) (stating that Bankruptcy Code section 363(f) is written in the disjunctive; holding that the court may approve the sale "free and clear" provided at least one of the subsections of Bankruptcy Code section 363(f) is met); In re Dundee Equity Corp., 1992 WL 53743, at *4 (Bankr. S.D.N.Y. Mar. 6, 1992) ("Section 363(f) is in the disjunctive, such that the sale free of the interest concerned may occur if any one of the conditions of § 363(f) have been met.").

65. The Court also may authorize the sale of a debtor's assets free and clear of any liens pursuant to section 105 of the Bankruptcy Code, even if section 363(f) did not apply. See In re Trans World Airlines. Inc., 2001 WL 1820325, at *3 (Bankr. D. Del. Mar. 27, 2001) (stating that "bankruptcy courts have long had the authority to authorize the sale of estate assets free and clear even in the absence of § 363(f)"); see also Volvo White Truck Corp. v. Chambersberg Beverage, Inc. (In re White Motor Credit Corp.), 75 B.R. 944, 948 (Bankr. N.D.

Ohio 1987) ("Authority to conduct such sales [free and clear of liens] is within the court's equitable powers when necessary to carry out the provisions of Title 11.").

66. Tyler believes that one or more of the tests of Bankruptcy Code section 363(f) are satisfied with respect to the transfer of the Assets pursuant to the APA or as otherwise agreed to with a Successful Bidder. Moreover, any lienholder also will be adequately protected by having its liens, if any, attach to the sale proceeds received by Tyler for the sale of the Assets to one or more Successful Bidders in the same order of priority, with the same validity, force and effect that such creditor had prior to such sale, subject to any claims and defenses Tyler and its estate may possess with respect thereto. Accordingly, section 363(f) authorizes the sale and transfer of the assets free and clear of any such encumbrances.[5]

3. The Proposed Sale Should Not be Subject to Stamp or Similar Taxes.

67. Pursuant to section 1146 of the Bankruptcy Code, Tyler asserts that the Sale of its Assets to the Successful Bidder should not be subject to any stamp tax, recording tax or similar tax. Section 1146(a) of the Bankruptcy Code provides that, "the making or delivery of an instrument of transfer under a plan confirmed under section 1129 of this title, may not be taxed under any law imposing a stamp tax or similar tax." 11 U.S.C. §1146(a)

[5] The Successful Bidder shall have no successor liability for any claims against Tyler. Courts have consistently held that the purchaser of a debtor's assets under Bankruptcy Code section 363 takes such assets free and clear of successor liability resulting or arising from pre-existing claims. Such successor liability-type claims would frustrate the purpose of an order authorizing the sale of estate assets free and clear of all "interests." Accordingly, the purchasing parties should not be subject to further claims related to a debtor's pre-sale conduct. See, e.g., Ninth Ave. Remedial Grp. v. Allis-Chalmers Corp., 195 B.R. 716, 732 (Bankr. N.D. Ind. 1996) (stating that a bankruptcy court has the power to sell assets free and clear of any interest that could be brought against the bankruptcy estate during the bankruptcy); MacArthur Co. v. Johns-Manville Corp. (In re Johns-Manville Corp.), 837 F.2d 89, 91 (2d Cir. 1988) (channeling of claims to proceeds of sale consistent with intent of sale free and clear under Bankruptcy Code section 363(f)); Rubinstein v. Alaska Pac. Consortium (In re New England Fish Co.), 19 B.R. 323, 329 (Bankr. W.D. Wash. 1982) (transfer of property pursuant to Bankruptcy Code section 363(f) was made free and clear of Title VII employment discrimination and civil rights claims of debtors' employees); In re Hoffman, 53 B.R. 874, 876 (Bankr. D. R.I. 1985) (transfer of liquor license pursuant to Bankruptcy Code section 363(f) was made free and clear of any interest permissible even though estate had unpaid tax liability); Am. Living Sys. v. Bonapfel (In re All Am. of Ashburn, Inc.), 56 B.R. 186, 189–90 (Bankr. N.D. Ga. 1986) (product liability claims precluded on successor liability doctrine where assets were sold free and clear pursuant to Bankruptcy Code section 363(f)); aff'd sub. nom., Griffen v. Bonapfel, 805 F.2d 1515 (11th Cir. 1986).

68. Tyler asserts that the Sale of its Assets is critical to the consummation of the plan of liquidation it intends to file as soon as practicable. Because Tyler intends to seek confirmation of the plan of liquidation prior to the closing of the Sale to the Successful Bidder, Tyler asserts that the Sale is "under a plan confirmed under section 1128 of this title" within the meaning of section 1146(a) of the Bankruptcy Code. See, e.g. In re New 118th, Inc., 398 B.R. 791, 793 (Bankr. S.D.N.Y. 2009) (holding that the section 1146(a) exemption applies to pre-confirmation sales that close post-confirmation where the sale was an integral part of the consummation of the anticipated plan).

4. Assumption and Assignment of Assumed Contracts Is Authorized by Bankruptcy Code Section 365.

69. Bankruptcy Code Sections 365(a) and (b) authorize a debtor in possession to assume, subject to the court's approval, executory contracts or unexpired leases of the debtor. 11 U.S.C. § 365(a), (b); In re Jamesway Corp., 201 B.R. 73, 76 (Bankr. S.D.N.Y. 1996). Under Bankruptcy Code section 365(a), a debtor, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). Bankruptcy Code Section 365(b)(1), in turn, codifies the requirements for assuming an unexpired lease or executory contract of a debtor, providing that:

> (b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—
>
> (A) cures, or provides adequate assurance that the trustee will promptly cure, such default . . . ;
>
> (B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

> (C) provides adequate assurance of future performance under such contract or lease.

11 U.S.C. § 365(b)(l).

70. The standard applied by a court in determining whether the assumption or rejection of an executory contract or unexpired lease pursuant to section 365(a) should be approved is the "business judgment" test, which requires a debtor to determine that the requested assumption or rejection would be beneficial to its estate. See, e.g., In re Grp. of Inst. Investors, Inc. v. Chicago, Milwaukee, St. Paul and Pac. R.R. Co., 318 U.S. 523, 550 (1943) ("the question [of assumption] is one of business judgment"); Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.), 4 F.3d 1095, 1098–99 (2d Cir. 1993) (to decide a motion to assume the court must put itself in the position of the trustee and determine whether such assumption would be a good decision or a bad one).

71. Courts generally will not second-guess a debtor's business judgment concerning the assumption of an executory contract. See In re Paolo Gucci, 193 B.R. 411, 414 (S.D.N.Y. 1996); see also Sharon Steel Corp. v. National Gas Fuel Distrib. Corp. (In re Sharon Steel Corp.), 872 F.2d 36, 40 (3d Cir. 1989); In re III Enter., Inc., 163 B.R. 453, 469 (Bankr. E.D. Pa. 1994) ("Generally, a court will give great deference to a debtor's decision to assume or reject an executory contract. A debtor need only show that its decision to assume or reject the contract is an exercise of sound business judgment—a standard which we have concluded many times is not difficult to meet.").

72. In the present case, Tyler's assumption and assignment of the Assumed Contracts meets the business judgment standard and satisfies the requirements of section 365 of the Bankruptcy Code. As discussed above, the Sale will provide significant benefits to Tyler's estates. Because Tyler cannot obtain the benefits of the Sale without the assumption of the

Assigned Contracts, the assumption of these Assigned Contracts is undoubtedly a sound exercise of Tyler's business judgment.

73. Further, a debtor in possession may assign an executory contract or an unexpired lease of the debtor if it assumes the agreement in accordance with section 365(a), and provides adequate assurance of future performance by the assignee, whether or not there has been a default under the agreement. See 11 U.S.C. § 365(f)(2). Significantly, among other things, adequate assurance may be provided by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. See, e.g., In re Bygaph, Inc., 56 B.R. 596, 605–06 (Bankr. S.D.N.Y. 1986) (stating that adequate assurance of future performance is present when the prospective assignee of a lease from the debtor has financial resources and has expressed willingness to devote sufficient funding to the business in order to give it a strong likelihood of succeeding).

74. The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given "practical, pragmatic construction." EBG Midtown S. Corp. v. McLaren/Hart Envtl. Eng'g Corp. (In re Sanshoe Worldwide Corp.), 139 B.R. 585, 592 (S.D.N.Y. 1992) (citations omitted), aff'd, 993 F.2d 300 (2d Cir. 1993).

75. Here, the Successful Bidder will be required to pay all cure amounts in connection with the Assumed Contracts. The Successful Bidder will have shown sufficient assets to continue performance thereunder, and at the Sale Hearing, the Successful Bidder will demonstrate to the satisfaction of the Court that adequate assurance of future performance is present by the promise to perform the obligations of the Assumed Contracts from and after the closing of the Sale. Accordingly, Tyler submits that the assumption and assignment of the Assumed Contracts as set forth herein should be approved.

76. To assist in the assumption, assignment and sale of the Assumed Contracts, Tyler also requests that the Court enter an order providing that anti-assignment provisions in the Assumed Contracts shall not restrict, limit or prohibit the assumption, assignment and sale of the Assumed Contracts or the timelines set forth in the Bid Procedures, and are deemed and found to be unenforceable anti-assignment provisions within the meaning of Bankruptcy Code section 365(f).

77. Section 365(f)(1) of the Bankruptcy Code permits a debtor to assign unexpired leases and contracts free from such anti-assignment restrictions, providing, in pertinent part, that:

> [N]otwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease under paragraph (2) of this subsection . . . .

11 U.S.C. § 365(f)(l).

78. Section 365(f)(l), by operation of law, invalidates provisions that prohibit, restrict, or condition assignment of an executory contract or unexpired lease. See, e.g., Coleman Oil Co., Inc. v. The Circle K Corp. (In re The Circle K Corp.), 127 F. 3d 904, 910–11 (9th Cir. 1997) ("no principle of bankruptcy or contract law precludes us from permitting the debtors here to extend their leases in a manner contrary to the leases' terms, when to do so will effectuate the purposes of section 365"). Section 365(f)(3) goes beyond the scope of section 365(f)(1) by prohibiting enforcement of any clause creating a right to modify or terminate the contract or lease upon a proposed assumption or assignment thereof. See, e.g., In re Jamesway Corp., 201 B.R. 73 (Bankr. S.D.N.Y. 1996) (section 365(f)(3) prohibits enforcement of any lease clause creating right to terminate lease because it is being assumed or assigned, thereby indirectly barring assignment by debtor; all lease provisions, not merely those entitled anti-assignment clauses, are subject to court's scrutiny regarding anti-assignment effect).

79. Other courts have recognized that provisions that have the effect of restricting assignments also cannot be enforced. See In re Rickel Home Ctrs., Inc., 240 B.R. 826, 831 (D. Del. 1998) ("In interpreting Section 365(f), courts and commentators alike have construed the terms to not only render unenforceable lease provisions which prohibit assignment outright, but also lease provisions that are so restrictive that they constitute de facto anti-assignment provisions."). Similarly, in In re Mr. Grocer, Inc., the court noted that:

> [the] case law interpreting § 365(f)(l) of the Bankruptcy Code establishes that the court does retain some discretion in determining that lease provisions, which are not themselves ipso facto anti-assignment clauses, may still be refused enforcement in a bankruptcy context in which there is no substantial economic detriment to the landlord shown, and in which enforcement would preclude the bankruptcy estate from realizing the intrinsic value of its assets.

77 B.R. 349, 354 (Bankr. D.N.H. 1987).

80. Thus, Tyler requests that any anti-assignment provisions and right of first refusal provisions be deemed not to restrict, limit or prohibit the assumption, assignment and sale of the Assumed Contracts and be deemed and found to be unenforceable anti-assignment provisions within the meaning of section 365(f) of the Bankruptcy Code.

C. Cause Exists for Waiver of the Stay Imposed by Bankruptcy Rule 6004(h).

81. Bankruptcy Rule 6004(h) provides that an "order authorizing the use, sale, or lease of property. . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). Bankruptcy Rule 6006(d) provides that an "order authorizing the trustee to assign an executory contract or unexpired lease . . . is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise." Id. 6006(d).

82. Tyler requests that any order entered pursuant to the Motion authorizing the consummation of a transaction that is deemed a sale of assets and/or an assignment of an executory contract or unexpired lease be effective immediately by providing that the 14-day stay under Bankruptcy Rules 6004 or 6006, as the case may be, is inapplicable, so that it may proceed to close on the transaction as expeditiously as possible and within the time frames contemplated by Tyler and the Successful Bidder. Given Tyler's liquidity position and the danger of losing going concern value, Tyler respectfully submits that it is in the best interests of its estate to close the Sale as soon as possible after all closing conditions have been met or waived. Accordingly, Tyler hereby requests that the Court eliminate the 14-day stay period under Bankruptcy Rules 6004(h) and 6006(d).

Notice

83. Notice of this Motion has been provided to (a) the Office of the United States Trustee for the Northern District of Texas; (b) Tyler's twenty largest unsecured creditors (a list of which is provided as Exhibit C); (c) Tyler's secured lenders; (d) counsel for the Committee; (e) the Office of the Attorney General for the State of Texas, (f) the Texas Department of Aging and Disability Services, (g) the Centers for Medicare & Medicaid Services, and (h) all other parties who have requested notice in this case. Tyler submits that, in light of the nature of the relief requested, no other or further notice is necessary or required.

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WHEREFORE, Tyler respectfully requests that the Court enter (i) the Bid Procedures Order, substantially in the form attached hereto as Exhibit A, (a) authorizing and approving the Bid Procedures, substantially in the form attached to the Bid Procedures Order as Exhibit 1; (b) authorizing Tyler to offer the Bid Protections to the Stalking Horse; (c) scheduling the Auction, Sale Hearing and related deadlines as set forth herein; (d) authorizing and approving the Assignment Procedures to be employed in connection with the identification, assumption and assignment of the Assumed Contracts; and (e) approving the manner and form of notice of the Auction and Sale Hearing, substantially in the form attached to the Bid Procedures Order as Exhibit 2, and the Assumption Notice, substantially in the form attached to the Bid Procedures Order as Exhibit 3; and (ii) the Sale Order, substantially in the form to be filed subsequently, (a) authorizing the Sale of the Assets free and clear of Claims and Encumbrances; and (b) granting related relief.

Dated: November 24, 2014
Dallas, Texas

DLA PIPER LLP (US)

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Attorneys for the Debtors and Debtors-in-Possession

EXHIBIT A

BID PROCEDURES ORDER

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	**CASE NO. 14-32821-11**
	§	
SEARS METHODIST RETIREMENT SYSTEM, INC., *et al.* [1]	§	**CHAPTER 11**
	§	
	§	**Jointly Administered**
Debtors.	§	

ORDER (A) AUTHORIZING AND APPROVING BID PROCEDURES TO BE EMPLOYED IN CONNECTION WITH THE SALE OF SUBSTANTIALLY ALL OF THE ASSETS OF DEBTOR SEARS TYLER METHODIST RETIREMENT CORPORATION; (B) APPROVING CERTAIN BID PROTECTIONS; (C) SCHEDULING AN AUCTION, SALE HEARING AND RELATED DEADLINES THERETO; (D) AUTHORIZING AND APPROVING THE ASSIGNMENT PROCEDURES TO BE EMPLOYED IN CONNECTION WITH THE IDENTIFICATION, ASSUMPTION AND ASSIGNMENT OF CERTAIN CONTRACTS AND LEASES; AND (E) APPROVING THE MANNER AND FORM OF NOTICE OF THE AUCTION, SALE HEARING AND ASSIGNMENT PROCEDURES
[RELATED DOCUMENT NO.__]

[1] The debtors in these chapter 11 cases, along with the last four (4) digits of their taxpayer identification numbers, are: Sears Methodist Retirement System, Inc. (6330), Canyons Senior Living, L.P. (8545), Odessa Methodist Housing, Inc. (9569), Sears Brazos Retirement Corporation (8053), Sears Tyler Retirement Corporation (9581), Sears Methodist Centers, Inc. (4917), Sears Methodist Foundation (2545), Sears Panhandle Retirement Corporation (3233), Sears Permian Retirement Corporation (7608), Sears Plains Retirement Corporation (8233), Sears Tyler Methodist Retirement Corporation (0571) and Senior Dimensions, Inc. (4016). The mailing address of each of the debtors, solely for purposes of notices and communications, is 2100 Ross Avenue, 21st Floor, c/o Paul Rundell, Dallas, Texas 75201.

Upon the motion (the "Motion")[2] of Sears Tyler Methodist Retirement Corporation ("Tyler," and together with the other debtors and debtors in possession in the above-captioned cases, the "Debtors"), pursuant to sections 105(a), 363 and 365 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, 6006 and 9007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for entry of (i) the Bid Procedures Order (a) authorizing and approving certain bid procedures, substantially in the form attached hereto as Exhibit 1 (the "Bid Procedures"), to be employed in connection with the sale (the "Sale") of all or substantially all of Tyler's assets (the "Assets"); (b) authorizing Tyler to offer certain bid protections to ER Propco CO, LLC, a Delaware limited liability company (the "Stalking Horse"); (c) scheduling an auction (the "Auction"), a hearing to consider approval of the Sale (the "Sale Hearing") and deadlines related thereto; (d) authorizing and approving procedures (the "Assignment Procedures") to be employed in connection with the identification, assumption and assignment of certain executory contracts and unexpired leases (collectively, the "Assumed Contracts"); and (e) approving the manner and form of notice of the Auction and Sale Hearing, substantially in the form attached hereto as Exhibit 2, and the Assignment Procedures, substantially in the form attached hereto as Exhibit 3; and (ii) an order, to be filed in connection with the Motion (the "Sale Order"), (a) authorizing the Sale of the Assets free and clear of all liens, claims, encumbrances and interests other than those liabilities expressly assumed under the APA or Modified Agreement, as applicable (collectively, the "Claims and Encumbrances"); and (b) granting related relief; and the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. §

[2] Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion or Bid Procedures (as defined herein.).

157(b), (iv) notice of the Motion and the hearing thereon was sufficient under the circumstances, and no further or other notice is required, and (v) a reasonable opportunity to object or be heard regarding the relief requested in the Motion has been afforded to all interested persons; and the Court having determined that the relief requested in the Motion (x) represents a sound exercise of Tyler's business judgment, (y) is necessary and essential to maximize the value of Tyler's estate, and (z) is in the best interests of Tyler, its estate and its creditors; and upon the record herein; and after due deliberation thereon; and good and sufficient cause having been shown,

IT IS HEREBY FOUND AND DETERMINED THAT:[3]

A. Tyler has articulated good and sufficient reasons for, and the best interests of its estate, creditors, residents, employees, and other parties in interest will be served by, this Court granting the relief requested in the Motion, including approval of (i) the Bid Procedures, (ii) the Break-Up Fee and Expense Reimbursement, as provided for in the Motion and APA, (iii) the Assignment Procedures, and (iv) the form and manner of notice of the Auction, Sale and Assignment Procedures.

B. The Bid Procedures are fair, reasonable and appropriate and are designed to maximize the recovery with respect to the Sale.

C. The Break-Up Fee and Expense Reimbursement to be paid under the circumstances described herein to the Stalking Horse are (i) actual and necessary costs and expenses of preserving Tyler's estate, within the meaning of Bankruptcy Code section 503(b), (ii) commensurate to the real and substantial benefits conferred upon Tyler's estate as a result of the entry of the Stalking Horse into the APA, and (iii) reasonable and appropriate in light of the size

[3] Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

and nature of the proposed Sale and comparable transactions, the commitments that have been made and the efforts that have been or will be expended by the Stalking Horse.

D. Moreover, the Break-Up Fee and Expense Reimbursement were essential to induce the Stalking Horse's entry into the APA. Unless it is assured that the Break-Up Fee and Expense Reimbursement will be available, the Stalking Horse would be unwilling to consummate the Sale or otherwise be bound under the APA (including the obligation to maintain its committed offer while such offer is subject to higher or otherwise better offers as contemplated by the Bid Procedures). Accordingly, the Break-Up Fee and Expense Reimbursement are reasonable and appropriate and represent the best method for maximizing value for the benefit of Tyler's estate.

E. Tyler has demonstrated a compelling and sound business justification for authorizing the payment of the Break-Up Fee and Expense Reimbursement under the circumstances, timing and procedures set forth in the Motion.

F. Tyler has provided support for its decision to authorize the payment of the Break-Up Fee and Expense Reimbursement sufficient to satisfy all conditions set forth in this Court's Standing Order Concerning Guidelines for Compensation and Expense Reimbursement of Professionals, for Early Disposition of Assets in Chapter 11 Cases, and for Motions and orders Pertaining to Use of Cash Collateral and Post Petition Financing, dated December 21, 2000.

G. The Auction and Sale Notice is appropriate, adequate and sufficient, and is reasonably calculated to provide all interested parties with timely and proper notice of the Auction, the Sale Hearing and related deadlines. No other or further notice is required for the Auction, Sale Hearing and related deadlines.

H. The Assumption Notice is appropriate, adequate and sufficient, and is reasonably calculated to provide all counterparties to the Assumed Contracts with timely and proper notice of

the proposed assumption and assignment of the Assumed Contracts, the related Cure Amounts and the Assignment Procedures. No other or further notice is required for the Assignment Procedures.

I. Due, sufficient and adequate notice of the relief granted herein has been given to parties in interest.

J. Tyler has articulated good and sufficient reasons for, and the best interests of its estate will be served by, this Court scheduling a Sale Hearing to consider granting other relief requested in the Motion, including approval of the Sale and the transfer of the assets to the Successful Bidder free and clear of all Claims and Encumbrances pursuant to Bankruptcy Code section 363(f).

J. As demonstrated by the compelling and sound business justifications set forth by Tyler in the Motion and at the Hearing, the entry of this Order is in the best interests of Tyler and its estate, creditors, and interest holders and all other parties in interest herein; and therefore,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. All objections to the entry of the Bid Procedures Order not otherwise withdrawn are overruled.

3. The Bid Procedures attached hereto as Exhibit 1 are approved in all respects and shall govern all bids and bid proceedings relating to the sale of Tyler's assets. Tyler is authorized to take any and all actions necessary or appropriate to implement the Bid Procedures.

4. The failure to specifically include or reference any particular provision of the Bid Procedures in this Order shall not diminish or impair the effectiveness of such procedure, it being the intent of the Court that the Bid Procedures be authorized and approved in their entirety.

5. The form and manner of service of the Auction and Sale Notice described in the Motion, and attached hereto as Exhibit 2, are approved in all respects. Tyler shall serve the

Auction and Sale Notice on all of Tyler's creditors, parties in interest and potentially interested bidders. Service of the Auction and Sale Notice, as set forth herein, constitutes sufficient notice of the Auction and Sale Hearing.

6. The form and manner of service of the Assumption Notice described in the Motion, and attached hereto as Exhibit 3, are approved in all respects. Tyler shall serve the Assumption Notice on all counterparties to the Assumed Contracts as set forth in the Motion and APA. Service of the Assumption Notice, as set forth herein, constitutes sufficient notice of the Assignment Procedures.

7. As described in the Bid Procedures, the Bid Deadline is January 19, 2015 at 4:00 p.m. (prevailing Central Time). Bids must be received by hand and by electronic mail by the following parties on or before the Bid Deadline: (1) counsel for Tyler, DLA Piper LLP (US), 1251 Avenue of the Americas, New York, NY 10020, Attn: Thomas R. Califano (thomas.califano@dlapiper.com) and DLA Piper LLP (US), 1717 Main Street, Suite 4600, Dallas, TX 75201, Attn: Vincent Slusher (vince.slusher@dlapiper.com); (2) RBC Capital Markets, LLC, One Logan Square, 130 North 18th Street, Philadelphia, PA 19103-6933, Attn: David B. Fields (david.fields@rbccm.com); (3) Alvarez & Marsal Healthcare Industry Group, LLC, 55 West Monroe, Chicago, IL 60603, Attn: Paul Rundell (prundell@alvarezandmarsal.com); (4) Counsel for the Tyler Trustee, McDermott, Will & Emery, LLP, 227 West Monroe Street, Chicago, IL, 60606, Attn: Nathan F. Coco (ncoco@mwe.com); (5) Counsel for the Committee, Greenberg Traurig LLP, 2200 Ross Avenue, Suite 5200, Dallas, TX 75201, Attn: Clifton R. Jessup (jessupc@gtlaw.com) and Greenberg Traurig LLP, 77 West Wacker Drive, Suite 3100, Chicago, IL 60601, Attn: Nancy A. Peterman (petermann@gtlaw.com); (6) the Texas Attorney General's Office, Bankruptcy & Collections Division, P.O. Box 12548-MC 008, Austin, Texas 78711, Attn:

Casey Roy (Casey.Roy@texasattorneygeneral.gov); (7) the Texas Department of Aging and Disability Services, 701 W. 51st St., Austin, Texas 78751; and (8) the Centers for Medicare & Medicaid Services, 1301 Young Street, Rm. 714, Dallas Texas 75202 (collectively, the "Notice Parties"). The Stalking Horse Bid will serve as the opening bid for the Auction.

8. The Auction, if necessary under the Bid Procedures, will be held on January 21, 2015 at 10:00 a.m. (prevailing Central Time) at the offices of DLA Piper LLP (US), 1717 Main Street, Ste. 4600, Dallas, Texas 75201.

9. Objections to the Sale shall be in writing, shall state the basis of such objection with specificity and shall be filed with the Court, and served so as to be received on or before January 19, 2015, at 4:00 p.m. (prevailing Central Time) on the Notice Parties.

10. The Sale Hearing, at which Tyler shall seek approval of the Successful Bid, shall be held in this Court on January 23, 2015, at 9:30 a.m. (prevailing Central Time). The Sale Hearing may be adjourned or rescheduled without further notice other than an announcement of the adjourned date at the Sale Hearing.

11. The Stalking Horse and the Tyler Trustee shall each constitute a Qualified Bidder for all purposes and in all respects with regard to the Bid Procedures. The Tyler Trustee is permitted to credit bid part or all of its claims in this case pursuant to section 363(k) of the Bankruptcy Code directly or through a designee (subject to payment in cash of the Break-Up Fee to the Stalking Horse).

12. Tyler is hereby authorized, in the exercise of its sound business judgment, to pay the Stalking Horse, as set forth in the APA and pursuant to the Bid Procedures, a Break-Up Fee of $600,000 and an Expense Reimbursement in an amount up to $50,000, subject to the terms of this Order and the APA. The payment of the Break-Up Fee and Expense Reimbursement shall be

payable as set forth in the APA. The Break-Up Fee and Expense Reimbursement shall constitute administrative expense claims under sections 503(b) and 507(a)(2) of the Bankruptcy Code, and shall be super-priority administrative claims superior to all claims in the case, other than the claim of Tyler's existing DIP lender, whose DIP loan shall be senior.

13. The failure of any objecting person or entity to timely file its objection to the Sale shall be an absolute bar to the assertion, at the Sale Hearing or thereafter, of any objection to the Motion, or the consummation and performance of the Sale, if any (including the transfer free and clear of all Claims and Encumbrances of Tyler's assets pursuant to the Sale).

14. Unless an Assumption Objection has been filed by the Objection Deadline (as such terms are defined in the Assumption Notice), all counterparties to the Assumed Contracts who have received actual or constructive notice of the Assignment Procedures shall be deemed to have waived and released any right to assert an Assumption Objection and to have otherwise consented to the assumption and assignment of the Assumed Contract to the Successful Bidder. No assumption and assignment will be binding on Tyler or the Stalking Horse until consummation of the Sale and the filing of the Notice of Closing (as defined in the APA). Tyler will reject any executory contracts or unexpired leases not assumed by the Successful Bidder.

15. If an Assumption Objection is received by the Objection Deadline, Tyler and/or the Successful Bidder shall promptly schedule a hearing for the Court to consider the Assumption Objection.

16. An Assumption Objection must set forth the cure amount or other obligation that the objecting party asserts is due, the specific types and dates of the alleged defaults, pecuniary losses and conditions to the assignment and the support thereof, if any.

17. Tyler is authorized and empowered to take such steps, expend such sums of money and do such other things as may be necessary to implement and effect the terms and requirements established and relief granted in this Order.

18. To the extent, if any, anything contained in this Order conflicts with the Motion, this Order and the provisions of the Bid Procedures and Assignment Procedures attached hereto shall govern and control.

19. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), this Order shall take effect immediately upon its entry.

20. This Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of this Order.

###End of Order###

Order submitted by:

DLA PIPER LLP (US)

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Attorneys for the Debtors
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Exhibit 1

Bid Procedures

Set forth below are the bid procedures (the "Bid Procedures") to be employed in connection with the sale of substantially all of the assets, including that certain senior housing and retirement facility commonly known as "Meadow Lake Retirement Community" or "Meadow Law," owned by Sears Tyler Methodist Retirement Corporation ("Tyler"), a debtor and debtor in possession in the jointly administered chapter 11 cases pending in the United States Bankruptcy Court for the Northern District of Texas (the "Bankruptcy Court"), Case No. 14-32821-11.

Tyler proposes to sell substantially all of its assets (the "Sale") for Twenty Million Dollars ($20,000,000) (the "Stalking Horse Bid") pursuant to the Asset Purchase and Sale Agreement (the "APA") between Tyler and ER PropCo CO, LLC, a Delaware limited liability company (the "Stalking Horse"). The Sale is subject to competitive bidding as set forth herein and approval by the Bankruptcy Court pursuant to section 363 of title 11 of the United States Code (the "Bankruptcy Code") and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

Participation Requirements

Any person desiring to submit a competing bid for all or part of Tyler's assets (a "Potential Bidder") will be required to deliver the following (collectively, the "Participation Requirements") to Tyler: (1) an executed confidentiality agreement in form and substance satisfactory to Tyler; and (2) satisfactory written evidence of available funds or a firm commitment for financing sufficient for the Potential Bidder to consummate the Sale. The financial information and credit-quality support of any Potential Bidder must demonstrate the financial capability of the Potential Bidder to timely consummate the Sale pursuant to a Qualified Bid (as defined below). This information may be shared by Tyler with the Official Committee of Unsecured Creditors (the "Committee"), UMB Bank, N.A. (the "Tyler Trustee"), the Stalking Horse and each of their professionals.

Due Diligence

Tyler will afford any Potential Bidder who satisfies the Participation Requirements, such due diligence access or additional information as Tyler, in its business judgment, determines to be

reasonable and appropriate; provided, however, that the same access and information must also be made available to the Stalking Horse. Additional due diligence will not be provided after the Bid Deadline (as defined below).

Interested parties requesting information about the qualification process, and Qualified Bidders (as defined below) requesting information in connection with their due diligence, should contact David B. Fields, RBC Capital Markets, LLC, One Logan Square, 130 North 18th Street, Philadelphia, PA 19103-6933 (david.fields@rbccm.com).

Bid Deadline

The deadline for any bids shall be January 19, 2015 at 4:00 p.m. (prevailing Central Time) (the "Bid Deadline"). Bids must be received by U.S. Mail and by electronic mail by the following parties on or before the Bid Deadline: (1) counsel for Tyler, DLA Piper LLP (US), 1251 Avenue of the Americas, New York, NY 10020, Attn: Thomas R. Califano (thomas.califano@dlapiper.com) and DLA Piper LLP (US), 1717 Main Street, Suite 4600, Dallas, TX 75201, Attn: Vincent Slusher (vince.slusher@dlapiper.com); (2) RBC Capital Markets, LLC, One Logan Square, 130 North 18th Street, Philadelphia, PA 19103-6933, Attn: David B. Fields (david.fields@rbccm.com); (3) Alvarez & Marsal Healthcare Industry Group, LLC, 55 West Monroe, Chicago, IL 60603, Attn: Paul Rundell (prundell@alvarezandmarsal.com); (4) Counsel for the Tyler Trustee, McDermott, Will & Emery, LLP, 227 West Monroe Street, Chicago, IL, 60606, Attn: Nathan F. Coco (ncoco@mwe.com); (5) Counsel for the Official Committee of Unsecured Creditors, Greenberg Traurig LLP, 2200 Ross Avenue, Suite 5200, Dallas, TX 75201, Attn: Clifton R. Jessup (jessupc@gtlaw.com) and Greenberg Traurig LLP, 77 West Wacker Drive, Suite 3100, Chicago, IL 60601, Attn: Nancy A. Peterman (petermann@gtlaw.com); (6) the Texas Attorney General's Office, Bankruptcy & Collections Division, P.O. Box 12548-MC 008, Austin, Texas 78711, Attn: Casey Roy (Casey.Roy@texasattorneygeneral.gov); (7) the Texas Department of Aging and Disability Services, 701 W. 51st St., Austin, Texas 78751; and (8) the Centers for Medicare & Medicaid Services, 1301 Young Street, Rm. 714, Dallas Texas 75202 (collectively, the "Notice Parties").

Designation of Stalking Horse Bidder

Tyler has selected the Stalking Horse Bid, on the terms set forth in the APA, as the current highest or best bid and to serve as the opening bid for the Auction (as defined below). The bidding at the Auction will start with any Qualified Bid in the amount of at least the Initial Bid Amount (as defined below), as selected by the Debtor, in consultation with the Committee and Tyler Trustee, and continue in increments of at least $200,000 in cash or cash equivalents.

Bid Requirements

To be eligible to participate in the Auction, each bid and each Potential Bidder submitting such a bid must, to Tyler's sole satisfaction:

1. Offer to consummate the Sale on terms no less favorable to Tyler than those set forth in the APA;
2. Include a marked copy of the APA to show any proposed amendments thereto (the "Modified Agreement") and a clean and executed Modified Agreement;
3. Include a statement that there are no conditions precedent to the bidder's ability to enter into a definitive agreement and that all necessary internal and shareholder approvals have been obtained prior to the bid;
4. State that such offer is binding and irrevocable until the consummation of the Sale;
5. Offer to pay a purchase price that is greater than $21,000,000 (the "Initial Bid Amount");
6. Disclose the identity of each entity that will be bidding or otherwise participating in connection with such bid, and the complete terms of any such participation;
7. Include the names and contact information of members of the bidder who will be available to answer questions regarding the offer, including advisors and related parties
8. State that the Potential Bidder intends to assume all residency agreements with the residents of Meadow Lake and all obligations thereunder (the "Residency Agreements");
9. Include a good-faith deposit in immediately available funds in the amount of $2,000,000 (the "Earnest Money Deposit");

10. Provide satisfactory written evidence of available funds or a firm commitment for financing sufficient to consummate the Sale;
11. Provide for the purchase of all or some of Tyler's assets; and
12. Provide information on the operational and financial capabilities of the proposed bidder sufficient to allow Tyler and interested parties to determine such bidder's ability to assume the Residency Agreements.

Bids are not required to adopt the business structure as set forth in the APA, and may provide for a not-for-profit entity as the operator of Meadow Lake, as is currently the case with Tyler. Tyler will consider all bids submitted whether or not they conform to the form set forth in the APA.

To the extent any Potential Bidder proposes to include non-cash consideration in its bid (other than assumption of the Tyler Trustee's debt), such non-cash consideration must be freely marketable and such bid must be accompanied by the form of note or other type of instrument in connection with such non-cash consideration (and the bid must include at least sufficient cash to pay the Break-Up Fee). The Tyler Trustee shall be entitled to credit bid (subject to payment of the Break-Up Fee in cash to the Stalking Horse), pursuant to Bankruptcy Code section 363(k) or otherwise at the conclusion of the Auction. In the event of a credit bid, Tyler shall determine, subject to Court approval, and in consultation with the Committee, whether such credit bid constitutes the highest and/or best bid.

Qualified Bidders and Bids

Potential Bidders who have satisfied the Participation Requirements will be deemed "Qualified Bidders." Bids that satisfy all bid requirements, as determined by Tyler, in consultation with the Committee and Tyler Trustee, will be deemed "Qualified Bids." Credit bids will be entertained.

Tyler will advise each Potential Bidder whether they are deemed to be a Qualified Bidder and whether their bid is a Qualified Bid before the Auction. The Stalking Horse is deemed a Qualified Bidder and the Stalking Horse Bid is a Qualified Bid in all respects. The Tyler Trustee or its designee shall also be deemed a Qualified Bidder and any credit bid of the Tyler Trustee is a

Qualified Bid in all respects. Tyler will provide copies of the Qualified Bids to the Tyler Trustee, the Committee, the Stalking Horse, and the Texas Attorney General.

Tyler reserves the right, in its sole reasonable discretion, in consultation with the Committee and Tyler Trustee, to waive noncompliance with any one or more of these requirements and deem an otherwise not Qualified Bid to be a Qualified Bid.

Auction

If any Qualified Bid other than the Stalking Horse Bid for any of Tyler's assets has been received and any Qualified Bidder other than the Stalking Horse has indicated its intent to participate in the Auction, Tyler will conduct an auction (the "Auction") for the sale of substantially all of its assets. Each Qualified Bidder participating at the Auction will be required to confirm that it has not engaged in any collusion with respect to the bidding or the Sale.

The Auction shall take place at 10:00 am (prevailing Central Time) on January 21, 2015 at the offices of DLA Piper LLP (US), 1717 Main Street, Suite 4600, Dallas, Texas 75201. At the Auction, only the Stalking Horse and other Qualified Bidders will be permitted to increase their bids or make any subsequent bids, and Tyler Trustee will be able to make or to increase, as applicable, its credit bit at the Auction. Tyler may conduct the Auction in the manner it reasonably determines, in its business judgment, after consultation with the Committee and Tyler Trustee, will achieve the maximum value for all parties in interest and is not inconsistent with any of the provisions of these Bid Procedures, the APA, the Bankruptcy Code, the Bankruptcy Rules or any order of the Bankruptcy Court entered in connection herewith.

Auction Participation

Unless otherwise agreed to by Tyler, only Qualified Bidders, members of the Committee, the Tyler Trustee, and their respective legal or financial professionals are eligible to attend or participate at the Auction. Subject to the other provisions of these Bid Procedures, if Tyler does not receive any Qualified Bids other than the Stalking Horse Bid or if no Qualified Bidder other than the Stalking Horse has indicated its intent to participate in the Auction, Tyler will not hold an Auction and the Stalking Horse will be named the Successful Bidder.

Closing the Auction

The Auction shall continue until there is only one offer that Tyler determines, in consultation with the Committee and Tyler Trustee, subject to Bankruptcy Court approval, is the highest or best offer from among the Qualified Bidders (including the Stalking Horse and Tyler Trustee) submitted at the Auction (the "Successful Bid"). The Qualified Bidder submitting such Successful Bid shall become the "Successful Bidder," and shall have such rights and responsibilities of a purchaser, as set forth in the APA (or Modified Agreement, as applicable).

Immediately prior to the conclusion of the Auction, after consultation with the Committee and Tyler Trustee, Tyler shall (1) review each bid made at the Auction on the basis of financial and contractual terms and such other factors as may be relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale; (2) identify the Successful Bid; and (3) notify all Qualified Bidders at the Auction, prior to its conclusion, of the name or names of the Successful Bidder and the amount and other material terms of the Successful Bid.

Tyler shall also select a back-up bid (the "Back-Up Bid"), which shall remain open and irrevocable until one (1) business day after the closing of the sale with the Successful Bidder, but in no event longer than seventy-five (75) days after the Auction. In the event that, for any reason, the Successful Bidder fails to close the transaction contemplated by the Successful Bidder, Tyler may elect to regard the Back-Up Bid as the highest or best bid for the assets, and Tyler will be authorized to consummate the transaction contemplated by the Back-Up Bid without further order of the Bankruptcy Court.

Acceptance of Qualified Bids

Tyler presently intends to sell substantially of its assets to the Stalking Horse, subject to the submission by any Qualified Bidder(s) of a higher and better bid(s). Tyler's presentation to the Bankruptcy Court for approval of any Successful Bid does not constitute Tyler's acceptance of such bid. Tyler will be deemed to have accepted a bid only when it has been approved by the Bankruptcy Court at the Sale Hearing (defined below). After conclusion of the Auction, but prior to the Sale Hearing, all Successful Bidders shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which

their Successful Bid was made and make and pay for all necessary filings with all applicable governmental or other authorities.

Assumption of Executory Contracts and Unexpired Leases

The APA provides for the assumption and assignment of certain executory contracts and unexpired leases to the Stalking Horse ("Assigned Contracts"). In all circumstances, the Successful Bidder shall be responsible for all cure amounts relating to the Assigned Contracts under Bankruptcy Code section 365.

Modifications

Tyler may, after consultation with the Committee and Tyler Trustee, (1) determine, in its business judgment, which bid or bids, if any, constitute the highest or otherwise best offer for Tyler's assets; (2) reject, at any time before entry of an order of the Bankruptcy Court approving any bid as the Successful Bid, any bid that, in Tyler's sole discretion, is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bankruptcy Code or the Bid Procedures, or (c) contrary to the best interests of Tyler, its estate and creditors; and (3) withdraw, in its business judgment, the Motion if contrary to the best interests of Tyler and Tyler's estate and creditors. Tyler may extend or alter any deadline contained herein that will better promote the maximization of the value of its estate, after consultation with the Committee and Tyler Trustee. The Bid Procedures set forth herein are for the benefit of Tyler and its estate, with the exception of the Bid Protections of which the Stalking Horse is an express beneficiary. Tyler may waive or modify these provisions or adopt additional procedures as it sees fit in its business judgment.

Sale Hearing

Tyler will seek entry of an order from the Bankruptcy Court at a hearing (the "Sale Hearing") scheduled on January 23, 2015 at 9:30 am (prevailing Central Time) to approve and authorize the Sale to the Successful Bidder on terms and conditions determined in accordance with the Bid Procedures.

Back-Up Bidder and Return of Earnest Money Deposit

If an Auction is conducted, the Qualified Bidder or Qualified Bidders with the next highest or otherwise best Qualified Bid both with respect to joint bids and individual bids (including the Stalking Horse), as determined by Tyler in the exercise of its business judgment, after consultation

with the Committee and Tyler Trustee, at the Auction shall be required to serve as back-up bidders (the "Back-Up Bidders") and keep such bid open and irrevocable until one (1) business day after the closing of the Sale with the Successful Bidder. Following the Sale Hearing, if the Successful Bidder fails to consummate the approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Back-Up Bidders will be deemed to be the new Successful Bidder, and Tyler will be authorized, but not required, to consummate the sale with the Back-Up Bidders without further order of the Bankruptcy Court.

Except as otherwise provided herein or in the APA, all Earnest Money Deposits shall be returned to each bidder not selected by Tyler as the Successful Bidder or the Back-Up Bidders by no later than the fifth (5th) business day following the Sale Hearing. The Earnest Money Deposit of the Back-Up Bidders shall be held by Tyler until one (1) business day after the closing of the Sale with the Successful Bidder, but in no event longer than seventy-five (75) days after the Auction.

Exhibit 2

Proposed Auction and Sale Notice

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ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	**§**	**CASE NO. 14-32821-11**
	§	
SEARS METHODIST RETIREMENT SYSTEM, INC., *et al.*[1]	**§**	**CHAPTER 11**
	§	
	§	**Jointly Administered**
Debtors.	**§**	

NOTICE OF AUCTION, SALE HEARING AND RELATED DEADLINES

PLEASE TAKE NOTICE that, on November [•], 2014, Sears Tyler Methodist Retirement Corporation ("Tyler"), a debtor and debtor in possession in the above-captioned cases, filed a motion (the "Sale Motion") with the United States Bankruptcy Court for the Northern District of Texas (the "Bankruptcy Court") seeking, among other things, (a) approval of certain proposed bid procedures (the "Bid Procedures") to be employed in connection with the sale of all or substantially all of Tyler's assets; and (b) certain protections to ER Propco CO, LLC, a Delaware limited liability company (the "Stalking Horse"), pursuant to that certain Asset Purchase and Sale Agreement, dated November [•], 2014 between Tyler and the Stalking Horse (the "APA"). Tyler is currently soliciting bids from other parties interested in purchasing the assets of

[1] The debtors in these chapter 11 cases, along with the last four (4) digits of their taxpayer identification numbers, are: Sears Methodist Retirement System, Inc. (6330), Canyons Senior Living, L.P. (8545), Odessa Methodist Housing, Inc. (9569), Sears Brazos Retirement Corporation (8053), Sears Tyler Retirement Corporation (9581), Sears Methodist Centers, Inc. (4917), Sears Methodist Foundation (2545), Sears Panhandle Retirement Corporation (3233), Sears Permian Retirement Corporation (7608), Sears Plains Retirement Corporation (8233), Sears Tyler Methodist Retirement Corporation (0571) and Senior Dimensions, Inc. (4016). The mailing address of each of the debtors, solely for purposes of notices and communications, is 2100 Ross Avenue, 21st Floor, c/o Paul Rundell, Dallas, Texas 75201.

Tyler. All parties that may be interested in submitting a bid for substantially all of Tyler's assets or any portion thereof, or taking part in the Auction (defined below), must read carefully both the order approving the Bid Procedures [Docket No. •] (the "Bid Procedures Order") and the Bid Procedures attached thereto as Exhibit 1.[2]

PLEASE TAKE FURTHER NOTICE that, on December [•], 2014, the Bankruptcy Court entered the Bid Procedures Order and scheduled a hearing to consider the Sale Motion on **January 23, 2015 at 9:30 a.m**. (prevailing Central Time) (the "Sale Hearing").

Only those parties that submit Qualified Bids may participate in the Auction; if you are interested in determining how to submit such a Qualified Bid, you must comply with the terms of the Bid Procedures. Any party in interest wishing to receive a complete set of the APA, the Sale Motion, and the Bid Procedures Order may do so free of charge by contacting DLA Piper LLP (US), 1251 Avenue of the Americas, New York, NY 10020 Attn: Evelyn Rodriguez.

PLEASE TAKE FURTHER NOTICE that any party that wishes to take part in this process and submit a bid for Tyler's assets, or any portion thereof, must submit their Qualified Bid on or before **January 19, 2015 at 4:00 p.m. (prevailing Central Time)** (the "Bid Deadline") to: (1) counsel for Tyler, DLA Piper LLP (US), 1251 Avenue of the Americas, New York, NY 10020, Attn: Thomas R. Califano (thomas.califano@dlapiper.com) and DLA Piper LLP (US), 1717 Main Street, Suite 4600, Dallas, TX 75201, Attn: Vincent Slusher (vince.slusher@dlapiper.com); (2) RBC Capital Markets, LLC; Attn: David B. Fields, One Logan Square, 130 North 18th Street, Philadelphia, PA 19103-6933 (david.fields@rbccm.com); (3) Alvarez & Marsal Healthcare Industry Group, LLC, 55 West Monroe, Chicago, IL 60603, Attn: Paul Rundell (prundell@alvarezandmarsal.com); (4) Counsel for the Tyler Trustee, McDermott, Will & Emery, LLP, 227 West Monroe Street, Chicago, IL, 60606, Attn: Nathan F. Coco (ncoco@mwe.com); (5) Counsel for the Official Committee of Unsecured Creditors, Greenberg Traurig LLP, 2200 Ross Avenue, Suite 5200, Dallas, TX 75201, Attn: Clifton R. Jessup (jessupc@gtlaw.com) and Greenberg Traurig LLP, 77 West Wacker Drive, Suite 3100, Chicago, IL 60601, Attn: Nancy A. Peterman (petermann@gtlaw.com); (6) the Texas Attorney General's Office, Bankruptcy & Collections Division, P.O. Box 12548-MC 008, Austin, Texas 78711, Attn: Casey Roy (Casey.Roy@texasattorneygeneral.gov); (7) the Texas Department of Aging and Disability Services, 701 W. 51st St., Austin, Texas 78751; and (8) the Centers for Medicare & Medicaid Services, 1301 Young Street, Rm. 714, Dallas Texas 75202 (collectively, the "Notice Parties"). Tyler shall determine, after consultation with the Committee and Tyler Trustee, whether a bidder is a Qualified Bidder.

PLEASE TAKE FURTHER NOTICE that, if a Qualified Bid for any of Tyler's assets, other than the Stalking Horse Bid, is received by the Bid Deadline, an auction (the "Auction") with respect to a contemplated transaction shall take place on **January 21, 2015, at 10:00 a.m.** (prevailing Central Time) at the offices of DLA Piper LLP (US), 1717 Main Street, Suite 4600, Dallas, TX 75201. If, however, no Qualified Bid is received by Tyler (other than the Stalking Horse Bid) for any asset of Tyler by the Bid Deadline, then the Auction will not be held, the

[2] Unless otherwise defined herein, all capitalized terms shall have the same meaning ascribed to them in the Bid Procedures.

Stalking Horse will be deemed the Successful Bidder and the APA will be the Successful Bid, and, at the Sale Hearing, Tyler will seek approval of and authority to consummate the transaction contemplated by such APA.

Only a Qualified Bidder who has submitted a Qualified Bid will be eligible to participate at the Auction. Only Qualified Bidders, members of the Committee, Tyler Trustee, and their respective legal or financial professionals are eligible to attend the Auction. At the Auction, Qualified Bidders will be permitted to increase their bids. The bidding at the Auction shall start at the Initial Bid Amount as disclosed to all Qualified Bidders prior to commencement of the Auction, and continue in increments of at least $200,000 in cash or cash equivalents. The Successful Bid shall be determined by Tyler in its discretion, in consultation with the Committee and Tyler Trustee, or as determined by the Bankruptcy Court in the event of a dispute.

At the Sale Hearing, Tyler will present the Successful Bid(s) to the Bankruptcy Court for approval. Tyler will sell its assets or any portion thereof to the Successful Bidder. If a Successful Bidder fails to consummate an approved Sale because of a breach or a failure to perform on the part of such Successful Bidder, the next highest or otherwise best Qualified Bid, as approved at the Sale Hearing, shall be deemed to be the Successful Bid and Tyler shall be authorized to effect such Sale without further order of the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Sale Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, and shall be filed with the Bankruptcy Court electronically by registered users of the Bankruptcy Court's case filing system (the User's Manual for the Electronic Case Filing System can be found at www.txnb.uscourts.gov, the official website for the Bankruptcy Court) and, by all other parties in interest, on a 3.5 inch disk, in text-searchable Portable Document Format (PDF), Wordperfect or any other Windows-based word processing format (in either case, with a hard-copy delivered directly to Chambers), and shall be served upon: (a) the Office of the United States Trustee for the Northern District of Texas, 1100 Commerce Street, Room 976, Dallas, Texas 75242; (b) the Notice Parties; and (c) all those persons and entities that have formally requested notice by filing a written request for notice, pursuant to Bankruptcy Rule 2002 and the Local Bankruptcy Rules, so as to be actually received no later than **January 19, 2015 at 4:00 p.m.** (prevailing Central Time). Only those responses that are timely filed, served and received will be considered at the Sale Hearing. Failure to file a timely objection may result in entry of orders granting the Sale Motion as requested by Tyler.

Dated: December [•], 2014.

DLA PIPER LLP (US)

By: /s/ Vincent P. Slusher
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vincent.slusher@dlapiper.com
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Attorneys for the Debtors and Debtors-in-Possession

Exhibit 3

Proposed Assumption Notice

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ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	**CASE NO. 14-32821-11**
	§	
SEARS METHODIST RETIREMENT	§	**CHAPTER 11**
SYSTEM, INC., *et al.*[1]	§	
	§	**Jointly Administered**
Debtors.	§	

NOTICE OF DEBTOR SEARS TYLER METHODIST RETIREMENT CORPORATION'S INTENT TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES

PLEASE TAKE NOTICE that, on June 10, 2014, Sears Tyler Methodist Retirement Corporation ("Tyler," and together with the other debtors and debtors in possession in the above-captioned cases, the "Debtors"), filed a voluntary petition under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Northern District of Texas (the "Bankruptcy Court"). Tyler continues to operate its business and manage its property as a debtor in possession pursuant to section 1107(a) and 1108 of the Bankruptcy Code.

[1] The debtors in these chapter 11 cases, along with the last four (4) digits of their taxpayer identification numbers, are: Sears Methodist Retirement System, Inc. (6330), Canyons Senior Living, L.P. (8545), Odessa Methodist Housing, Inc. (9569), Sears Brazos Retirement Corporation (8053), Sears Tyler Retirement Corporation (9581), Sears Methodist Centers, Inc. (4917), Sears Methodist Foundation (2545), Sears Panhandle Retirement Corporation (3233), Sears Permian Retirement Corporation (7608), Sears Plains Retirement Corporation (8233), Sears Tyler Methodist Retirement Corporation (0571) and Senior Dimensions, Inc. (4016). The mailing address of each of the debtors, solely for purposes of notices and communications, is 2100 Ross Avenue, 21st Floor, c/o Paul Rundell, Dallas, Texas 75201.

PLEASE TAKE FURTHER NOTICE that, on November [•], 2014, Tyler filed a motion [Docket No. •] (the "Motion")[2] with the Bankruptcy Court seeking, among other things, approval of certain procedures (the "Assignment Procedures") applicable to the identification, assumption and assignment of certain executory contracts and unexpired leases (collectively, the "Assumed Contracts") in connection with the sale by which Tyler intends to sell all or substantially all of its assets.

PLEASE TAKE FURTHER NOTICE that, on December [•], 2014, the Bankruptcy Court entered an order granting the Motion [Docket No. •](the "Order") and approving the procedures for the assumption and assignment of the Assumed Contracts. A copy of the Order is attached hereto as Exhibit A.

PLEASE TAKE FURTHER NOTICE that Tyler proposes to assume and assign to [•], the Successful Bidder at the Auction, the Assumed Contracts listed on Exhibit B, attached hereto, pursuant to section 365 of the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that Tyler has set forth on Exhibit B hereto the amounts due and owning, if any, under the Assumed Contracts through the date hereof (the "Cure Amounts"). The Bankruptcy Code requires that the Cure Amounts (which include any amounts owing on account of Tyler's prepetition obligations under the Assumed Contracts) be paid in full to the parties owed such amounts upon Tyler's assumption of the Assumed Contracts.

PLEASE TAKE FURTHER NOTICE THAT ANY PARTY SEEKING TO ASSERT AN OBJECTION TO THE ASSUMPTION BY TYLER AND ASSIGNMENT TO THE SUCCESSFUL BIDDER OF THE ASSUMED CONTRACTS, INCLUDING THE VALIDITY OF ANY CURE AMOUNT AS DETERMINED BY TYLER OR TO OTHERWISE ASSERT THAT ANY OTHER AMOUNTS, DEFAULTS, CONDITIONS OR PECUNIARY LOSSES MUST BE CURED OR SATISFIED UNDER THE ASSUMED CONTRACTS MUST FILE AND SERVE ITS OBJECTION (ANY SUCH OBJECTION, AN "ASSUMPTION OBJECTION") SETTING FORTH WITH SPECIFICITY ANY AND ALL CURE OBLIGATIONS OR OTHER CONDITIONS WHICH SUCH PARTY ASSERTS MUST BE CURED OR SATISFIED WITH RESPECT TO SUCH ASSUMED CONTRACT SO THAT SUCH ASSUMPTION OBJECTION IS ACTUALLY RECEIVED ON OR BEFORE FOURTEEN (14) DAYS FOLLOWING SERVICE OF THIS NOTICE (THE "OBJECTION DEADLINE") by (i) DLA Piper LLP (US), 1251 Avenue of the Americas, New York, NY 10020, Attn: Thomas R. Califano (thomas.califano@dlapiper.com), and 1717 Main Street, Suite 4600, Dallas, TX 75201, Attn: Vincent P. Slusher (vincent.slusher@dlapiper.com), counsel to Tyler; (ii) [insert address of Successful Bidder]; (iii) McDermott, Will & Emery, LLP, 227 West Monroe Street, Chicago, IL, 60606, Attn: Nathan F. Coco (ncoco@mwe.com), counsel to UMB Bank, N.A., as trustee; (iv) Greenberg Traurig, LLP, 2200 Ross Avenue, Suite 5200, Dallas, TX 75201, Attn: Clifton R. Jessup, Jr., (jessupc@gtlaw.com) and 77 West Wacker Drive, Suite 3100, Chicago, IL 60601, Attn: Nancy A. Peterman (petermann@gtlaw.com), counsel to the Committee; and (v) the United States Trustee,

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

1100 Commerce Street, Room 976, Dallas, TX 75242, Attn: Nancy S. Resnick (nancy.s.resnick@usdoj.gov).

PLEASE TAKE FURTHER NOTICE THAT UNLESS AN ASSUMPTION OBJECTION IS FILED AND SERVED BY A PARTY TO AN ASSUMED CONTRACT BY THE OBJECTION DEADLINE, ALL PARTIES WHO HAVE RECEIVED ACTUAL NOTICE OR CONSTRUCTIVE NOTICE HEREOF SHALL BE DEEMED TO HAVE WAIVED AND RELEASED ANY RIGHT TO ASSERT AN ASSUMPTION OBJECTION AND TO HAVE OTHERWISE CONSENTED TO ASSUMPTION AND ASSIGNMENT AND SHALL BE FOREVER BARRED AND ESTOPPED FROM ASSERTING OR CLAIMING AGAINST TYLER, THE SUCCESSFUL BIDDER OR ANY OTHER ASSIGNEE OF THE RELEVANT ASSUMED AND ASSIGNED CONTRACT THAT ANY ADDITIONAL AMOUNTS ARE DUE OR DEFAULTS EXIST, OR CONDITIONS TO THE ASSUMPTION OR ASSIGNMENT MUST BE SATISFIED, UNDER SUCH CONTRACT OR LEASE.

PLEASE TAKE FURTHER NOTICE that Assumption Objections must set forth the cure amount or other obligation that the objecting party asserts is due, the specific types and dates of the alleged defaults, pecuniary losses and conditions to the assignment and the support thereof, if any.

PLEASE TAKE FURTHER NOTICE that if, as to any Assumed Contract, no Assumption Objection is received by the Objection Deadline, such Assumed Contracts may be deemed assumed by Tyler and assigned to the Successful Bidder without further order of the Bankruptcy Court, effective as of the filing of a Notice of Closing (as defined in the APA); provided, however, that no assumption and assignment shall be binding upon Tyler or the Successful Bidder until such time, and Tyler and the Successful Bidder reserve the right until such time to remove a contract or lease from the proposed Assumed Contracts list, and to reject such contract or lease instead. If an Assumption Objection is received by the Objection Deadline and Tyler and/or Successful Bidder is unable to resolve such objection consensually, the proposed assumption and assignment which is the subject of the Assumption Objection shall be subject to further order of the Bankruptcy Court and Tyler and/or the Successful Bidder shall promptly schedule a hearing to consider the Assumption Objection.

PLEASE TAKE FURTHER NOTICE that hearings with respect to Assumption Objections shall be held on such date as the Bankruptcy Court may designate.

PLEASE TAKE FURTHER NOTICE that if you agree with the Cure Amounts set forth on Exhibit B and do not otherwise object to Tyler's assumption and assignment of your Assumed Contract, you need not take any further action.

PLEASE TAKE FURTHER NOTICE that a complete copy of the Motion may be obtained by (a) sending a written request to counsel to Tyler, DLA Piper LLP (US), 1251 Avenue of the Americas, New York, NY 10020, Attn: Thomas R. Califano (thomas.califano@dlapiper.com), or (b) accessing the website of Tyler's noticing agent, GCG, Inc., at http://cases.gcginc.com/smr/.

Dated: [_____], 2014
Dallas, Texas

DLA PIPER LLP (US)

By: /s/ Vincent P. Slusher
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vincent.slusher@dlapiper.com
Andrew Zollinger, State Bar No. 24063944
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Attorneys for the Debtors and Debtors-in-Possession

EXHIBIT A

(Order)

EXHIBIT B

(List of Assumed Contracts and Cure Amounts)

EXHIBIT B

FBT Comments 11/24/2014

ASSET PURCHASE AND SALE AGREEMENT

THIS ASSET PURCHASE AND SALE AGREEMENT (this "Agreement") is made and entered into as of _____ ___, 2014 (the "Effective Date"), between SEARS TYLER METHODIST RETIREMENT CORPORATION, a Texas corporation ("Seller" or "Current Operator") and ER PROPCO CO, LLC, a Delaware limited liability company, or its assigns ("Buyer" or "Evergreen").

RECITALS

A. Seller owns a senior housing and retirement facility located at 16044 County Road 165, Tyler, Texas, Lubbock, Texas, with thirty (30) skilled nursing beds, thirty (30) memory care beds, twenty four (24) assisted living beds, eighty (80) independent living apartments and thirty seven (37) executive homes, together commonly known as "Meadow Lake Retirement Community" or "Meadow Lake" (the "Facility") including the "Assets" as described below plus the continuing business operations therein.

B. Concurrently with Buyer's acquisition of the Assets, Buyer has designated its affiliate, [ENTITY NAME TO BE DETERMINED], a _____ limited liability company ("New Operator") to receive an assignment of Operating Assets (as defined below) and New Operator is simultaneously entering into the Operations Transfer Agreement ("OTA"), dated as of the date hereof, in substantially the form and substance attached hereto as Appendix I, with Current Operator.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter contained, the parties agree as follows:

TERMS AND CONDITIONS

ARTICLE 1. PURCHASE AND SALE OF ASSETS

1.1 Purchase and Sale. Subject to the terms and conditions of this Agreement, Seller agrees to sell, convey, transfer, assign and deliver to Buyer free of all liens, interests, encumbrances, leases, security interests, restrictions, pledges, claims, causes of action, liabilities, obligations, options, contractual commitments, rights of first refusal, successor liabilities, rights of offset and recoupment and defenses (collectively, the "Claims and Encumbrances"), other than Permitted Exceptions (as defined below), and Buyer agrees to purchase from Seller, all of Seller's right, title and interest in and to substantially all of the assets of Seller used primarily in connection with the operation of the Facility, including without limitation the following assets of Seller as such assets shall exist on the Closing Date, all of which are referred to herein collectively as the "Assets" (but excluding Excluded Assets):

(i) "Real Property" which means all of Seller's interest in (a) that certain land (the "Land") located and situated in the City of Tyler, Smith County, State of Texas (the "State"), which Land is more particularly described in Schedule 1.1(i), (including all mineral rights

owned by Seller, if any), and any and all easements and other rights, interests and appurtenances thereto which are owned or used by Seller in connection with such Land or the operation of the Facility, and (b) all buildings, structures, fixtures and other improvements located in, on, at, under or above or attached to such Land; and

(ii) "Operating Assets," which means (a) all inventory used or held for use at the Facility (the "Inventory") as set out in Schedule 1.1(ii)(a), (b) all furniture, fixtures, equipment, tools, machinery, computers, vehicles, software, records, patient information, operational documents, and all other tangible personal property owned by Seller and used in connection with the Facility owned by Seller (the "Personal Property") as set out in Schedule 1.1(ii)(b); (c) to the extent assignable or transferable, all personal property leases with respect to ownership of the Facility as set out on Schedule 1.1(ii)(c); (d) to the extent assignable or transferable, all general intangibles related to the ownership, possession, lease or use of the Assets of the Facility, including without limitation, lien waivers, surety agreements, bonds, warranties, guaranties, utility use agreements, covenants, commitments, permits, certificates, regulatory approvals, entitlements, service marks, intellectual property, trademarks, and trade names owned or employed by Seller in conjunction with the ownership of the Facility (the "Intangible Property") as set out on Schedule 1.1(ii)(d); (e) the Transferred Deposits, as defined below; provided, however, that the Assets shall not include the "Excluded Assets," as defined in Section 1.2 below.

1.2 Excluded Assets. Notwithstanding anything to the contrary in Section 1.1, Seller shall retain all of the following assets owned directly or indirectly by it (or any of Seller's affiliates), and such assets below shall not be included in the Assets to be transferred to Buyer (collectively, the "Excluded Assets"):

(a) cash, cash equivalents and short-term investments;

(b) all entrance fees received and held in escrow pursuant to the *Final Order (I) Authorizing the Obligated Group Debtors to (A) Use Cash Collateral and (B) Incur Postpetition Secured Indebtedness; (II) Granting Liens and Providing Super-Priority Administrative Expense Status; (III) Granting Adequate Protection to Wells Fargo Bank, National Association, as Trustee; and (IV) Modifying the Automatic Stay [Docket No. 23]*, entered by the Court on July 28, 2014, so long as, with regard to each entrance fee therein and subject to Section 12.3(xii) and the last sentence of Section 3.12, (i) it is not requested back by the resident pursuant to the escrow, (ii) such entrance fees trigger a refund which is being paid by the Seller.

(c) all accounts receivable and proceeds therefrom for services provided prior to the Closing Date or Transfer Date, as defined in the OTA, as applicable;

(d) assets owned by vendors of services or goods to the Facility;

(e) all of Seller's organizational record books and minute books;

(f) all bank accounts of Seller;

(g) all rights, claims and choses in action of Seller and its affiliates with respect to periods prior to the Effective Time, and any payments, awards or other proceeds resulting therefrom; provided that all rights, claims and choses in action of Seller with respect to Assumed Contracts (as defined in Section 1.3) are not Excluded Assets.

(h) all writings and other items that are protected from discovery by the attorney-client privilege, the attorney work product doctrine or any other cognizable privilege or protection;

(i) all of Seller's interest in and to the Terminated Operating Contracts (as defined in the OTA); and

(j) all items specifically listed on Exhibit 1.2(h)

1.3 Liabilities Excluded. THIS AGREEMENT EXCLUDES, AND BUYER AND NEW OPERATOR DO NOT ASSUME, ANY LIABILITIES OF SELLER NOT EXPRESSLY ASSUMED BY BUYER OR NEW OPERATOR IN WRITING IN THIS AGREEMENT OR IN ANY OTHER AGREEMENT RELATING TO THE TRANSFER OF THE FACILITY FROM SELLER TO BUYER AND NEW OPERATOR INCLUDING, BUT NOT LIMITED TO THE FOLLOWING (COLLECTIVELY, THE "EXCLUDED LIABILITIES"): ALL OF SELLER'S ACCOUNTS PAYABLE SPECIFICALLY NOT ASSUMED BY BUYER AND ALL OBLIGATIONS ARISING OUT OF OR RELATED TO THE OPERATION OF THE FACILITY PRIOR TO THE EFFECTIVE TIME (AS DEFINED IN SECTION 1.5), INCLUDING COSTS, EXPENSES AND OTHER LIABILITIES AND OBLIGATIONS ARISING FROM THE OPERATION OF THE FACILITY; LIABILITY FOR TORT CLAIMS; LIABILITY FOR OVERPAYMENTS AND ANY FRAUD UNDER MEDICARE, MEDICAID OR ANY THIRD-PARTY PAYOR AGREEMENT OR OTHER RESIDENT-RELATED CONTRACTUAL OBLIGATION; ANY OBLIGATIONS UNDER ANY COLLECTIVE BARGAINING AGREEMENT, EMPLOYMENT AGREEMENT, PENSION OR RETIREMENT PLAN, PROFIT-SHARING PLAN, STOCK PURCHASE OR STOCK OPTION PLAN, MEDICAL OR OTHER BENEFITS OR INSURANCE PLAN, COMPENSATION OR BONUS AGREEMENT, VACATION OR SEVERANCE PAY PLAN OR AGREEMENT AND ANY OTHER EMPLOYEE BENEFIT PLAN. ANY AND ALL ACCOUNTS PAYABLE OR OTHER OBLIGATIONS ACCRUING TO AND EXISTING AS OF THE EFFECTIVE TIME (INCLUDING ANY CAPITALIZED LEASE OBLIGATIONS, WHICH SHALL BE PAID OFF AT OR PRIOR TO CLOSING) ARE AND SHALL REMAIN THE SOLE OBLIGATION AND RESPONSIBILITY OF SELLER EXCEPT AS EXPRESSLY ASSUMED BY BUYER IN WRITING. WITHOUT IN ANY MANNER LIMITING THE GENERALITY OF THE FOREGOING, THIS AGREEMENT SPECIFICALLY EXCLUDES, AND BUYER AND NEW OPERATOR DO NOT ASSUME, ANY LIABILITY WHATSOVER WITH RESPECT TO (A) ANY DEBT OF SELLER, INCLUDING BUT NOT LIMITED TO ANY MORTGAGE DEBT OR OTHER SECURED DEBT, OR ANY UNSECURED DEBT OF ANY TYPE OR CHARACTER (INCLUDING BUT NOT LIMITED TO ANY BONDS ISSUED OR GUARANTEED BY SELLER), AND (B) ANY DEBTOR-IN-POSSESSION FINANCING PROVIDED TO SELLER BY ANY LENDER.

NOTWITHSTANDING THE FOREGOING, AT CLOSING BUYER SHALL ASSUME OR SHALL OTHERWISE BE RESPONSIBLE FOR (TO THE EXTENT NOT OTHERWISE ASSUMED OR PAID BY NEW OPERATOR)) (A) ALL AMOUNTS PAYABLE AS CURE AMOUNTS PURSUANT TO 11 U.S. CODE § 365 BY THE CURRENT OPERATOR TO CONTRACTUAL COUNTERPARTIES UNDER ANY CONTRACTS SPECIFICALLY SCHEDULED AND ASSUMED BY BUYER ("ASSUMED CONTRACTS") OR NEW OPERATOR ("ASSUMPTION CURE AMOUNTS"), (B) ANY PAID TIME OFF ACCRUED BY ALL REHIRED EMPLOYEES (AS DEFINED IN THE OTA) (BUT IN NO EVENT EXCEEDING 80 SUCH HOURS PER SUCH EMPLOYEE) (COLLECTIVELY "ASSUMED PTO"), AND (C) ALL OBLIGATIONS UNDER THE RESIDENCY AGREEMENTS (AS DEFINED IN THE OTA), AS PROVIDED HEREUNDER.

1.4 Liabilities Assumed. Buyer assumes liability for all (i) Assumption Cure Amounts, (ii) all Residency and Care Agreements, in full without modification and any obligations related thereto, as listed on Schedule 1.4(ii), (iii) any obligations arising on or after the Effective Time under any Assumed Contracts, and (iv) the employee obligations for the Transferred Employees set forth in Schedule 1.4, as listed on Schedule 1.4(iv)(and with a maximum of 80 hours of paid time off to be credited per employee, to the extent that such paid time off is not required by state law to be paid in cash by Seller at Closing).

1.5 The Escrow. The purchase and sale of the Assets shall be consummated through the establishment of an escrow (the "Escrow") with Fidelity National Title Insurance Company (Nick De Martini, Esq., Senior Vice President, 485 Lexington Avenue, New York, NY 10007) ("Escrow Agent"). Upon its deposit with the Escrow Agent, this Agreement shall constitute the parties' joint escrow instructions to the Escrow Agent. The Escrow Agent shall act in accordance with this Agreement. The Parties agree to execute the general escrow instructions as may be requested by Escrow Agent, provided that in the event of any conflict between the provisions of such general escrow instructions and the provisions of this Agreement, the provisions of this Agreement shall control. Escrow Agent shall notify Buyer and Seller in writing of the date of receipt of this Agreement.

1.6 The Closing. Provided that all of the conditions to Closing set forth in Articles VIII and IX have been satisfied or waived, the Escrow and the transaction contemplated hereby shall close (referred to herein interchangeably as the "Close of Escrow," the "Closing," the "Closing Date" or by similar words or phrases) at the offices of the Escrow Agent or such other location as the parties may agree upon at 1:00 P.M. Central Standard Time on (i) January 29, 2015, or (ii) such other date agreed to in writing by Buyer and Seller. The Closing shall be deemed to have occurred and to be effective as between the parties as of the Effective Time. For purposes of this Agreement, the term "Effective Time" shall mean 12:01 A.M. Central Standard Time on the day after the Closing Date. On the Closing Date, Escrow Agent shall: (a) issue and deliver to Buyer the Title Policy or, alternatively, be irrevocably committed to issue the Title Policy (such Title Policy shall be effective as of the Effective Time), (b) deliver to Seller by wire transfer of immediately available funds to the account or accounts designated by Seller the Purchase Price (as adjusted by Seller and Buyer pursuant to a settlement statement executed by Seller and Buyer at Closing), and (c) deliver to Buyer and Seller such other agreements, documents and instruments as the parties instruct in the escrow instructions.

1.7 Purchase Price. The "Purchase Price" for the Assets shall be Twenty Million and No/100 U.S. Dollars ($20,000,000.00). The Purchase Price shall be payable as follows:

(i) Deposit. Within five (5) business days after the deposit of a fully executed copy of this Agreement with the Escrow Agent, Buyer shall deliver Two Million Dollars ($2,000,000.00) (the "Deposit") to Escrow in the form of a wire transfer or other immediately available funds. The Deposit shall be deposited in an interest-bearing account for Buyer's benefit in a segregated account at the bank at which the Escrow Agent maintains its principal depository relationship. If the transaction contemplated by this Agreement closes, the Deposit and all interest accrued thereon (collectively, the "Deposit") shall be credited toward the Purchase Price. If this transaction does not close, the Deposit shall be paid to the party entitled thereto pursuant to the terms of this Agreement.

(ii) Indemnification Trust Fund. On the Closing Date and simultaneously with Closing, Buyer and Seller shall cause to be deposited with Escrow Agent a portion of the Purchase Price in an amount equal to Four Hundred Thousand Dollars ($400,000.00) (the "Indemnification Trust Fund"), which shall fund the Seller Indemnification Obligations (as defined in Section 10.5) and remain in escrow until the expiration of the Indemnification Period.

(iii) Closing Funds. On or before the Closing Date, Buyer shall cause to be deposited with Escrow Agent, in cash or other immediately available funds (the "Cash Due at Closing") an amount equal to the Purchase Price minus the amount of the Deposit; provided, however, that the amount of the Indemnification Trust Fund shall be deducted from the Purchase Price at Closing and deposited with Escrow Agent as provided in Section 1.6(ii) above. If the Purchase Price is adjusted for any reason, or Escrow Agent's balancing of the credits and debits due Buyer and Seller at Closing results in a change in the net amount due Seller hereunder, any difference shall be reflected in the Cash Due at Closing.

ARTICLE 2. BANKRUPTCY COURT.

2.1 Seller is currently a debtor in possession in a bankruptcy proceeding pending in the Bankruptcy Court (the "Bankruptcy Court") for the Northern District of Texas, jointly administered under Case No. 14-32821-11 (the "Bankruptcy Proceeding"). In connection with the transactions contemplated by this Agreement, the Seller shall file a motion with the Bankruptcy Court seeking, among other things, an order approving the bidding procedures (the "Bid Procedures") for the sale of the Assets (the "Bid Procedures Motion") on or about November 24, 2014, and shall use reasonable efforts to cause the Bankruptcy Court to enter the associated bidding procedures order on or before December 19, 2014 (the "Bid Procedures Order Deadline") substantially in the form attached hereto as Exhibit 2.1 (the "Bid Procedures Order"). The Bid Procedures Order shall include the Bankruptcy Court's approval of (i) the payment in cash of a break-up fee in the amount of Six Hundred Thousand and No/100 Dollars ($600,000.00) (the "Break-Up Fee"), and (ii) the requirement that any initial overbid to Buyer's Purchase Price at the Auction to be a minimum amount of Twenty One Million and No/100 Dollars ($21,000,000.00) and all qualified bids made at the auction approved by the Bid Procedures Order (the "Auction") to be in minimum increments of at least Two Hundred Thousand and No/100 Dollars ($200,000.00) more than the previous highest qualified bid (collectively, including the Expense Reimbursement as defined below, the "Bid Incentives").

The Bid Procedures Order shall also approve and direct, among other things, that in the event any of the Assets are purchased pursuant to a credit bid or relief from the automatic stay by UMB Bank, N.A. as indenture trustee (the "Indenture Trustee") or its designee, the Buyer shall be entitled to the Break-Up Fee and such Break-Up Fee shall constitute an administrative expense claim in the Bankruptcy Proceeding under Sections 503(b) and 507(a)(2) of the United States Bankruptcy (which shall be a superpriority administrative claim and superior to all claims in the case other than the claim of Seller's existing DIP Lender, whose DIP Loan shall be senior). The Bid Procedures shall provide that the Seller may, after consultation with the Indenture Trustee, (1) determine, in its reasonable discretion, which bid or bids, if any, to present to the Bankruptcy Court as the highest or otherwise best offer for the Assets; (2) reject, at any time before entry of an order of the Bankruptcy Court approving any bid as the successful bid, any bid that, in the Seller's reasonable discretion, is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bankruptcy Code or the Bid Procedures, or (c) contrary to the best interests of the Seller and its bankruptcy estate and creditors; provided, that Buyer's bid and this Agreement, after entry of the Bid Procedures Order, may not be rejected under (a), (b) or (c) of this provision; and (3) withdraw, in its business judgment, the Bid Procedures Motion if contrary to the best interests of the Seller and its bankruptcy estate and creditors. The Bid Procedures shall provide that the Seller may, with Buyer's consent, extend or alter any deadline contained in the Bid Procedures that will better promote the maximization of the value of its bankruptcy estate (the "Extension Right"); provided, however nothing in the Bid Procedures or any such modification shall affect the rights and obligations in this Agreement. The Bid Procedures are solely for the benefit of Seller and its bankruptcy estate, with the exception of the Bid Incentives, which are also for the benefit of Buyer.

2.2 The Seller shall provide notice to all required parties of the Bid Procedures Motion, the Bid Procedures, the Sale, and the Sale Order, and shall use reasonable best efforts to cause the Bankruptcy Court to enter an order approving the sale of the Assets, and assumption and assignment of contracts and leases, consistent with this Agreement (the "Sale Order"), on or before January 23, 2015 and seek affirmation of the Sale Order in the event it is challenged or appealed. The Seller shall also file a sale motion on or before November 24, 2014 with the Bankruptcy Court seeking, among other things, an order authorizing the sale of substantially all of the Seller's assets free and clear of all Claims and Encumbrances and entry of the Sale Order. The Seller's obligations to pay the Break-up Fee or Expense Reimbursement pursuant to Section 11.2, shall constitute allowed administrative expenses (which shall be allowed super-priority administrative expense claims in the Bankruptcy Proceeding under Sections 503(B) and 507(a)(2) of the United States Bankruptcy Code), senior to all other administrative expense claims and payable in accordance with Section 11.2 hereof.

2.3 In connection with the Sale, the Seller shall include in its pleadings relief to assume and assign all executory contracts and unexpired leases related to the Assets and the Facility, or, in the event that Buyer chooses not to take assignment of a contract or lease, to reject such contract or lease. Buyer shall have the right until the later of Closing or determination of cure amounts, in its sole and absolute discretion (including without limitation because a cure amount is determined to be greater than anticipated), to determine whether such contracts and leases are to be assumed and assigned; any such contracts and leases not assumed and assigned

to Buyer shall be rejected by the Seller. No assumption and assignment or rejection shall be effective until the filing of a Notice of Closing and Contract Treatment (the "Closing Notice"), which shall be filed within two (2) days after Closing. At Buyer's request, Seller shall also file and serve any updates to the contract schedules which may be made prior to the filing of the Closing Notice. Assumption and assignment of the Assumed Contracts shall include any ancillary or related agreements, or rights appurtenant thereto, pursuant to which the Seller has rights or licenses granted in connection with or under the Assumed Contracts, so long as such ancillary or related agreements do not create additional obligations of Seller or Buyer beyond those set out in the Assumed Contracts (unless Buyer subsequently agrees to such obligations).

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer that, as of the Effective Date, the Closing Date and the Effective Time:

3.1 Organization and Standing. Seller is a corporation duly organized and validly existing under the laws of the state of its incorporation.

3.2 Capacity; Authority; Consents. Subject to the Approval of the Bankruptcy Court, Seller has full power, legal capacity and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations under this Agreement.

3.3 No Violation. Neither the execution and delivery by Seller of this Agreement nor the consummation of the transactions contemplated hereby nor compliance with any of the material provisions hereof by Seller will violate conflict with or result in a breach of any material provision of the Articles of Incorporation, bylaws or other organizational documents of Seller. To Seller's actual knowledge, Seller is not in violation of any statute, rule, regulation or order of any court or Federal, state or local governmental agency or instrumentality having jurisdiction over it, the Facility or the Assets, the violation of which would have a Material Adverse Effect on the ownership or operation of the Facility.

3.4 Environmental Compliance. To Seller's actual knowledge: (a) no hazardous material has been stored or exists in, on, under or around the Real Property other than asbestos, PCBs, if any, and lead emanating from lead-based paint; and (b) Seller has not caused or suffered any hazardous materials to be used, released, discharged, placed or disposed of at, on or under the Real Property or any real property adjacent thereto except in compliance with applicable environmental laws, rules and regulations. No underground storage tanks are located on, or have ever been located on, the Real Property, and no portion of the Real Property has ever been used as a dump for waste material. Except for matters which were previously brought into compliance, Seller has not received any written notice from any governmental authority or any written complaint from any third party with respect to its alleged noncompliance with, or potential liability under, any applicable environmental laws, rules or regulations involving the Real Property or the Facility, nor does it have a reasonable basis to expect the issuance of such a notice or complaint.

3.5 Seller's Broker. Seller has not engaged any finder or broker in connection with the transactions contemplated hereby other than RBC Capital Markets, LLC. Seller shall be solely responsible for the payment of any broker commission to RBC Capital Markets, LLC. Seller agrees to indemnify, defend and hold Buyer harmless from and against any and all losses, claims, damages, costs or expenses (including attorneys' fees) which Buyer may incur as a result of any claim made by any individual or entity to a right to a sales or brokerage commission or finder's fee in connection with this transaction to the extent such claim is based, or purportedly based, on the acts or omissions of Seller.

3.6 Title to Assets. Title to the Assets will be conveyed free and clear of all Claims and Encumbrances except: (i) that the Real Property shall be subject to the Permitted Exceptions (as defined in Section 7.1); (ii) as disclosed in the OTA, including the Exhibits to the OTA; or (iii) as consented to in writing by Buyer. No officer, director or employee of Seller owns or has any interest, directly or indirectly, in any of the Assets.

3.7 Knowledge. For purposes of the Agreement, the Phrase "to Seller's actual knowledge" and other similar knowledge qualifiers means the present actual (as opposed to constructive or imputed) knowledge solely of Susan T. Whittle, CEO of Seller, and Paul Rundell, Chief Restructuring Officer of Seller, after reasonable investigation. Such individuals are named in this Agreement solely for the purpose of establishing the scope of Seller's knowledge. Such individuals shall not be deemed to be a party to this Agreement or to have made any representations or warranties hereunder, and no recourse shall be had to such individuals for any of Seller's representations and warranties hereunder (and Buyer hereby waives any liability of or recourse against such individual). Seller represents that such individuals are the employees of Seller most knowledgeable about the Facility, and that no other employee is known to Seller to be likely to have knowledge which they do not possess.

3.8 Full Disclosure. All of the Seller's warranties, representations and covenants in this Agreement: (i) constitute a material part of the consideration hereunder; (ii) are true and complete, current and accurate as of the date hereof; (iii) shall be true and complete, current and accurate as of the Close of Escrow and the Effective Time; and (iv) and shall survive the Close of Escrow and delivery of the Assets to Buyer. To Seller's actual knowledge, none of the statements, representations or warranties of Seller misstates or omits any fact which would make such statements, representations or warranties incomplete, misleading or incorrect in any material respect. Seller shall inform Buyer if any statement, representation or warranty becomes incorrect, misleading or incomplete subsequent to the date hereof.

3.9 Regulatory Compliance. Except as set forth on Schedule 3.9, Seller is in compliance with all applicable laws and requirements of all Government Authorities (as defined hereinafter) having jurisdiction over the Seller and the Assets and the operations of the Assets and the Facility, except to the extent any failure to so comply would not reasonably be expected to have a Material Adverse Effect. As used in this Agreement, "Material Adverse Effect" shall mean shall mean any event, occurrence, change in facts or conditions or other change or effect which is or could reasonably be expected to be materially adverse to the Assets, the Facility, the income from the Facility, or the results of operations of the Facility. For purposes of this Agreement, any event, occurrence, change in facts or conditions or other

change or effect which has resulted or could reasonably be expected to result in a suit, action, charge, claim, demand, cost, damage, penalty, fine, liability or other adverse consequence of at least Two Hundred and Fifty Thousand and No/100 Dollars ($250,000.00) shall be deemed to constitute a Material Adverse Effect. As used in this Agreement, "Governmental Authority" (collectively "Governmental Authorities") shall mean any United States federal, state, local, possession or foreign governmental, regulatory or administrative authority, agency or commission, or any political subdivision thereof, or any court, tribunal or arbitral body (whether governmental or not).

3.10 Residency Agreements. Each residency agreement or other agreement with a Resident of the Facility (each, a "Residency Agreement" and collectively, the "Residency Agreements") set forth in Schedule 3.10(a) is valid, existing and legally binding; in full force and effect; the term of the same and the obligation to pay monthly service charges thereunder is as stated in each Residency Agreement; and, except as set forth on Schedule 3.10, Seller has duly performed in all material respects its obligations under each Residency Agreement. Except as set forth on Schedule 3.10, Seller is not in breach or default under any Residency Agreement nor, to Seller's actual knowledge, is any other party or obligor with respect thereto in breach. Each Residency Agreement constitutes the entire agreement by and between the respective parties thereto with respect to the subject matter thereof. Except as set forth on Schedule 3.10, none of the Residency Agreements requires consent to the assignment and assumption of such Residency Agreement by any party. There are no Residency Agreements or any similar agreement with any Resident other than the Residency Agreements listed on Schedule 3.10. Schedule 3.10 hereto is a true and accurate rent roll and lease summary for the Facility and the Assets as of the date set forth thereon. Schedule 3.10 sets forth all Residency Agreements, refundable liabilities, leases, assignments, subleases, amendments, modifications, riders, agreements or understandings with the Residents of the Facility. As used in this Agreement, "Resident" means, as of the date with respect to which the determination is made, any resident, patient or other individual who resides in the Facility or any portion thereof or who has been admitted to the Facility in the ordinary course of business, and any former resident to whom any entrance fee liability may be owed whether due now or in the future.

3.11 Insurance Policies. Schedule 3.11 sets forth a true and complete list of all current policies or binders of fire, liability, product liability, umbrella liability, real and personal property, workers' compensation, vehicular, fiduciary liability and other casualty and property insurance maintained by Seller relating to the Assets and the Facility (collectively, the "Insurance Policies"). All premiums due on such Insurance Policies have either been paid or, if not yet due, accrued. All such Insurance Policies (a) are in full force and effect and enforceable in accordance with their terms; (b) to Seller's actual knowledge, are provided by carriers who are financially solvent; and (c) have not been subject to any lapse in coverage as of the Effective Date and as of the Effective Time.

3.12 Escrowed Funds. Schedule 3.12 sets forth all deposits or funds (a) escrowed by or on behalf of any past, current or potential Resident, (b) deferred entrance fees owed by current or future residents, and (c) all other deposits and refunds which are owed to, escrowed by, or the property of Seller, including all security and reservation deposits (collectively, but excluding escrowed entrance fees, deferred entrance fees, and entrance fee deposits, in

connection with which the Seller is responsible for paying entrance fee refund liabilities, "Transferred Deposits"). Seller shall provide an updated Schedule 3.12 at Closing to reflect all such funds and deposits received by Seller after the Effective Date and on or before the Closing Date, and to reflect that Seller has or will pay all entrance fee refund liabilities to residents or former residents for which Seller has received or will receive the new entrance fee (whether on a deferred basis or otherwise).

3.13 Employees. Except as described in Schedule 3.13, Seller is not a party to any labor, collective bargaining, employee association or other agreement which contains provisions governing the terms and conditions of employment of any employee, and no labor union or employee association has been certified as exclusive bargaining agent for any group of Employees. Prior to the date hereof, Seller has delivered to Purchaser a list of all its Employees as of a recent date, indicating their position, current annual rate of compensation or current hourly wage rate or other basis of compensation and date of hire by Seller. Schedule 5.10(a) also lists: (i) all material "employee benefit plans", and all other material employee benefit arrangements or payroll practices, including, without limitation, bonus plans, consulting or other compensation agreements, incentive, or deferred compensation arrangements, severance pay, sick leave, vacation pay, salary continuation, disability, hospitalization, medical insurance, life insurance, scholarship programs maintained by Seller or to which Seller contributed or is obligated to contribute thereunder for current or former employees; and (ii) all "employee pension plans" maintained by Seller in which any current or former employees participated ((i) and (ii), collectively, the "Employee Benefit Plans"). No Employee Benefit Plan is a multiemployer plan, or has been subject to sections 4063 or 4064 of ERISA ("Multiple Employer Plans"). Schedule 3.13 further lists all current and former employees of Seller and their beneficiaries who are eligible for and/or have elected continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA").

3.14 Intellectual Property. Except as set forth on Schedule 3.14, Seller owns or has licenses to use all Intangible Property, except to the extent the failure to be the owner or the licensee would not materially and adversely impact the Buyer's operation of the Facility following the Closing; provided, however, that Seller makes no representation or warranty as to the ownership by the licensor of any intellectual property that is licensed to Seller.

3.15 Material Contracts. Schedule 3.15 sets forth all of Seller's material executory contracts and unexpired leases.

3.16 Schedules. The Schedules attached hereto are accurate in all material respects. If Seller shall elect to supplement, modify or update any Schedule, submit a Schedule not attached at execution hereof, or add a new Schedule, through and including Closing, Buyer shall be entitled to review any such changed or new Schedule, and to terminate this Agreement if the disclosures revealed therein are (i) material and in an amount reasonably calculated to have an negative effect upon the value of the Assets or Assumed Liabilities of more than $100,000 (whether individually or in the aggregate with any other changed or new Schedules, and whether such other changed or new schedules are received previously or contemporaneously), and (iii) not acceptable to Buyer, following a five (5) business day period during which Buyer and Seller shall attempt to resolve any concerns expressed by

Buyer as a result thereof; provided, however, Buyer shall not be entitled to terminate this Agreement for updates to Schedules reflecting ordinary course changes, and Buyer shall not be entitled to terminate this Agreement if Buyer receives a credit at Closing against the Purchase Price for the change under this paragraph.

3.17 EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE ASSETS ARE BEING SOLD BY SELLER "AS IS, WHERE IS, WITH ALL FAULTS, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED," AND SELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO BUYER, INCLUDING, WITHOUT LIMITATION, AS TO (A) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE PROPERTY, INCLUDING THE WATER, SOIL, AND GEOLOGY; (B) THE INCOME TO BE DERIVED FROM THE PROPERTY; (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES THAT BUYER OR ANY TENANT MAY CONDUCT THEREON; (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY; (G) THE PHYSICAL CONDITION OF THE PROPERTY OR THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE PROPERTY; (H) COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS; OR (I) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY. BUYER ACKNOWLEDGES AND AGREES THAT BUYER IS EXPERIENCED IN THE OWNERSHIP AND OPERATION OF PROPERTIES SIMILAR TO THE PROPERTY AND THAT BUYER PRIOR TO THE CLOSING WILL HAVE INSPECTED THE PROPERTY AND FULLY REVIEWED AND EVALUATED THE PROPERTY INFORMATION TO ITS SATISFACTION AND IS QUALIFIED TO MAKE SUCH INSPECTIONS AND EVALUATIONS. BUYER ACKNOWLEDGES THAT, EXCEPT AS SET FORTH HEREIN, IT IS FULLY RELYING ON BUYER'S (OR BUYER'S REPRESENTATIVES') INSPECTIONS OF THE PROPERTY AND NOT UPON ANY STATEMENT (ORAL OR WRITTEN) WHICH MAY HAVE BEEN MADE OR MAY BE MADE (OR PURPORTEDLY MADE) BY SELLER OR ANY OF ITS REPRESENTATIVES. BUYER ACKNOWLEDGES THAT BUYER HAS (OR BUYER'S REPRESENTATIVES HAVE), OR PRIOR TO THE EXPIRATION OF THE INSPECTION PERIOD WILL HAVE, THOROUGHLY INSPECTED AND EXAMINED THE PROPERTY TO THE EXTENT DEEMED NECESSARY BY BUYER IN ORDER TO ENABLE BUYER TO EVALUATE THE CONDITION OF THE PROPERTY, THE MATTERS DISCLOSED BY THE PROPERTY INFORMATION AND ALL OTHER ASPECTS OF THE PROPERTY (INCLUDING, BUT NOT LIMITED TO, THE ENVIRONMENTAL CONDITION OF THE PROPERTY), AND BUYER ACKNOWLEDGES THAT, EXCEPT AS SET FORTHER HEREIN, BUYER IS RELYING SOLELY UPON ITS OWN (OR ITS REPRESENTATIVES') INSPECTION, EXAMINATION AND EVALUATION OF THE PROPERTY AND ITS CONDITION. EXCEPT FOR THE SELLER INDEMNIFICATION OBLIGATIONS, BUYER HEREBY

AGREES THAT FROM AND AFTER THE CLOSING NEITHER SELLER NOR ITS EMPLOYEES, PARTNERS, OFFICERS, DIRECTORS, REPRESENTATIVES, AGENTS, ATTORNEYS, AFFILIATES, PARENT COMPANIES, SUBSIDIARIES, SUCCESSORS OR ASSIGNS ("SELLER PARTIES") SHALL BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, OR OTHER DAMAGES RESULTING OR ARISING FROM OR RELATED TO THE OWNERSHIP, USE, CONDITION, LOCATION, MAINTENANCE, REPAIR OR OPERATION OF THE PROPERTY, AND BUYER RELEASES AND WAIVES ANY CLAIMS OR CAUSES OF ACTION IT MAY HAVE RELATING TO THE SAME. BUYER ACKNOWLEDGES THAT ANY CONDITION OF THE PROPERTY THAT BUYER DISCOVERS OR DESIRES TO CORRECT OR IMPROVE PRIOR TO OR AFTER THE CLOSING SHALL BE AT BUYER'S SOLE EXPENSE. BUYER EXPRESSLY WAIVES (TO THE EXTENT ALLOWED BY APPLICABLE LAW) ANY CLAIMS UNDER FEDERAL, STATE OR OTHER LAW THAT BUYER MIGHT OTHERWISE HAVE AGAINST SELLER PARTIES RELATING TO THE USE, CHARACTERISTICS OR CONDITION OF THE PROPERTY. ANY REPAIRS PAID FOR BY SELLER PURSUANT TO THIS CONTRACT, IF ANY, SHALL BE DONE WITHOUT ANY WARRANTY OR REPRESENTATION BY SELLER, AND SELLER HEREBY EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER IN CONNECTION WITH SUCH REPAIRS.

ARTICLE 4. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller that, as of the Effective Date, the Closing Date and the Effective Time:

4.1 Organization and Standing. Buyer is a limited liability company formed, validly existing, and in good standing under the laws of its state of formation and is qualified, or will be qualified at Closing, to do business under the laws of the State. Buyer has the requisite power and authority to own and operate the Assets in the manner in which they are presently being operated.

4.2 Capacity; Authority; Consents. Buyer has full power, legal capacity and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations under this Agreement. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the performance of Buyer's obligations hereunder have been duly authorized by Buyer's sole member, members, board of directors or other governing authority, as applicable, and no other proceedings on the part of Buyer are necessary in connection therewith. This Agreement constitutes, and each other instrument to be executed and delivered by Buyer will constitute, valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms. The individual(s) executing and delivering this Agreement on Buyer's behalf are duly authorized and empowered to bind the Buyer as contemplated hereby.

4.3 No Violation. Neither the execution and delivery by Buyer of this Agreement nor the consummation of the transactions contemplated hereby nor compliance with any of the material provisions hereof by Buyer will violate, conflict with or result in a breach of any

material provision of the Buyer's certificate of formation, bylaws, operating agreement or other organizational documents of Buyer.

4.4 No Brokers or Finders. Neither Buyer nor any affiliate of Buyer has engaged any finder or broker in connection with the transactions contemplated hereby.

4.5 Ability to Perform. Buyer has the ability to obtain funds in cash in amounts equal to the Purchase Price by means of credit facilities or otherwise and will at the Closing have immediately available funds in cash, which are sufficient to pay the Purchase Price and to pay any other amounts payable pursuant to this Agreement and to consummate the transactions contemplated by this Agreement.

4.6 Full Disclosure. All of Buyer's warranties, representations or covenants in this Agreement: (i) constitute a material part of the consideration hereunder; (ii) are true and complete, current and accurate as of the date hereof; (iii) shall be true, complete, current and accurate as of the Close of Escrow and Effective Time; and (iv) and shall survive the Close of Escrow and delivery of the Assets to Buyer. None of the statements, representations or warranties of Buyer misstates or omits any fact which would make such statements, representations or warranties incomplete, misleading or incorrect in any material respect. Buyer shall inform Seller if any statement, representation or warranty becomes incorrect, misleading or incomplete subsequent to the date hereof.

ARTICLE 5. MUTUAL COVENANTS

5.1 General Covenants. Following the execution of this Agreement, Seller and Buyer agree, and, where applicable, Buyer shall cause New Operator:

(i) Subject to Section 5.2, to cooperate fully with each other in preparing, filing, prosecuting, and taking any other actions which are or may be reasonable and necessary to obtain the consent of any governmental instrumentality or any third party, to accomplish the transactions contemplated by this Agreement;

(ii) To deliver such other instruments of title, certificates, consents, endorsements, assignments, assumptions and other documents or instruments, in form reasonably acceptable to the party requesting the same and its counsel, as may be reasonably necessary to carry out and/or to comply with the terms of this Agreement and the transactions contemplated herein; and

(iii) To confer on a regular basis with the other, report on material operational matters and promptly advise the other orally and in writing of any change or event having, or which, insofar as can reasonably be foreseen could have, a material adverse effect on such party or which would cause or constitute a material breach of any of the representations, warranties or covenants of such party contained herein.

5.2 Licensing. Buyer shall cause New Operator to use commercially reasonable efforts to obtain prior to the Closing Date (or as soon thereafter as practicable): (i) all consents, approvals and licenses necessary to permit the consummation of the transactions contemplated by this Agreement including, but not limited to, such licensure and certification

approval (and the absence of an effective challenge as to the sale of the Facility to a for-profit buyer) as may be necessary to enable New Operator to lawfully operate the Facility as it is operated by Current Operator effective as of the Effective Time ("Regulatory Approvals"); (ii) all consents required for the transfer or assignment of any personal property leases to be assumed by New Operator; and (iii) all consents required for the transfer or assignment of the Assumed Operating Contracts (as defined in the OTA) which will be assigned and transferred by Current Operator to New Operator pursuant to the terms of the OTA. Seller shall cooperate in all reasonable respects with Buyer and New Operator in their efforts to obtain such consents, approvals and licenses. Notwithstanding the foregoing, Buyer and New Operator agree not to notify the Texas Department of Aging and Disability Services ("DADS"), Centers for Medicare & Medicaid Services or any other regulatory authority of a pending change of ownership of the Facility, or to file any applications for change of ownership with respect to the any Facility License or Medicaid or Medicare provider agreements with respect to the Facility without the prior consent of Seller, except to the extent Seller is required to do so under applicable law. Without limiting the foregoing, the Seller shall serve a copy of the Bid Procedures Motion and all attachments thereto on each of the regulatory authorities.

5.3 Public Announcements. The parties may not issue any press release or any written statement with respect to this Agreement or the transactions contemplated hereby; provided, however, that nothing herein shall be construed as prohibiting (i) public disclosures in connection with securing any licensing or certification approvals, subject to the restriction in Section 5.2 of this Agreement, or complying with regulations promulgated by the Securities and Exchange Commission or other government agencies, or (ii) private disclosures to the employees, shareholders, agents, contractors, consultants, attorneys, accountants, lenders and affiliates of the disclosing party or (iii) pursuant to public announcements (including, without limitation, press releases) made with the prior written approval of Seller and Buyer. Buyer may not disclose the pending sale of the Facility without the prior written consent of Seller, which consent shall not be unreasonably withheld or conditioned. Buyer and Seller will meet in good faith to discuss the nature and extent of such disclosure. If Seller consents to such disclosure, Buyer shall make such disclosure strictly in accordance with Seller's conditions to consent and only on a "need to know" basis.

5.4 Utilities. Buyer and Seller shall cooperate to take all steps necessary to transfer all utilities related to the operation of the Facility including without limitation electric service, gas service, telephone service, cable service, internet service, sewage, water and trash removal, into Buyer's or New Operator's names, as directed by Buyer, effective as of the Effective Time.

ARTICLE 6. COVENANTS

6.1 Covenants of Seller.

(i) Seller Information. To the extent in Seller's possession, Seller shall deliver such due diligence materials as Buyer has requested in the document attached as Exhibit 6.1 and copies of any other materials relating to the transfer of the Assets as may be reasonably requested by Buyer, without any representation or warranty as to the accuracy of such materials

(collectively the "Seller Information"). If prior to the Closing Date Seller receives, discovers or becomes aware of any material change in the Assets or any matter affecting the Assets which would render any of the materials previously given false or misleading, then Seller shall disclose such changes in writing to Buyer and deliver any additional related materials in Seller's possession to Buyer as soon as reasonably possible after such receipt or discovery.

(ii) Right of Inspection. From the date of this Agreement until the termination of this Agreement or through the Closing Date, as applicable, and subject to Section 6.2, Seller shall permit Buyer's authorized representatives to have full access to the Facility during regular business hours, shall make its key employees and officers available to confer with Buyer and its authorized representatives, shall make available to Buyer's representatives all books and records relating to the Facility and the obligations and liabilities of Seller including, but not limited to contracts and agreements, filings with any regulatory authority, any financial operating data and any other information relating to Seller's business activities with respect to the Facility, as Buyer may from time to time request; provided, that Seller shall not be obligated to make available books and records or other information relating to the Excluded Assets.

(iii) Operations Transfer Agreement. Seller shall execute the OTA, on the Effective Date.

(iv) Management Agreement. If required under the terms of the OTA, Seller shall execute an interim management agreement on or before the Closing Date enabling New Operator to manage and operate the Facility as contemplated by the OTA (the "Management Agreement")(and, to the extent necessary, a sublease).

6.2 Covenants of Buyer.

(i) Operations Transfer Agreements. Buyer shall cause New Operator to enter into the OTA on the Closing Date.

(ii) Management Agreement. If required under the terms of the OTA, Buyer shall cause New Operator to enter into the Management Agreement on or before the Closing Date (and to the extent necessary, a sublease).

ARTICLE 7. TITLE AND SURVEY AND OTHER CONTINGENCIES

7.1 Title Review Period. Escrow Agent shall, at Buyer's expense, promptly cause Fidelity National Title Insurance Company (the "Title Insurer") to deliver to Buyer a current preliminary title report with respect to the Real Property, together with readable copies of all instruments of record referred to therein (the "Title Report"). Buyer may, at Buyer's election and at Buyer's cost, obtain an ALTA survey of the Real Property (the "Survey"). Buyer shall have until December 10, 2014 (the "Title Review Period" and with the last day of that period being the "Title Objection Deadline") to notify Seller in writing (the "Buyer Title Objection Notice") of any objection to exceptions contained in the Title Report or on the Survey. If Buyer fails to so make an objection by the Title Objection Deadline, Buyer shall be deemed to have approved the condition of title to the Real Property as reflected in the Title Report and on the Survey. If Buyer timely objects to any exception(s) in the Title Report or on the Survey, Seller shall have the right, but not the obligation, to cause the removal of such

exception to title or to cause the Title Insurer to commit to the issuance of an endorsement reasonably acceptable to Buyer insuring against such exception to title. In the event Seller determines that it is unable or unwilling to remove any one or more of such exception(s) to title, Seller shall so notify Buyer in writing ("Seller's Election to Not Correct Exceptions") within three (3) business days after it receives the Buyer Title Objection Notice. Failure of Seller to so notify Buyer within such three (3) business day period shall be deemed Seller's election not to remove such exceptions to title and/or not to cause the Title Insurer to commit to issuance of an endorsement reasonably acceptable to Buyer insuring against such exceptions to title. Buyer may, at its option, terminate this Agreement within three (3) business days after (i) Buyer receives Seller's Election to Not Correct Exceptions or (ii) upon Seller's failure to deliver Seller's Election to Not Correct Exceptions within the three (3) business day period described in the prior sentence; provided, however, Buyer shall not be entitled to terminate unless Buyer's objections which Seller fails or refuses to correct have a value, individually or in the aggregate, of at least One-Hundred-Thousand Dollars ($100,000.00). Upon such termination, Buyer shall be entitled to the return of the Deposit, and except as expressly provided herein, the parties shall have no further liability under this Agreement. Notwithstanding anything contained herein to the contrary, Buyer shall not be required to object to monetary liens, judgments, security interests and other matters identified in the Title Report, it being agreed that all such liens, judgments, encumbrances and security interests shall be removed by Seller at or prior to the Closing Date. Any exceptions to title that Buyer accepts or is deemed to have accepted in accordance with the provisions of this Section 7.1 or the provisions of this Section 7.2 shall be referred to in this Agreement as the "Permitted Exceptions".

7.2 New Exceptions. If Seller causes any exception(s) to title after the date of the Title Report and before the Closing Date, then Buyer's approval of such exception(s) to title shall be a condition precedent to Buyer's obligation to buy the Assets. Unless Buyer gives written notice to Seller ("Buyer Additional Title Objection Notice") that it disapproves any such additional exception(s) to title on the date that is three (3) business days after the receipt by Buyer in writing of such additional exception(s) or the Closing Date, whichever is earlier, Buyer shall be deemed to have approved such additional exception(s). Seller shall have the right, but not the obligation, to cause the removal of such additional exception(s) to title or to cause the Title Insurer to commit to the issuance of an endorsement reasonably acceptable to Buyer insuring against such exception(s) to title. In the event Seller determines that it is unable or unwilling to remove any one or more of such additional exception(s) to title, Seller shall so notify Buyer in writing ("Seller's Election to Not Correct Additional Exceptions") within three (3) business days after it receives the Buyer Additional Title Objection Notice. Failure of Seller to so notify Buyer within such three (3) business day period shall be deemed Seller's election not to remove such additional exception(s) to title and/or not to cause the Title Insurer to commit to issuance of an endorsement reasonably acceptable to Buyer insuring against such exception(s) to title. Buyer may, at their option, terminate this Agreement within three (3) business days (i) after Buyer receive Seller's Election to Not Correct Additional Exception or (ii) after Seller's failure to deliver Seller's Election to Not Correct Additional Exceptions within the three (3) business day period described in the prior sentence. Upon such termination, Buyer shall be entitled to the return of the Deposit and, except as expressly provided in this Agreement, the parties shall have no further liability under this Agreement. Notwithstanding the foregoing provisions, Seller covenants that it will

not cause the creation of additional exception(s) to title after the Effective Date without the prior written consent of Buyer, which consent shall not be unreasonably withheld or delayed. Notwithstanding anything contained herein to the contrary, Buyer shall not be required to object to monetary liens, judgments, security interests and other matters identified in the Title Report or disclosed as an additional exception under this paragraph, it being agreed that all such liens, judgments, encumbrances and security interests shall be removed by Seller at or prior to the Closing Date.

7.3 Title and Bankruptcy Court Approval**.** Seller, at its sole cost, shall be obligated to seek from the Bankruptcy Court, in connection with or as part of the Sale Order (as defined in Section 2.2), approval the sale of the Assets pursuant to this Agreement free and clear of all Claims and Encumbrances, other than liens for taxes and assessments which are not delinquent.

ARTICLE 8. CONDITIONS TO OBLIGATION OF BUYER TO PERFORM

The obligations of Buyer under this Agreement are subject to the satisfaction, on or before the Closing Date, of the following conditions (the "Closing Conditions"), each of which are for the sole benefit of Buyer and may be waived by Buyer at Buyer's sole option by delivery to Seller of a written notice of such waiver.

8.1 Compliance with Agreement. Seller shall have performed all of its obligations hereunder, and Seller's representations and warranties in this Agreement and in the Seller Closing Items (as defined in Section 12.1) shall be true and correct in all material respects (without giving effect to any materiality qualifiers therein) on and as of the Closing Date and the Effective Time.

8.2 Regulatory Approvals. New Operator shall have received all Regulatory Approvals.

8.3 Operation Transfer Agreement. Current Operator shall have entered into the OTA and shall not be in default of any warranty, covenant, agreement, condition or other obligation under the OTA.

8.4 Interim Management Agreement. If required under the terms of the OTA, Seller and New Operator shall have entered into the Interim Management Agreement (and to the extent required, a sublease).

8.5 Tail Coverage. Seller shall provide evidence that Seller has purchased general liability and professional liability tail coverage (the "Tail Coverage"), satisfactory to Buyer in Buyer's reasonable discretion, and that such Tail Coverage is in full force and effect from and after the Closing Date.

8.6 Bankruptcy Court Approval. The Sale Order (a) shall have been entered by the Bankruptcy Court in a form reasonably acceptable to Buyer and such order shall be unappealed, unappealable, unstayed, and not subject to a motion for reconsideration, post-judgment relief, or Rule 59 or 60 relief (a "Final Order") by no later than February 15, 2015, which date may be waived or extended by mutual agreement of the parties, (B) shall not have

been stayed, modified, amended, dissolved, revoked or rescinded without Buyer's consent, and (C) shall be in full force and effect on the Closing Date. Buyer in its sole discretion may waive in writing the requirement that the Sale Order shall be a Final Order.

8.7 Delivery of Seller Closing Items. Seller shall have deposited in Escrow all of the Seller Closing Items (as defined in Section 12.1).

8.8 Delivery of Possession. Seller shall have irrevocably tendered possession of the Facility to Buyer as of the Effective Time, subject to the rights of Residents occupying the Facility pursuant to Residency Agreements and such other residents who have been admitted to the Facility in the ordinary course of business. Notwithstanding the foregoing, Seller shall not be obligated to evict, and it shall not be deemed a condition precedent to Closing for Seller to evict, any Resident occupying the Facility as of the Closing Date.

8.9 Title Policy. The Title Company will issue a standard form Texas owner's policy of title insurance (the "Title Policy") in accordance with a Title Commitment approved by Buyer.

8.10 Unfavorable Action or Proceeding. On the Closing Date, no orders, decrees, judgments or injunctions of any court or Governmental Authority shall be in effect, and no claims, actions, suits, proceedings, arbitrations or investigations shall be pending or threatened, which challenge or seek to challenge, or which could prevent or cause the rescission of, the consummation of the transactions contemplated in this Agreement.

ARTICLE 9. CONDITIONS TO OBLIGATION OF SELLER TO PERFORM

The obligations of Seller under this Agreement are subject to the satisfaction, on or before the Closing Date, of the following conditions, each of which may be waived by Seller by delivery to Buyer of a written notice of such waiver.

9.1 Compliance with Agreement. Buyer shall have performed all of its obligations hereunder, and Buyer's representations and warranties in this Agreement and in the Buyer Closing Items (as defined in Section 12.2) shall be true and correct in all material respects on and as of the Closing Date and the Effective Time.

9.2 Operations Transfer Agreements. New Operator shall have entered into the OTA.

9.3 Interim Management Agreement. If required under the terms of the OTA, Seller and New Operator shall have entered into the Interim Management Agreement (and, if necessary, a sublease).

9.4 Delivery of Buyer Closing Items. Buyer shall have deposited in Escrow all of the Buyer Closing Items (as defined in Section 12.2).

9.5 Unfavorable Action or Proceeding. On the Closing Date, no orders, decrees, judgments or injunctions of any court or Governmental Authority shall be in effect, and no claims, actions, suits, proceedings, arbitrations or investigations shall be pending or

threatened, which challenge or seek to challenge, or which could prevent or cause the rescission of, the consummation of the transactions contemplated in this Agreement; provided, however, that Seller shall use commercially reasonable efforts to prevent the entry of such order, decree, judgment or injunction before terminating this Agreement, and Buyer shall cooperate in such efforts by Seller.

ARTICLE 10. RISKS AND REMEDIES

10.1 Remedies Prior to or on Closing.

(i) Termination. In the event of any material breach or default of any warranty, covenant, agreement, condition or other obligation of a party hereunder, the other party may at its option, subject to Section 10.2, terminate this Agreement by delivering written notice of termination to the defaulting party specifying with particularity the breach or default on which the notice is based. In the event of such a termination, subject to the notice and cure provisions set forth in Section 10.2 below, Escrow Agent shall immediately (i) disburse the Deposit to the non-defaulting party, (ii) cancel the Escrow, and (iii) charge any escrow cancellation or similar fee to the defaulting party. In the event that Buyer terminates this Agreement in accordance with the provisions of Article 7, Escrow Agent shall immediately disburse the Deposit to Buyer as provided in Article 7 and cancel Escrow.

(ii) Default of Seller. In the event the Closing and the transactions contemplated hereby do not occur as provided herein by reason of the default of Seller, Buyer may elect, as the sole and exclusive remedy of Buyer, to (a) terminate this Agreement and receive the Deposit from the Escrow Agent and, as provided in Article 11, payment of the Break-Up Fee or the Expense Reimbursement, as applicable, from the Seller, and in such event Seller shall not have any further liability whatsoever to Buyer hereunder, or (b) pursue its equitable remedies, including, without limitation, specific performance of this Agreement or the obligations of Seller hereunder. Notwithstanding the foregoing, nothing contained herein shall limit Buyer's remedies at law or in equity, as to any breach of Seller's representations and warranties.

(iii) Default of Buyer. In the event of a default by Buyer, Seller may elect, as the sole and exclusive remedy of Seller, to terminate this Agreement and receive the Deposit from the Escrow Agent, and in such event, except as expressly provided in this Agreement, Buyer shall not have any further liability whatsoever to Seller hereunder.

10.2 Notice of Default. Notwithstanding anything contained herein to the contrary, neither party to this Agreement may claim termination or pursue any other remedy (other than injunctive relief) on account of a breach of a condition, covenant or warranty by the other, without first giving such other party written notice of such breach and not less than ten (10) days within which to cure such breach (such ten (10) day period to supersede any shorter cure period that may be applicable, but not to be in addition thereto). The Closing Date and the Effective Time, if necessary, shall be postponed if necessary to afford such opportunity to cure.

10.3 Risk of Loss. Until the Effective Time, Seller (a) shall bear all risk of loss with regard to the Assets (whether or not insured), (b) shall cause to be maintained in full force and effect fire and extended coverage insurance in an amount equal to one hundred percent (100%) of the replacement cost of the Assets, and (c) shall comply with all requirements of all such insurance policies. Prior to the Effective Time, Seller shall not reduce or cancel the amount of coverage of any insurance policy pertaining to the Assets. In the event that all or any part of the Assets are damaged or destroyed by fire, windstorm or any other casualty on or prior to the Closing Date, Seller shall immediately notify Buyer of such damage or destruction. In the event that such damage or destruction is in the aggregate more than Two Hundred Thousand Dollars ($200,000), Buyer shall have the option to: (x) terminate this Agreement by written notice delivered to Seller within ten (10) days after Buyer's receipt of notice of such damage or destruction, in which case the Deposit shall be returned to Buyer in full and the parties shall have no further obligations hereunder, or (y) proceed with the transactions contemplated by this Agreement without abatement of the Purchase Price, in which case (i) all insurance proceeds shall be deemed to have been absolutely and irrevocably assigned to and be payable directly to Buyer, (ii) after the Close of Escrow, Buyer shall have the right to conduct all settlement proceedings with respect to the insurance claims, and (iii) Seller shall deliver to Buyer through Escrow an unconditional assignment of all insurance proceeds. If this Agreement is not terminated, Seller shall not be obligated to repair any damage or destruction.

10.4 Condemnation. If condemnation or eminent domain proceedings or an agreement with a governmental agency in lieu of such proceedings should affect all or a portion of the Land or of the improvements on the Land constituting the Real Property prior to the Close of Escrow, Buyer may, at its option, either (i) terminate this Agreement by written notice to Seller, in which event the Deposit shall be returned in full to Buyer, and neither Buyer nor Seller shall have any further liability hereunder, or (ii) elect to consummate this transaction without abatement of the Purchase Price, in which event Seller shall assign to Buyer all of its right, title and interest in and to any award made or to be made in connection with such proceedings or agreement and shall permit Buyer to conduct all negotiations and enter into all agreements with respect thereto. Buyer's rights hereunder shall be cumulative, and Buyer shall have the foregoing rights in the case of each such condemnation or eminent domain proceeding or agreement in lieu thereof.

10.5 Seller Indemnification. For the duration of the Indemnification Period (as defined in this Section 10.5), Seller shall indemnify, defend and hold Buyer, New Operator, and their respective officers, directors, employees, members, managers, shareholders and affiliates ("Buyer Indemnified Parties"), harmless for, from and against any and all claims, losses, expenses, damages, obligations, deficiencies, or liabilities of any kind, including without limitation costs of investigation, interest, penalties, reasonable attorneys' fees, and any and all costs, expenses, and fees incident to any suit, action or proceeding, incurred, sustained or suffered by the Buyer Indemnified Parties which arise out of, result from or are related to any of the following (collectively "Seller Indemnification Obligations") limited solely to the amount of the Indemnification Trust Fund:

(i) any claims against Current Operator, New Operator or the Facility under Medicare, Medicaid, Veterans Affairs or any other third party payor programs (a)

with respect to any Excluded Assets, (b) with respect to the operation of the Facility by Current Operator prior to the Effective Time, (c) for any fees, fines or penalties assessed against the Assets or the Medicare or Medicaid provider agreements of any Facility and attributable to periods prior to the Effective Time, or (e) for repayment of any overpayments made to Current Operator under Medicare, Medicaid, Veterans Affair or any other third party payor program for services rendered at the Facility prior to the Effective Time, including, but not limited to, claims against New Operator in the form of offsets or recoupments by Medicare, Medicaid, Veterans Affairs or any other third party payor against their payments due to New Operator or attributable to periods on and after the Effective Time that relate to said overpayments made to Current Operator; and

(ii) any Excluded Liability.

Seller hereby acknowledges that Buyer Indemnified Parties are entitled to prompt reimbursement for any claims related to the Seller Indemnification Obligations, but that due to the Bankruptcy Proceeding, the Seller may not be able to fund such reimbursements and Buyer Indemnified Parties therefore have the right to make claims to the Indemnification Trust Fund for all Seller Indemnification Obligations. Following Closing, Buyer may submit, not more frequently than one (1) time per month, for distribution from the Indemnification Trust Fund for Seller Indemnification Obligations that may arise during a period starting on the Closing Date and ending one year after the Closing Date (the "Indemnification Period"), and upon submission of such request with supporting documentation (and copies thereof to Seller), unless objected to by Seller within five (5) days from the date of the request, Escrow Agent shall distribute funds from the Indemnification Trust Fund to Buyer for such reimbursement. Escrow Agent shall, within three (3) days following the expiration of the Indemnification Period, distribute to Seller to an account designated by Seller any amounts remaining in the Indemnification Trust Fund, if any. All indemnification obligations of Seller set forth in this Agreement shall be limited to the amount of the Indemnification Trust Fund which shall be Buyer's sole recourse. Except for claims made during the Indemnification Period, all of Seller's indemnification obligations in this Agreement shall be limited to the amount of the Indemnification Trust Fund, which shall be Buyer's sole recourse. All of Seller's indemnification obligations in this Agreement shall expire following the expiration of the Indemnification Period.

10.6 Buyer Indemnification. Buyer shall indemnify, defend and hold Seller and its respective officers, directors, employees, shareholders and affiliates (the "Seller Indemnified Parties"), harmless for, from and against any and all claims, losses, expenses, damages, obligations, deficiencies, or liabilities of any kind, including without limitation costs of investigation, interest, penalties, reasonable attorneys' fees, and any and all costs, expenses, and fees incident to any suit, action or proceeding, incurred, sustained or suffered by the Seller Indemnified Parties which arise out of, result from or are related to Buyer's or New Operator's operation of the Facility on and after the Effective Time, and would not be (or if the Indemnification Period has expired, would not have been if such period had not expired) a Seller Indemnification Obligation.

ARTICLE 11. TERMINATION

11.1 Termination. This Agreement may be terminated prior to the Closing:

(i) by the Seller or Buyer if the Bid Procedures Motion is withdrawn prior to the entry of the Bid Procedures Order or if, following entry of the Bid Procedures Order, the Seller determines to abandon or end the sale process established pursuant thereto;

(ii) by mutual written consent of the Seller and Buyer;

(iii) by Buyer:

(a) if there has been a material breach by Seller of any representation or warranty contained herein or in the due and timely performance of any covenant or agreement contained herein, the Seller has notified Buyer of such breach in writing, and the breach has not been cured within five (5) business days after delivery of such notice (or such longer notice and cure period as may be set forth in any other provision of this Agreement); or

(b) if the Closing shall not have occurred on or before February 28, 2015 (the "Outside Closing Date", as to which no cure period shall apply) by reason of the failure of any condition precedent under Article 8 (unless such failure was primarily within the control of Buyer);

(c) if the Sale Order shall not have been entered substantially in the form of Exhibit 11.1(iii)(b) (unless any changes thereto have been approved by the Buyer or if the Sale Order has been entered but stayed as of such Outside Closing Date or if the Sale Order or has not become a Final Order by January 31, 2015);

(d) if the Seller has filed any pleading or entered into any agreement (other than this Agreement and other than the Bid Procedures Motion) relating to or otherwise regarding the sale, transfer, lease or other disposition, directly or indirectly, of all or a material portion of the Assets or regarding an Alternative Transaction (including in either instance, for the avoidance of doubt, a credit bid, deed in lieu, exercise of rights and remedies or foreclosure with respect to some or all of the Assets);

(e) if the Bankruptcy Court approves a sale, lease, or transfer of all or a material portion of the Assets, directly or indirectly, to any other person or entity other than Buyer, or if the Seller selects a bid by someone other than Buyer as the "highest and best offer" in accordance with the Bid Procedures Order, and said selection is not overruled by the Bankruptcy Court within seven (7) days following the conclusion of the Auction, or if the Bankruptcy Court approves or the Seller consummates a sales, lease or transfer transaction related to any of the Assets with a third party other than as contemplated in the Bid Procedures Order (including in either instance, for the avoidance of doubt a credit bid, deed in lieu, exercise of rights and remedies or foreclosure with respect to some or all of the Assets), or an Alternative Transaction is approved by the Bankruptcy Court and consummated. The term "Alternative Transaction" means, any transaction (other than the sale of Assets to Buyer under this Agreement) involving: (i) the issuance, sale, transfer or other disposition of any class of equity securities, ownership interests or voting securities of Seller, (ii) the merger, consolidation, asset

sale, recapitalization, business combination or other similar transaction involving Seller, or (iii) the entry of an order confirming a Chapter 11 plan for Seller under which all or a material portion of Assets vests in Seller or in a successor to Seller or another person or entity;

(f) the Bid Procedures Order has not been entered substantially in the form of Exhibit 2.1 (unless any changes thereto have been approved by the Buyer) on or before the Bid Procedures Order Deadline (for which no cure period shall apply); or

(g) this Agreement otherwise provides Buyer with a right of termination.

(iv) by the Seller:

(a) if there has been a material breach by Buyer of any representation or warranty contained herein or in the due and timely performance of any covenant or agreement contained herein, the Seller has notified Buyer of such breach in writing, and the breach has not been cured within five (5) business days after delivery of such notice (or such longer notice and cure period as may be set forth in any other provision of this Agreement); or

(b) if the Closing shall not have occurred on or before the Outside Closing Date by reason of the failure of any condition precedent set forth in Article 9 (unless such failure was solely within the control of the Seller); or

(c) Buyer is not diligently pursuing the Closing so that such Closing can occur on or before the Outside Closing Date, as determined by the Bankruptcy Court.

11.2 Effect of Termination.

(i) A "Triggering Event" shall be deemed to have occurred upon termination of this Agreement by Buyer or Seller unless: (a) Buyer is in material default hereunder for which the cure period has run without cure, (b) the termination is due to DADS' rejection of Buyer for Regulatory Approval purposes, or (c) Buyer terminates this Agreement pursuant to Section 7.1 or 7.2 hereof.

(ii) Immediately upon the occurrence of any termination of this Agreement other than under Section 11.1(iv)(a) or (c), and provided that the Buyer is not otherwise in material breach of this Agreement for which the cure period has expired without cure, Seller shall refund the Deposit to the Buyer as set forth herein. If the termination is pursuant to a Triggering Event, Seller shall further pay Buyer in cash the Break-Up Fee. In the event the termination is not a Triggering Event solely because it falls within the parameters of Section 11.2(i)(b) or 11.2(i)(c), then Seller shall immediately pay Buyer an expense reimbursement of $50,000 (which expense reimbursement shall constitute an administrative expense claim in the Bankruptcy Proceeding under Sections 503(b) and 507(a)(2) of the United States Bankruptcy Code, which shall be a superpriority administrative claim and superior to all claims in the case other than the claim of Seller's existing DIP Lender, whose DIP Loan shall be senior).

(iii) The Break-Up Fee shall constitute an administrative expense claim in the Bankruptcy Proceeding under Sections 503(b) and 507(a)(2) of the United States Bankruptcy

Code, and shall be a superpriority administrative claim and superior to all claims in the case other than the claim of Seller's existing DIP Lender, whose DIP Loan shall be senior. The Seller shall pay to Buyer the Break-Up Fee on the day of any sale, lease, transfer or foreclosure of any of the Assets or material consummation of any Alternative Transaction from the first proceeds thereof and, second, from Seller's cash. The Parties hereby acknowledge that the amounts payable pursuant to this Section 11.2 are commercially reasonable and necessary to induce Buyer to enter into this Agreement and consummate the transactions contemplated hereby. Seller and Buyer acknowledge this Agreement was negotiated at arms-length. The Seller's obligation to pay the Break-Up Fee and, as applicable, Expense Reimbursement, survives termination of this Agreement.

(iv) In the event that this Agreement is validly terminated by Buyer pursuant to Section 11.1, as its sole and exclusive remedy and complete liquidated damages, the Buyer shall be entitled to receive the Break-up Fee (or as applicable the Expense Reimbursement) and a refund of the Deposit as set forth in this Section 11.2.

(v) In the event that this Agreement is validly terminated by Seller pursuant to Section 11.1(iv)(a) or (c), as its sole and exclusive remedy and complete liquidated damages, the Seller shall be entitled to receive the Deposit. In all other cases, upon termination of this Agreement (including, without limitation, upon a Triggering Event), the Deposit shall be immediately refunded to Buyer.

ARTICLE 12. CLOSING

12.1 Seller's Obligations at Closing. On or before the Closing Date, Seller shall deposit into Escrow, or deliver or cause to be delivered directly to Buyer, all of the following, which are referred to herein as "Seller Closing Items":

(i) Evidence of all required board approvals authorizing the execution and performance of this Agreement;

(ii) All releases, waivers, and satisfactions necessary to deliver title and/or satisfy any requirements under Article 7 of this Agreement for issuance of the Title Policy, and transfer, assignment, or issuance of the Phase I and Engineering Reports running for the benefit of and in the name of Buyer;

(iii) A certificate of the Chief Executive Officer of Seller certifying to Buyer (a) compliance with Seller's covenants set forth in this Agreement and (b) truth of all representations and warranties of Seller set forth in this Agreement as of the Closing Date and the Effective Time;

(iv) The OTA, executed by Seller, if not previously delivered to Buyer;

(v) If required under the terms of the OTA, the Interim Management Agreement, executed by Seller (and if necessary, the Sublease);

(vi) All necessary instruments of transfer, properly executed by Seller acknowledged, conveying, transferring and assigning to Buyer all of Seller's right, title and

interest in and to the Assets and any and all warranties or rights in connection therewith, all in form and substance reasonably satisfactory to Buyer and Seller, including without limitation:

(a) A general warranty deed (the "Deed") for the Real Property executed and acknowledged by Seller and subject only to the Permitted Exceptions;

(b) A Bill of Sale and Assignment and Assumption Agreement from Seller to New Operator, which shall include the Assets other than the Real Property and the Assets to be conveyed to the New Operator pursuant to the OTA (the "Asset Transfer Agreements"); and

(c) The original titles to all motor vehicles transferred under the OTA; provided, that Buyer may designate New Operator to take title to such motor vehicles;

(vii) All keys and combinations for all locks on the Real Property and for all motor vehicles, which Escrow Agent shall immediately deliver to Buyer upon Closing; and

(viii) Such other forms and documents as Buyer or Escrow Agent may reasonably request in order to effectuate the transactions contemplated hereby and close the Escrow.

12.2 Buyer's Obligations at Closing. On or before the Closing Date, Buyer shall deposit in Escrow, or deliver or cause to be delivered directly to Seller the following, which are referred to herein as the "Buyer Closing Items":

(i) The Cash Due at Closing, plus other amounts required to be deposited by Buyer to pay for Buyer' share of costs and prorations, by wire transfer, cashier's check or other form of immediately available funds acceptable to Escrow Agent;

(ii) The OTA, executed by New Operator, if not previously delivered to Seller;

(iii) If required under the terms of the OTA, the Interim Management Agreement executed by New Operator (and if necessary, the Sublease);

(iv) Such other documents, forms, certifications, instructions or items as Seller or Escrow Agent may reasonably request to effectuate the transactions contemplated hereby and close the Escrow.

12.3 Costs and Prorations. The costs of the transaction and the expenses related to the ownership and operation of the Facility shall be allocated between Seller and Buyer as follows:

(i) All items to be prorated shall be prorated (a) as of the Effective Time, with Seller responsible therefor or entitled thereto for the period prior to the Effective Time, and with Buyer responsible therefor or entitled thereto for the period from and after the Effective Time, (b) on the basis of actual days elapsed in the relevant accounting, revenue or expense period and, (c) if exact information is not available, shall be estimated based on the most recent information

available. If, after netting together all credits due each party hereunder, there is a net credit due (x) Buyer, such credit shall reduce, dollar-for-dollar, the Cash Due at Closing; or (y) Seller, such credit shall increase, dollar-for-dollar, the Cash Due at Closing.

(ii) Seller shall pay any and all transfer, documentary stamp, recording fee, excise tax or other fee, tax, charge or assessment which may be imposed by any governmental agency on the sale or transfer of the Real Property to Buyer or the recording of the Deed to be delivered to Buyer as provided herein.

(iii) Buyer shall pay any sales tax due on the transfer of title to the Assets to Buyer or New Operator.

(iv) Seller shall pay the premium for the Title Policy to be issued to Buyer by the Title Company, and Buyer shall pay premium for any endorsements to the Title Policy which Buyer elects to obtain.

(v) Real Property and Personal Property taxes, assessments and other impositions shall be prorated as of the Effective Time.

(vi) Seller and Buyer shall each pay their own attorneys' fees.

(vii) Buyer and Seller shall share any Escrow fees charge by the Escrow Agent on a 50-50 basis.

(viii) Seller shall pay all costs associated with obtaining and recording any releases necessary to cause the full release of; (A) monetary liens or any other liens affecting the Assets to be discharged in accordance with the terms of this Agreement, (B) any liens encumbering the motor vehicles of Seller, and (C) any lien, encumbrance or other security interest affecting any of the Assets which is unpaid as of the Closing. Escrow Agent shall use Seller's Purchase Price proceeds to discharge any or all such encumbrances and obtain the corresponding releases through Escrow at Closing.

(ix) Utility charges accrued as of the Effective Time shall be estimated based on prior charges, and shall be prorated between the parties as of the Effective Time.

(x) Personal property lease payments, plus all other income and expenses which are normally prorated upon the sale of assets of a going concern (including payments by or on behalf of residents or prospective residents of the Facility, which are received prior to Closing but are related to or include time of residency, or services to be provided, after Closing), advance payments, prepayments, prepaid expenses and utility deposits shall be prorated as of the Effective Time.

(xi) Except as otherwise provided herein, each party represents and warrants to the other that no real estate sales or brokerage commissions or like commissions are or will be due from the other party in connection with this transaction. Further, each party agrees to indemnify, defend and hold harmless the other party for, from and against any and all liability, loss, cost, damage or expense, including but not limited to court costs and reasonable attorneys'

fees, resulting from any assertion of a right to a brokerage commission as a consequence of any act or omission of such indemnifying party.

(xii) All entrance fee refunds triggered prior to Closing, or for which Seller has received or will receive the new entrance fee (on a deferred or escrow basis or otherwise), shall be paid by and remain the obligation of Seller, and all entrance fee refunds triggered from and after Closing for which Buyer has received or will receive the new entrance fee (on a deferred or escrow basis or otherwise), shall be paid by and become the obligation of Buyer.

Notwithstanding the foregoing provisions, there shall be no prorations under this Agreement for employment related matters, as such matters are governed by, and shall be prorated pursuant to, the terms of the OTA.

ARTICLE 13. POST-CLOSING ACCESS

13.1 Access. In connection with (i) the transition of the Facility pursuant to the transaction contemplated by this Agreement, (ii) Seller's rights to the Excluded Assets, and (iii) Seller's obligations under the Excluded Liabilities, Buyer shall after the Closing Date give Seller, Seller's affiliates and their respective representatives access during normal business hours to Buyer's books, accounts and records and all other relevant documents and information with respect to the assets, liabilities and business of the Facility as representatives of Seller and Seller's affiliates may from time to time reasonably request, all in such manner as not to unreasonably interfere with the operations of the Facility.

ARTICLE 14. GENERAL PROVISIONS

14.1 Notices. All notices, requests, demands and other communications required under this Agreement shall be in writing and shall be deemed duly given and received (i) if personally delivered, on the date of delivery, (ii) if mailed, three (3) days after deposit in the United States Mail, registered or certified, return receipt requested, postage prepaid and addressed as provided below, (iii) if by a courier delivery service providing overnight or "next-day" delivery, on the next business day after deposit with such service, or (iv) electronic mail (with receipt of such email acknowledged by the recipient (provided, that any email sent after 5:00 p.m. Central Time shall be deemed to have been sent as of 8:00 a.m. as of the next following business day), addressed as follows:

If to Seller:

Attn: Susan T. Whittle
Interim CEO
Sears Methodist Retirement Systems
1114 Lost Creek Boulevard, Suite 210
Austin, Texas 78746
Phone: (512) 329-6716
Fax: (512) 329-0933
Email: [TO BE PROVIDED]

If to Buyer:

ER PropCo CO, LLC
c/o Evergreen Senior Living Properties, LLC
1550 W. McEwen Drive, Suite 300
Franklin, TN 37067
Attn: Brian E. Dowd
Phone: 615-915-2931
Fax: 201-447-7006
Email: bdowd@evergreenslp.com

with a copy to:

Thomas R. Califano, Esq.
DLA Piper LLP (US)
1251 Avenue of the Americas
New York, NY 10020
Phone: (212) 335-4990
Fax: (212) 884-8690
Email: Thomas.califano@dlapiper.com

with a copy to:

Bobby Guy, Esq.
Frost Brown Todd LLC
150 3rd Avenue, Suite 1900
Nashville, Tennessee 37201
Phone: (615) 251-5557
Fax: (615) 251-5551
Email: bguy@fbtlaw.com

If to Escrow Agent:

Old Republic National Title
Insurance Company
8201 Preston Road, Suite 450
Dallas, Texas 75225
Attention: Joe Grant
Phone: (214) 239-6403
Fax: (214) 361-2295
Email: jgrant@oldrepublictitle.com

Any party may change its above-designated address by giving the other party written notice of such change in the manner set forth herein.

14.2 Effect of Termination. The termination of this Agreement shall operate to terminate the OTA, the Interim Management Agreement, if any, and any other agreements and documents executed in connection with the transfer of the Assets to Buyer or New Operator; provided, that such termination shall not diminish a party's rights and remedies for a breach or default by another party.

14.3 Miscellaneous. This Agreement, and the related agreements referred to herein, constitute the entire agreement among the parties and supersede all prior and contemporaneous agreements and undertakings of the parties with respect to the subject matter hereof. No supplement, modification or amendment of this Agreement shall be binding and enforceable unless executed in writing by the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision hereof (whether or not similar) nor shall such waiver constitute a continuing waiver, and no waiver shall be binding unless executed in writing by the party making the waiver. Schedules and Exhibits referred to in this Agreement, whether attached hereto at the time of this Agreement's execution and delivery or thereafter, are hereby incorporated into this Agreement and made a part hereof. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. In the event an action, suit or arbitration proceeding is brought by any party hereto to enforce the terms of this Agreement, the prevailing party shall be entitled to the payment of its reasonable attorneys' fees and costs, as determined by the judge of the

court or the arbitrator, as applicable. The invalidity or unenforceability of any particular provision, or any part thereof, of this Agreement shall not affect the other provisions hereof and this Agreement shall be continued in all respects as if such invalid or unenforceable provision were omitted. Except as otherwise provided herein, all provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective heirs, executors, administrators, personal representatives, successors and assigns of any of the parties to this Agreement. The parties hereto agree that each party and its counsel have reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement. Headings contained in this Agreement are inserted only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or of any provision hereof. As used herein, the term "Medicaid" shall mean and refer to the Medicaid program or any similar reimbursement program established by Texas. Time is of the essence for all dates and time periods set forth in this Agreement and each performance called for in this Agreement.

14.4 Governing Law; Jurisdiction. Except as expressly provided herein, this Agreement shall be construed in accordance with, and governed by, the laws of Texas, without regard to the application of conflicts of law principles. The parties agree that any legal suit, action or proceeding arising out of or relating to this Agreement must be instituted in the Bankruptcy Court for the Northern District of Texas, and they hereby irrevocably submit to the jurisdiction of any such court. EACH OF THE PARTIES HERETO KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT WHICH IT MAY HAVE TO HAVE ANY DISPUTE WITH RESPECT TO THE INTERPRETATION OR ENFORCEMENT OF THIS AGREEMENT TRIED BEFORE A JURY AND AGREES THAT ALL SUCH DISPUTES SHALL BE TRIED BEFORE A JUDGE AND NOT A JURY.

14.5 Further Documentation. Each party will execute and deliver such further instruments and do such further acts and things as may be reasonably required to carry out the intent and purpose of this Agreement.

14.6 Survival of Representations, Warranties and Covenants. The respective representations, warranties, covenants, performance, and remedies of Buyer and Seller made herein or in any certificate or other document delivered pursuant to this Agreement, including without limitation the obligations of indemnity hereunder, shall survive the Closing Date, the Effective Time, the consummation of the transactions contemplated hereby and the delivery of the Assets to Buyer, and shall not be waived or merged thereby, until any applicable statute of limitations has run, notwithstanding any examination made by or for the party to whom such representations, warranties covenants, or performance were made, except that no party with actual knowledge prior to Closing of a breach of representations, warranties, covenants, or performance hereunder by the other party may assert a claim for such breach post-closing. In the event of a breach of the surviving obligations hereunder, then in addition to any other remedies Buyer may have, the Indemnification Trust Fund shall be available for Buyer's damages and losses.

14.7 Bulk Sales. Buyer hereby waives compliance by Seller with the requirements, if any, of Article 6 of the Uniform Commercial Code as in force in any state in which the Assets are located and all other similar laws applicable to bulk sales and transfers.

14.8 Independent Consideration. Seller acknowledges the receipt from Buyer, direct and outside of Escrow, of Two Hundred Fifty and 00/100 Dollars ($250.00) (the "Independent Consideration"), which the parties have bargained for and agreed upon as consideration for Seller's execution, delivery and performance of this Agreement. The Independent Consideration is non-refundable in all circumstances, is not part of the Purchase Price hereunder, and is in addition to and independent of any other consideration or payment provided for in this Agreement.

14.9 Cross Default. Any material breach or default of any warranty, covenant, agreement, condition or other obligation of a party under the OTA or the Interim Management Agreement, if any, shall constitute a material breach or default of this Agreement and the non-breaching party shall be entitled to any and all remedies to which such non-breaching party may be entitled under the terms of this Agreement.

14.10 No Shop/Exclusivity. From the Effective Date until the date on which the Bidding Procedures Order is entered into by the Bankruptcy Court, neither the Seller, nor any of its Affiliates, nor any of its representatives will directly or indirectly (i) solicit, initiate, encourage, facilitate or take any other action designed to facilitate any inquiries or proposals regarding any merger, consolidation, sale of assets, assumption of liabilities, or similar transactions involving the Seller that, if consummated, would constitute an Alternative Transaction; (ii) participate in any discussions or negotiations with third parties regarding an Alternative Transaction; or (iii) enter into any agreement regarding any Alternative Transaction; provided however that Seller is not restricted from responding to any inquiries in respect of the Bidding Procedures Order (and prior to the issuance of the Bidding Procedures Order, the Seller may engage in any of the activities in clause (i), (ii) or (iii) above in furtherance of the sale process reasonably anticipated to be authorized by the Bidding Procedures Order).

14.11 Business Day. As used in this Agreement, a "business day" shall mean a day other than Saturday, Sunday or any day on which banking institutions in Dallas, Texas, are required or authorized by law or other governmental action to close. All other references to "days" or "calendar days" in this Agreement shall refer to calendar days. If any period expires, or if any delivery date or any date on which a party is to take a specified action falls, on a date that is not a business day under this Agreement, such period shall be deemed to expire and such delivery date or such date for taking such specified action shall be deemed to fall on the next succeeding business day.

14.12 Subsequent Chapter 11 Plan/Conversion. In the event of a Closing, no Chapter 11 Plan subsequently proposed or confirmed in Seller's bankruptcy shall contain any provisions which are inconsistent with or purport to override the terms of this Agreement and the ancillary agreements to be entered into herewith, all of which shall be expressly preserved under the terms of such plan. Further, in the event of a conversion of this case to Chapter 7 or dismissal, the post-closing obligations under this Agreement shall be unaffected and fully

preserved, so that the Chapter 7 Trustee shall be obligated and required to comply with all post-Closing duties, including further assurances, without cost to, or the necessity of a motion or administrative claim from, Buyer. The Break-Up Fee and Expense Reimbursement obligations hereunder shall further survive any conversion to Chapter 7 or dismissal, regardless of whether a Closing has occurred, and shall be binding on any Chapter 7 trustee or similar party.

14.13 Bankruptcy Approval. Seller is currently a debtor in a bankruptcy proceeding pending in the Bankruptcy Court, and, notwithstanding anything herein to the contrary, Seller's obligations hereunder are contingent upon the entry of an order from the Bankruptcy Court authorizing Seller's accession to this Agreement.

Signature Page Follows

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above.

SELLER:

SEARS TYLER RETIREMENT CORPORATION
a Texas non-profit corporation

By:_____
Name:
Title:

BUYER:

ER PROPCO CO, LLC
a Delaware limited liability company,
or its Assigns

By:_____
Name:
Title:

EXHIBIT 1.1(i)

LEGAL DESCRIPTION OF THE LAND

EXHIBIT 1.2(l)

EXCLUDED ASSETS

EXHIBIT 2.1

BID PROCEDURES ORDER

[Attached]

EXHIBIT 6.1

SELLER INFORMATION

EXHIBIT 11.1(iii)(b)

FORM OF SALE ORDER

[ATTACHED]

APPENDIX I

OPERATIONS TRANSFER AGREEMENT

[ATTACHED]

SCHEDULE XX

REGULATORY COMPLIANCE, RESIDENCY AGREEMENTS AND RENT ROLL

[ATTACHED]

0122465.0621994 4829-8914-8192v2

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EXHIBIT C

20 LARGEST CREDITORS

Vincent P. Slusher, State Bar No. 00785480
vincent.slusher@dlapiper.com
Andrew Zollinger, State Bar No. 24063944
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Facsimile: (214) 743-4545

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1251 Avenue of the Americas
New York, New York 10020-1104
Tel: (212) 335-4500
Fax: (212) 335-4501

PROPOSED ATTORNEYS FOR THE DEBTOR
AND DEBTOR IN POSSESSION

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	**Chapter 11**
SEARS TYLER METHODIST RETIREMENT CORP.,	§	**Case No. 14-32834-11**
Debtor.	§	

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

Sears Tyler Methodist Retirement Corp. and certain of its affiliates filed voluntary petitions in this Court on the date hereof (the "Petition Date") for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532. The following is a list of the Debtor's twenty largest unsecured creditors (the "Top 20 List") based on the Debtor's books and records as of the Petition Date. The Top 20 List was prepared in accordance with Rule 1007(d) of the Federal Rules of Bankruptcy Procedure for filing in the Debtor's chapter 11 case. The Top 20 List does not include: (1) persons who come within the definition of an "insider" set forth in 11 U.S.C. § 101(31) or (2) secured creditors, unless the value of the collateral is such that the unsecured deficiency places the creditor among the holders of the twenty largest unsecured claims against the Debtor. The information presented in the Top 20 List shall not constitute an admission by, nor is it binding on, the Debtor. The failure of the Debtor to list a claim as contingent, unliquidated or disputed does not constitute a waiver of the Debtor's right to contest the validity, priority, and/or amount of any such claim.

(1) *Name of creditor and complete mailing address including zip code*	(2) *Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted*	(3) *Nature of claim (trade debt, bank loan, government contract, etc.)*	(4) *Indicate if claim is contingent, unliquidated, disputed, or subject to setoff*	(5) *Amount of claim [if secured, also state value of security]*
1. SELECT MEDICAL REHABILITATION SERVICES 4714 GETTYSBURG ROAD MECHANICSBURG, PA 17055	SELECT MEDICAL REHABILITATION SERVICES 4714 GETTYSBURG ROAD MECHANICSBURG, PA 17055 TEL: 888-735-6332	TRADE		$ 28,390.63
2. SOUTHWEST FLOOR CARPET ONE 917 SSW LOOP 323 TYLER, TX 75701	SOUTHWEST FLOOR CARPET ONE 917 SSW LOOP 323 TYLER, TX 75701 TEL: 903-581-4685 FAX: 903-561-1147	TRADE		$ 13,970.40
3. SYSCO EAST TEXAS 4577 ESTES PARKWAY LONGVIEW, TX 75603-0900	SYSCO EAST TEXAS 4577 ESTES PARKWAY LONGVIEW, TX 75603-0900 FAX: 866-935-9248	TRADE		$ 11,869.17
4. LJT PAINTING AND CONTRACTING 17828 LOOKOUT LAKE CIRCLE FLINT, TX 75762	LJT PAINTING AND CONTRACTING 17828 LOOKOUT LAKE CIRCLE FLINT, TX 75762 TEL: 903-780-5195	TRADE		$ 10,500.00
5. THOMPSON & KNIGHT LLP ONE ARTS PLAZA 1722 ROUTH STREET SUITE 1500 DALLAS, TX 75201	THOMPSON & KNIGHT LLP ONE ARTS PLAZA 1722 ROUTH STREET SUITE 1500 DALLAS, TX 75201 TEL: 214-969-1700 FAX: 214-969-1751	TRADE		$ 8,368.05
6. TAYLOR WHOLESALE DISTRIBUTOR 1001 W. OAKWOOD STREET TYLER, TX 75702	TAYLOR WHOLESALE DISTRIBUTOR 1001 W. OAKWOOD STREET TYLER, TX 75702 TEL: 903-592-2547	TRADE		$ 4,618.66

(1) *Name of creditor and complete mailing address including zip code*	(2) *Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted*	(3) *Nature of claim (trade debt, bank loan, government contract, etc.)*	(4) *Indicate if claim is contingent, unliquidated, disputed, or subject to setoff*	(5) *Amount of claim [if secured, also state value of security]*
7. LIFE CARE SERVICES LLC CAPITAL SQUARE 400 LOCUST STE 820 DES MOINES, IA 50309-2334	LIFE CARE SERVICES LLC CAPITAL SQUARE 400 LOCUST STE 820 DES MOINES, IA 50309-2334 TEL: 515-875-4500 FAX: 515-875-4780 E-MAIL: info@lcsnet.com LIFE CARE SERVICES LLC C/O HINCKLEY ALLEN ATTN: WILLIAM S. FISH JR. 20 CHURCH STREET HARTFORD, CT 06103 TEL: 860-725-6200 FAX: 860-278-3802 E-MAIL: wfish@hinckleyallen.com	TRADE		$ 3,395.13
8. THE HARTNETT COMPANY 302 NORTH MAIN STREET WEATHERFORD, TX 76086	THE HARTNETT COMPANY 302 NORTH MAIN STREET WEATHERFORD, TX 76086 TEL: 817-594-3813 FAX: 817-594-9714	TRADE		$ 3,115.52
9. BROSBANG'S LANDSCAPING, INC. 15562 STATE HWY. 110 SOUTH WHITEHOUSE, TX 75791	BROSBANG'S LANDSCAPING, INC. 15562 STATE HWY. 110 SOUTH WHITEHOUSE, TX 75791 TEL: 903-597-5296 FAX: 903-871-8344 BROSBANG'S LANDSCAPING, INC. PO BOX 131717 TYLER, TX 75713	TRADE		$ 2,100.00
10. CITY OF TYLER 423 W. FERGUSON TYLER, TX 75702	CITY OF TYLER 423 W. FERGUSON TYLER, TX 75702 TEL: 903-531-1175 FAX: 903-531-1170 CITY OF TYLER PO BOX 2039 TYLER, TX 75710	TRADE		$ 2,016.85

(1) *Name of creditor and complete mailing address including zip code*	(2) *Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted*	(3) *Nature of claim (trade debt, bank loan, government contract, etc.)*	(4) *Indicate if claim is contingent, unliquidated, disputed, or subject to setoff*	(5) *Amount of claim [if secured, also state value of security]*
11. STONEBRIDGE 2700 W. PLANO PKWY PLANO, TX 75075-8200	STONEBRIDGE 2700 W. PLANO PARKWAY PLANO, TX 75075-8200 TEL: 8003626900 STONEBRIDGE PO BOX 869092 PLANO, TX 75086-9092	TRADE		$ 1,959.63
12. MCKESSON MEDICAL SURGICAL CORPORATE HEADQUARTERS 8741 LANDMARK RD RICHMOND, VA 23228	MCKESSON MEDICAL SURGICAL CORPORATE HEADQUARTERS 8741 LANDMARK RD RICHMOND, VA 23228 E-MAIL: corporatesecretary@mckesson.com	TRADE		$ 1,911.27
13. STERICYCLE INC. 28161 N. KEITH DRIVE LAKE FOREST, IL 60045	STERICYCLE INC. 28161 N. KEITH DRIVE LAKE FOREST, IL 60045 FAX: 847-367-9493	TRADE		$ 1,768.43
14. A&A SEPTIC TANK SVC 1331 W ELM ST TYLER, TX 75702	A&A SEPTIC TANK SVC 1331 W ELM ST TYLER, TX 75702 TEL: 903-705-0774	TRADE		$ 1,600.00
15. NEIGHBORHOOD NETWORKS PUBLISHING N2 PUBLISHING 3311 MERCHANT COURT WILMINGTON, NC 28405	NEIGHBORHOOD NETWORKS PUBLISHING N2 PUBLISHING 3311 MERCHANT COURT WILMINGTON, NC 28405 TEL: 910-202-0917 FAX: 910-202-1876	TRADE		$ 1,366.00
16. ADMIRAL LINEN & UNIFORM SERVICE 2030 KIPLING STREET HOUSTON, TX 77098-9869	ADMIRAL LINEN & UNIFORM SERVICE 2030 KIPLING STREET HOUSTON, TX 77098-9869 TEL: 713-529-2608 FAX: 713-529-3061	TRADE		$ 1,214.13
17. OFFICE DEPOT – CHICAGO 6600 NORTH MILITARY TRAIL BOCA RATON, FL 33496	OFFICE DEPOT – CHICAGO 6600 NORTH MILITARY TRAIL BOCA RATON, FL 33496 TEL: 800-463-3768 FAX: 800-685-5010	TRADE		$ 958.76
18. ASHLEY J WALKER 17075 LAKEVIEW DR. FLINT, TX 75762	ASHLEY J WALKER 17075 LAKEVIEW DR FLINT, TX 75762	TRADE		$ 741.00

(1) *Name of creditor and complete mailing address including zip code*	(2) *Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted*	(3) *Nature of claim (trade debt, bank loan, government contract, etc.)*	(4) *Indicate if claim is contingent, unliquidated, disputed, or subject to setoff*	(5) *Amount of claim [if secured, also state value of security]*
19. AUTO-CHLOR SERVICES, LLC 500 DAKIN ST. NEW ORLEANS, LA 70121	AUTO-CHLOR SERVICES, LLC 500 DAKIN ST. NEW ORLEANS, LA 70121 TEL: 888-833-6181 FAX: 504-219-2180 E-MAIL: INFO@ACS-LLC.NET	TRADE		$ 684.90
20. TOTAL FIRE & SAFETY INC. 542 N. 13TH STREET ABILENE, TX 79601	TOTAL FIRE & SAFETY INC. 542 N. 13TH STREET ABILENE, TX 79601 TEL: 325-676-2655 TOTAL FIRE & SAFETY INC. 7909 CARR ST. DALLAS, TX 75227 TEL: 214-381-6116	TRADE		$ 584.50

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF A CORPORATION OR PARTNERSHIP

I, the Chief Restructuring Officer of the corporation named as the debtor in this case, declare under penalty of perjury that I have read the foregoing list and that it is true and correct to the best of my information and belief.

Date **June 10, 2014** Signature */s/ Paul B. Rundell*

Paul B. Rundell
Chief Restructuring Officer

Penalty for making a false statement or concealing property: *Fine of up to $500,000 or imprisonment for up to 5 years or both.18 U.S.C. §§ 152 and 3571.*