

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	
	:	
SYNTERRA 3020 MARKET, LP,	:	Chapter 11
	:	
Debtor.	:	Case No. 11-10205 (JKF)
	:	
	:	

FIRST INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL

This matter is before the Court on the motion of Synterra 3020 Market, LP (the “Debtor”) for authority to use cash collateral on an interim basis pursuant to Federal Rule of Bankruptcy Procedure 4001(b) and 11 U.S.C. § 363(c)(2)(B). Notice of the motion together with notice of the preliminary hearing thereon has been given and served by the Debtor to the (1) the Office of the United States Trustee, (2) the Debtor’s secured creditors, (3) any committee appointed under Section 1102, and if no committee has been appointed, to the top twenty (20) largest unsecured creditors on the Rule 1007(d) list. The Court, having considered the motion, the statements of counsel at the hearing on the motion, and all relevant matters related thereto; and having jurisdiction over this core proceeding and being otherwise fully advised in the premises; and after due deliberation and good and sufficient cause appearing for the entry of the within order, it is hereby found:

A. Notice and Hearing. Notice of the motion and order shortening time pursuant to E.D.Pa. L.B.R. 9013-1(e) and Federal Rule of Bankruptcy Procedure 9006(c) for the preliminary hearing on the Debtor’s use of Cash Collateral (defined below) has been served in accordance with Section 102(1) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 4001(b), or if by consent, under Federal Rule of Bankruptcy Procedure 4001(d) which notice is

appropriate in the particular circumstances and is sufficient for all purposes under the Bankruptcy Code and the applicable Bankruptcy Rules in respect to the relief requested.

B. Core Proceeding and Jurisdiction. This Court has jurisdiction over the parties and the subject matter of this proceeding pursuant to 28 U.S.C. § 1334. Venue is proper in this District pursuant to 28 U.S.C. § 1409.

C. Chapter 11 Case. The Debtor commenced this case (the “Chapter 11 Case”) on January 12, 2011 (the “Petition Date”) by filing its petition under Chapter 11 of the United States Code, as amended (the “Bankruptcy Code”). The Debtor is presently operating as a debtor-in-possession in accordance with Sections 1107 and 1108 of the Bankruptcy Code.

D. Cash Collateral. By virtue of this Motion, the Debtor seeks the permission of Inland Mortgage Capital Corporation (the “Lender”) and the Court to use its “Cash Collateral.” Cash Collateral as defined by Section 363(a) of the Bankruptcy Code and includes cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents whenever acquired in which the estate and an entity other than the estate have an interest and includes the proceeds, products, offspring, rents, or profits of property and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties subject to a security interest as provided in Section 552(b) of the Bankruptcy Code, whether existing before or after the commencement of a bankruptcy case.

E. Lender Consent. The Lender has an interest in the Debtor’s Cash Collateral by virtue of the Mortgage, Assignment of Leases and Rents, and other Prepetition Agreements (as such terms defined herein). The Lender is willing to permit the Debtor to use Cash Collateral provided such use is during the time period and upon the conditions contained in this Order.

F. Prepetition Debt. As of the Petition Date the Debtor was indebted and liable to Lender, without defense, counterclaim or offset of any kind, in respect of a loan (the "Loan") made by Lender to the Debtor pursuant to that certain Construction Loan Agreement and certain other agreements. The original principal amount of the Loan was \$28,850,000.00; the current outstanding principal balance of the Loan is approximately \$25,515,255.12 (the principal balance together with accrued and unpaid interest thereon (\$1,975,221.16 as of the Petition Date) and attorneys' fees are collectively referred to herein as the "Prepetition Debt"). The Loan is evidenced by a note (the "Note") dated May 14, 2007 by the Debtor in favor of the Lender in the face amount of \$28,850,000.00 and is secured by a properly perfected first priority mortgage lien on certain real estate located at 3020-3052 Market Street in the City of Philadelphia, County of Philadelphia, Commonwealth of Pennsylvania and the buildings and fixtures attached thereto (the "Property") and the rents and profits flowing from the Property and all leases of the Property. In addition, as evidenced by, among other things, an Open-End Leasehold Mortgage, Security Agreement, Assignment of Rents and Financing Statements dated as of May 8, 2007 (the "Mortgage"), the Assignment of Leases and Rents dated as of May 8, 2007, the Collateral Assignment of Tenant Deposits dated as of May 8, 2007, and the Collateral Assignment of Agreements Affecting Real Estate dated as of May 8, 2007, Lender has a valid first lien and security interest in, lien on, and charge against the Improvements, Premises, and Equipment (as those terms are defined in the Mortgage), and all other property, rights and assets of the Debtor referred to or described in the Mortgage, the Assignment of Leases and Rents, the Collateral Assignment of Tenant Deposits, the Collateral Assignment of Agreements Affecting Real Estate, and any other prepetition agreements of the Debtor pertaining to the Loan, including, without limitation, that certain Forbearance and Amendment Agreement dated July 19, 2010

(collectively, the "Prepetition Agreements"). The Property together with all other personal and real property pursuant to the Prepetition Agreements including, without limitation, all Improvements, Premises, and Equipment (as those terms are defined in the Mortgage), and all other property, assignments of rents, and rights and assets of the Debtor referred to or described in the Mortgage or in any of the Prepetition Agreements whether the Debtor acquired such assets before or after the Petition Date and all property of the Debtor held by the Lender, including without limitation, any funds held in the Clearing Account (hereinafter defined), now or hereafter in the possession or custody of or in transit to the Lender for any purpose (including for the safekeeping, collection or pledge thereof), for the account of the Debtor or as to which the Debtor may have any right or power, is collectively referred to as the "Prepetition Collateral".

G. Debtor's Stipulations. Without prejudice to the rights of any party other than the Debtor, but subject to the limitations set forth in paragraph 15 hereof, the Debtor admits, represents, stipulates, and agrees that, as of the Petition Date, in accordance with the Prepetition Agreements:

- i. The Debtor was and is indebted to and liable to Lender, without defense, counterclaim or offset of any kind, in the aggregate principal amount of not less than \$27,480,976.20 (inclusive of the principal balance of \$25,515,255.12 and accrued and unpaid interest thereon) and any attorneys fees or other fees due and owing under the Prepetition Agreements.
- ii. The Debtor is a party to the Prepetition Agreements and pursuant thereto is indebted to the Lender without claim, defense, counterclaim, recoupment or offset of any kind, in an amount equal to the Prepetition Debt resulting from loans, advances and other financial accommodations made to or in favor of the Debtor by the Lender (the "Prepetition Loans") in accordance with the Prepetition Agreements (the Prepetition Loans together with all obligations of the Debtor to pay principal and interest on the Prepetition Loans, all fees and charges payable under the Prepetition Agreements and all other payment obligations of the Debtor arising under or in relation to any Prepetition Agreement, in each case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired, the "Prepetition Obligations");

- iii. The Prepetition Obligations constitute a legal, valid, and binding obligation of the Debtor, enforceable in accordance with the terms of the Prepetition Agreements (other than in respect of the stay of enforcement arising from Section 362 of the Bankruptcy Code).
- iv. The mortgage, liens, and security interests granted to the Lender under and in connection with the Prepetition Agreements are (i) valid, binding, perfected, enforceable, first priority liens on the Prepetition Collateral (subject only to those liens that were properly perfected as of the Petition Date and that are specifically permitted as senior or priming liens under the Prepetition Agreements, if any); (ii) not subject to avoidance, recharacterization or subordination under the Bankruptcy Code or applicable nonbankruptcy law; and (iii) subject and subordinate only to valid, perfected and unavoidable liens permitted under the Prepetition Agreements to the extent such liens are permitted to be senior to or *pari passu* with the liens of the Lender on the Prepetition Collateral.
- v. No portion of the Prepetition Debt is subject to avoidance, recharacterization, recovery or subordination under the Bankruptcy Code or applicable nonbankruptcy law.

H. Prepetition Lockbox Agreement. The Debtor is party to a prepetition lockbox arrangement with Wells Fargo Bank, N.A. (the “Depository Bank”) pursuant to which the Depository Bank maintains a non-interest bearing demand account referred to herein as the “Clearing Account,” for the benefit of and under the sole control of the Lender.

I. Project Expenses. “Project Expenses”, as used herein and defined in the Construction Loan Agreement, means general and administrative costs relating to the Property, repair and maintenance costs, janitorial expenses, utility expenses, a management fee not to exceed four percent (4.0%) of Gross Income, payroll expenses (if appropriate), real estate taxes and assessments, and property and liability insurance costs.

J. Forbearance and Amendment Agreement. On or around July 19, 2010, the Debtor and certain other parties, including guarantors, on one hand, and the Lender, on the other hand, executed that certain Forbearance and Amendment Agreement (the “Forbearance Agreement”). Pursuant to the Forbearance Agreement, the Debtor deposited and/or caused the

Debtor's tenants and/or caused the Debtor's property manager, CB Richard Ellis, Inc. (the "Property Manager"), to deposit, all revenues from the Property and other related income (collectively, the "Revenues") into the Clearing Account located at the Depository Bank. Pursuant to Section 6.2(b) of the Forbearance Agreement, the Lender applied funds from the Clearing Account as follows: *first*, to the Lender, monthly interest due on the Loan at the interest rate of four percent (4.0%) per annum; *second*, to the Debtor, \$100,000.00 to be used to pay the Project Expenses, *provided however*, that (a) any portion of the funds remitted to the Debtor for monthly Project Expenses that was not expended in such month reduced the amount disbursed by the Lender for the payment of Project Expenses in the following month; and (b) the Lender, on occasion and in its discretion, funded amounts for Project Expenses in excess of \$100,000.00 per month but only upon receipt of evidence reasonably satisfactory to the Lender of the necessity for such expenditures and subject to the availability of funds in the Clearing Account; *third*, to the Lender, additional amounts of interest, as if the rate of interest on the Loan were six percent (6.0%) per annum; *fourth*, to the Debtor, an asset management fee in an amount not to exceed \$13,500.00; and *fifth*, to the Lender to be applied against the Shortfall (as defined in the Forbearance Agreement).

K. Necessity of Use of Cash Collateral. The Debtor does not have sufficient unencumbered cash or other assets with which to continue to operate its business in Chapter 11. The Debtor is unable to obtain unsecured credit (other than normal unsecured trade credit) allowable under Section 503(b) of the Bankruptcy Code. The Debtor requires immediate authority to use Cash Collateral in order to continue its business operations without interruption toward the objective of formulating an effective plan of reorganization. The Debtor's use of Cash Collateral to the extent and on the terms and conditions set forth herein is necessary to

avoid immediate and irreparable harm to the estate pending a final hearing. This Order is entered pursuant to, and shall be construed and be consistent with Section 363 of the Bankruptcy Code and Bankruptcy Rule 4001(b)(2) to prevent immediate and irreparable harm to the Debtor's estate.

L. Best Interest. It is in the best interest of the Debtor's estate that in exchange for providing adequate protection to the Lender in the manner and amount set forth herein, the Debtor be allowed to utilize Cash Collateral under the terms and conditions set forth herein, as such use is necessary to prevent a disorderly termination or disruption of its business, and to permit the Debtor to compensate its employees.

M. Use of Cash Collateral. The Debtor is hereby authorized to use Cash Collateral on an interim basis and only in strict accordance with the terms and conditions provided in this Order to meet the ordinary cash needs of the Debtor (and for such other purposes as may be approved in writing by the Lender prior to the making of any such expenditure) for the payment of actual expenses of the Debtor necessary to (a) maintain and preserve its assets, and (b) continue operation of its business and insurance expenses as reflected in the Debtor's budget, annexed hereto as Exhibit A, as it may, subject to the agreement and approval of the Lender, be supplemented or extended (the "Budget"). Notwithstanding anything in the Budget, the Debtor's use of Cash Collateral pursuant to this Order shall be limited to the period beginning upon the entry of this Order and ending on February 28, 2011.

N. Interim Use of Cash Collateral. Subject to compliance with the conditions of this Order and so long as no Termination Event (as defined below) occurs, the amount of Cash Collateral authorized to be used by the Debtor pending a final hearing or entry of a final order is

not to exceed \$220,000.00, the approximate amount reflected in the Budget for the time period of January 12, 2011 through February 28, 2011.

O. Good Faith. The Lender has acted in good faith for purposes of Section 364(e) of the Bankruptcy Code.

P. Adequate Protection. The Lender is entitled, under Section 363(e) of the Bankruptcy Code, to adequate protection against the diminution the value of the Cash Collateral.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Motion Granted. The Motion is GRANTED as set forth herein.
2. Use of Cash Collateral. The Debtor is authorized, through February 28, 2011, to use Cash Collateral on an interim basis solely in strict compliance with the terms of this Order and the Budget (for the time period through February 28, 2011) in an amount not in excess of \$220,000.00. In the event of any inconsistency between this Order and the Budget, this Order controls.
3. Adequate Protection. The Lender is entitled, pursuant to Section 363(e) of the Bankruptcy Code, to adequate protection with regard to the diminution in the value of the Cash Collateral and the Prepetition Collateral (the amount of any such diminution being referred to hereinafter as the "Adequate Protection Obligations").
4. Adequate Protection Liens. As security for the Adequate Protection Obligations, the Lender is hereby granted (effective and perfected as of the Petition Date and without the necessity of the execution by the Debtor of mortgages, security agreements, pledge agreements, financing statements or other agreements) a valid and perfected first priority security interest in, and perfected first priority mortgage lien on (the "Adequate Protection Liens"), (x) the

Prepetition Collateral and all postpetition proceeds thereof or therefrom, and (y) all of the Debtor's presently owned or hereafter acquired property and assets (the "Collateral" or the "Postpetition Collateral") whether the Debtor acquired such Collateral before or after the Petition Date to the extent of and senior in priority to the liens held by the Lender in the Prepetition Collateral but subject to (or on the same level with) any liens duly and properly perfected prior to the Petition Date provided such liens (if any) were specifically permitted to be senior or *pari passu* to the Prepetition Debt in the Prepetition Agreements and are unavoidable under the Bankruptcy Code. The Adequate Protection Obligations shall have priority in right of payment over any other obligations now in existence or hereafter incurred by the Debtor and over any and all administrative expenses or priority claims of any kind, including as specified in, or ordered pursuant to, Sections 326, 330, 331, 503(b), 506(c), 507(a) or 507(b) of the Bankruptcy Code, whether arising in the Chapter 11 Case or in any superseding Chapter 7 case. The Adequate Protection Liens shall not exceed the value of the Lender's Prepetition Collateral as of the Petition Date less any postpetition permanent repayment of the Lender's Prepetition Debt. The Lender's claim for Adequate Protection Obligations (the "Adequate Protection Claim") and the Collateral that secures such Adequate Protection Claim shall be subject only to the prepetition senior liens, if any, of other creditors provided that such senior liens were permitted under the Prepetition Agreements and are duly perfected and unavoidable.

5. Carve-Out for 28 U.S.C. § 1930(a) Fees. Notwithstanding the liens, mortgages, and security interests granted herein to secure to the Adequate Protection Claim, the Collateral may be used by the Debtor, if sufficient funds are not otherwise available from the Debtor's estate, to pay the statutory fees of the Clerk of the Bankruptcy Court and the United States Trustee pursuant to 28 U.S.C. §1930(a).

6. Perfection of Adequate Protection Liens.

- a. The Adequate Protection Liens granted under this Order shall constitute valid and duly perfected security interests and liens on the Collateral, and such liens shall be deemed perfected pursuant to this Order without any requirement on the part of the Lender to file or record financing statements, mortgages, notices of lien or similar instruments which otherwise may be required under federal or state law in any jurisdiction, or take any action, including taking possession, to validate and perfect such security interests and liens, and such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination, as of the date of entry of this Order except as may be specifically provided in paragraph 15 hereof.
- b. The Lender is hereby authorized (without further Order of this Court), but not required, to file or record financing statements, mortgages, notices of lien or similar instruments in any jurisdiction, or take possession of or control over, or take any other action in order to validate, perfect and continue the perfection of the liens and security interests granted to the Lender hereunder or under the Prepetition Agreements. The failure of the Debtor to execute any documentation relating to the enforceability, priority or perfection of the Adequate Protection Liens shall in no way affect the validity, perfection or priority of the Adequate Protection Liens.
- c. If the Lender, in its sole discretion, elects to file any financing statements, mortgages, notices of lien or similar instruments, or otherwise to confirm perfection of such Adequate Protection Liens, the Debtor shall reasonably cooperate with and assist in such reasonable process, the stay imposed under Section 362 of the Bankruptcy Code is hereby lifted to permit the filing and recording of a certified copy of this Order or any such financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, and all such documents shall be deemed to have been filed and recorded at the time of and on the date of this Order.
- d. A certified copy of this Order may, in the discretion of the Lender, be filed with or recorded in the appropriate filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Order for filing and recording.

7. Statutory Rights Under Section 507(b). To the extent the adequate protection provided for hereby proves insufficient to protect the Lender's interests in and to the Debtor's use of Cash Collateral and the other Collateral, the Lender shall have a superpriority

administrative expense claim, pursuant to Section 507(b) of the Bankruptcy Code, senior to any and all claims against the Debtor under Section 507(a) of the Bankruptcy Code, whether in this proceeding or in any superseding proceeding, subject to payments due under 28 U.S.C. § 1930(a)(6).

8. Maintenance of Clearing Account. The prepetition payment procedures described herein and in the Forbearance Agreement shall continue in full force and effect unless otherwise directed by the Lender or by this Court. Notwithstanding the foregoing, the Clearing Account shall become a debtor-in-possession account following the Petition Date. The Debtor shall deposit, or shall cause its Court appointed property manager (the "Property Manager") and/or its tenants to deposit, all Revenues (including all Revenues collected postpetition and not yet deposited into the Clearing Account, which shall be deposited into the Clearing Account within one (1) business day of the entry of this Order) into the Clearing Account at the Depository Bank. Beginning on February 1, 2011, and provided continued use of Cash Collateral by the Debtor beyond February 28, 2011 is authorized by this Court, and continuing each month thereafter during the period for which use of Cash Collateral is authorized, the Debtor and the Property Manager shall apply funds from the Clearing Account as follows:

- a. *First*, to the Lender, monthly interest on the Prepetition Debt at the interest rate of four percent (4.0%) per annum;
- b. *Second*, but only to the extent there are funds remaining in the Clearing Account after the disbursement made in ¶ 8.a., \$100,000.00 to the Property Manager to be used for the payment of Project Expenses, *provided however*, that (x) any portion of the funds remitted to the Property Manager for monthly Project Expenses not expended in any month shall reduce, dollar for dollar, the amount remitted by the Lender for such purpose in the following month; and (y) the Property Manager may disburse funds to pay Project Expenses in excess of \$100,000.00 in any given month but only upon receipt by Lender of evidence reasonably satisfactory to the Lender of the necessity for such expenditures and subject to the Lender's written consent and further subject to availability of funds in the Clearing Account;

- c. *Third*, and only to the extent there are funds remaining in the Clearing Account after the disbursement made in ¶ 8.b., to the Lender, additional amounts of interest to Lender, calculated as if the rate of per annum interest were six percent (6.0%);
- d. *Fourth*, and only to the extent there are funds remaining in the Clearing Account after the disbursement made in ¶ 8.c., to the Debtor, an asset management fee in an amount not to exceed \$13,500.00 but only following receipt by Lender of evidence satisfactory to it that such funds are available to pay the management fee; and
- e. *Fifth*, and only to the extent there are funds remaining in the Clearing Account after the disbursement made in ¶ 8.d., to the Lender to be applied against the Shortfall.
- f. Following the disbursements in ¶ 8.a-e hereof, the Clearing Account shall have a balance of \$0 at the end of each month, *provided, however*, that any prepaid Revenues may remain in the Clearing Account until the month for which such rents are attributable. All checks or other disbursements from the Clearing Account shall be co-signed by the Property Manager and the Debtor. The Property Manager shall be served with a copy of this Order.

9. Maintenance of Collateral. The Debtor, at its expense, shall (a) continue to comply with all provisions in the Prepetition Agreements regarding maintenance of the Collateral including but not limited to paragraph 13 of the Mortgage; (b) continue to keep the Collateral fully insured against all loss, peril and hazard and make the Lender co-insured and loss payee as its interests appear under such insurance policies which policies shall be issued by third party insurers reasonably acceptable to the Lender; and (c) pay any and all postpetition taxes, assessments and governmental charges with respect to the Collateral and provide the Lender with proof thereof as and when requested by the Lender.

10. Monitoring of Collateral. The Debtor shall comply with all provisions in the Prepetition Agreements providing the Lender with access to and inspection of the Collateral, including but not limited to paragraphs 15-17 of the Mortgage. In addition, the Lender shall be permitted to retain expert consultants and financial advisors at the reasonable expense of the

Debtor. The Debtor shall permit any such consultant or advisor to have reasonable access to the Debtor's premises and non-privileged records during normal business hours and shall reasonably cooperate, consult with and provide to such persons all such non-privileged information as they may reasonably request from time to time. The Debtor reserves and preserves all rights as to the reasonableness of any fees charged.

11. Reporting Requirements. The Debtor shall comply with all reporting requirements under the Prepetition Agreements and shall provide the Lender with the following reports on a weekly business day basis: (1) cash receipts; (2) disbursements; and (3) scheduled Leasing Calls (as defined in the Forbearance Agreement). The Debtor shall provide the Lender with such written reports as the Lender and the Debtor agree, in their reasonable discretion. The Debtor shall cause the Property Manager to provide the Lender with monthly accounting reports consistent with the parties' prepetition practice.

12. Books and Records. The Debtor is directed to keep its books and records of original entry, current and updated, so that all business activity is posted to them in the ordinary course of the Debtor's business. At any reasonable time and during normal business hours (without unreasonably interfering in the Debtor's business operations), the Lender and its professional advisors shall be permitted to inspect audit, examine, check, make copies of or extracts from the books, accounts, checks, orders, invoices, correspondence and other records of the Debtor, and the Debtor shall make all of same available to the Lender and its representatives, for such purposes. To the extent deemed necessary by the Debtor and the Lender, the Lender shall execute a reasonable confidentiality agreement.

13. Termination Events. The occurrence of any of the following shall constitute an event of termination (a "Termination Event") under this Order, upon the occurrence of which the

Lender shall have no obligation to permit the continued use of Cash Collateral, and the Debtor's ability to use Cash Collateral shall be terminated upon the giving of two business day's written notice thereof by the Lender to the counsel for the Debtor (the "Termination Notice"), who will immediately supply a copy of such Termination Notice to any creditors' committee's counsel (if appointed) and the Office of the United States Trustee:

- a. the Chapter 11 Case is either dismissed or converted to a case under Chapter 7 of the Bankruptcy Code;
- b. a trustee or an examiner is appointed in the Chapter 11 Case;
- c. this Order is reversed, vacated, stayed, amended, supplemented or otherwise modified in a manner which shall, in the sole opinion of the Lender, materially and adversely affect the rights of the Lender hereunder or shall materially and adversely affect the amount of or priority of any or all of the Lender's claims, liens or security interests; or
- d. non-compliance or default by the Debtor with respect to any of the terms and provisions of this Order (including, without limitation, the Budget and the payment provisions set forth herein).

14. Occurrence of Termination Event. Upon the occurrence of a Termination Event and the giving of the Termination Notice by the Lender to the Debtor:

- a. the Debtor shall, pursuant to paragraph 13 hereof, be prohibited from using Cash Collateral absent the Lender's prior written consent or an Order of this Court;
- b. the Lender shall have the right, free of the restrictions of Section 362 of the Bankruptcy Code and without further application to this Court, to take immediate reasonable action to protect and preserve the Collateral, and, after five (5) Business Days' notice to the Debtor's counsel and any Creditors' Committee counsel, to foreclose on the Cash Collateral; and
- c. with respect to all Collateral (other than the Cash Collateral that is covered by subparagraph b of this Section 14), the Lender shall have the right to a hearing ten (10) days following the service of the Termination Notice, and subject to this Court's availability, for relief from the automatic stay of Section 362 of the Bankruptcy Code to exercise Lender's rights and remedies pursuant to the Prepetition Agreements and/or applicable law, including but not limited to its rights to foreclose on the Property.

15. Effect of Stipulations on the Debtor and Third Parties. The stipulations and admissions contained in this Order shall be binding upon the Debtor and any successor thereto (including any Chapter 7 or Chapter 11 trustee appointed or elected) and all other parties in interest, including any statutory committee appointed in this case, unless (a) a party in interest has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein) by no later than the date that is 75 days after the entry of the Interim Order (or such later date (x) as has been agreed to, in writing, by the Lender in its sole discretion or (y) as has been ordered by the Court) (i) challenging the validity, enforceability, priority or extent of the Prepetition Debt or the Lender's liens on the Prepetition Collateral or (ii) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other any claims, counterclaims or causes of action, objections, contests or defenses (collectively, "Claims and Defenses") against the Lender or its respective affiliates, representatives, attorneys or advisors in connection with matters related to the Prepetition Agreements, the Prepetition Debt, or the Prepetition Collateral, and (b) there is a final order in favor of the plaintiff/movant sustaining any such challenge or claim in any such timely filed adversary proceeding or contested matter. If no such adversary proceeding or contested matter is timely filed as set forth herein or (x) as has been agreed to, in writing, by the Lender in its sole discretion or (y) as has been ordered by the Court) (i) challenging the validity, enforceability, priority or extent of the Prepetition Debt or the Prepetition Agreements or the Lender's liens on the Prepetition Collateral or (ii) otherwise asserting or prosecuting any Claims and Defenses against the Lender or its respective affiliates, representatives, attorneys or advisors in connection with matters related to the Prepetition Agreements, the Prepetition Debt, or the Prepetition Collateral, then (x) all of the admissions, agreements and representations of the Debtor contained

in this Order shall be binding upon all other creditors and parties in interest in this Case; (y) the Prepetition Debt shall constitute an allowed secured claim secured by the Collateral, and not subject to counterclaim, setoff, subordination, recharacterization, defense or avoidance, for all purposes in this Chapter 11 Case and any subsequent Chapter 7 case, (y) the Lender's liens on the Prepetition Collateral shall be deemed to be enforceable, legal, valid, binding and perfected, as of the Petition Date, and shall have the priority set forth in paragraph G hereof, and shall not be subject to recharacterization, subordination or avoidance and (z) the Prepetition Debt, the Lender's liens on the Prepetition Collateral and the Lender shall not be subject to any other or further challenge by any creditor of the Debtor or any other party in interest, including any successor thereto (including any Chapter 7 or 11 trustee appointed or elected for the Debtor). If any such adversary proceeding or contested matter is timely filed, the stipulations and admissions contained in paragraph G of this Order shall nevertheless remain binding and preclusive (as provided in the first sentence of this paragraph) on any official creditors committee and on any other person or entity, except to the extent that such findings and admissions were expressly challenged in such adversary proceeding or contested matter until such adversary proceeding or contested matter is concluded, either by virtue of a final Order of this Court or by virtue of a settlement or withdrawal of any such adversary proceeding or contested matter. Notwithstanding the foregoing, nothing in this Order vests or confers on any Person (as defined in the Bankruptcy Code), including any statutory committee appointed in the Chapter 11 Case standing or authority to pursue any cause of action belonging to the Debtor or its estate including Claims and Defenses with respect to the Prepetition Agreements or the Prepetition Debt.

16. Modification of Automatic Stay. The automatic stay provisions of Section 362 are hereby modified to permit the Debtor and Lender to undertake and perform all acts and take all actions necessary to implement this Order.

17. Continuing Effect of Order; Adequate Protection Claim. The provisions of this Order and any actions taken pursuant hereto shall survive entry of any order which may be entered confirming any plan of reorganization or which may be entered converting this case from Chapter 11 to Chapter 7 of the Bankruptcy Code; provided, further, that the terms and provisions of this Order, as well as the liens, mortgages and security interests and the Adequate Protection Claim granted shall continue in this or any superseding case under the Bankruptcy Code and such liens, mortgages and security interests and the Adequate Protection Claim shall maintain their priority as provided by this Order until the Prepetition Obligations are satisfied in full, even in the event that this Order is reversed or modified on appeal.

18. Lender's Entitlement to Additional Adequate Protection. Nothing contained in this Order or by the Lender's consent to the use of Cash Collateral shall constitute a determination that the Lender is not entitled to additional adequate protection for continued use of Cash Collateral. This Order shall not constitute a concession by the Lender or a finding by the Court that the Lender's interest in the Prepetition Collateral is "adequately protected" within the meaning of Sections 361 and 363 of the Bankruptcy Code.

19. Interlocutory Order; No Modification of Creditor's Adequate Protection. This is an interlocutory order. Nothing in this Order shall be construed to limit the Debtor's or the Lender's rights to apply to the Court at any time for modification of this Order, for different or additional adequate protection, for termination of the use of Cash Collateral, for relief from the automatic stay, or for any other relief.

20. Effective Immediately; No Stay. Notwithstanding Bankruptcy Rule 7062, the terms and conditions of this Order shall be: (a) immediately enforceable pursuant to Bankruptcy Rule 8005; and (b) not be stayed absent (1) an application by a party in interest for such stay in conformance with such Bankruptcy Rule 8005, and (2) a hearing upon notice to the Debtor and the Lender.

21. Lincoln University Ownership Interest. Notwithstanding anything contained herein to the contrary but subject to the provisions of Paragraph 15 hereof, this Order shall not in any way affect the rights and interests of Lincoln University as a property owner in any of its property, including, without limitation, the rights and interests of Lincoln University as owner in fee simple and lessor of the real property located at 3020-3052 Market Street in the City Philadelphia, County of Philadelphia, Commonwealth of Pennsylvania.

FINAL HEARING ORDER

IT IS FURTHER ORDERED, AND NOTICE IS HEREBY GIVEN

That any creditor or other interested party having any objection to this Interim Order shall file with the Clerk of this Court and serve upon counsel for the Debtor on or before the 23rd day of February, 2011, at Close of business, a written objection and shall appear to advocate said objection at a Final Hearing to be held at 2:00 p. m. on the 24th day of February, 2011 in Courtroom 3 of the United States Bankruptcy Court for the Eastern District of Pennsylvania, Philadelphia, Pennsylvania. In the event no objections are filed or not advocated at such hearing, then this Order shall continue in full force and effect and shall be deemed a Final Order without further notice or hearing in accordance with Federal Rules of Bankruptcy Procedure 4001(d)(3).

NOTICE ORDER

IT IS FURTHER ORDERED that the Debtor serve a copy of this Order and Notice by first class mail within two (2) business days from the date hereof, on the following: (1) the United States Trustee, (2) the District Director of the Internal Revenue Service, (3) the Pennsylvania Division of Taxation, (4) all known secured creditors, (5) counsel to the Creditors' Committee, if any or Top 20 Creditors and (6) counsel for the Lender. Debtor shall immediately file with the Clerk a Certificate of Service of said mailing.

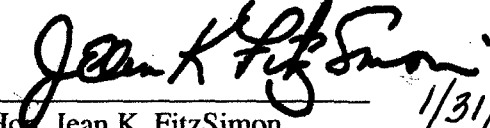

Hon. Jean K. FitzSimon 1/31/11
United States Bankruptcy Judge

EXHIBIT A

3020 Market Street - 2011 Operating Budget						
Rent Income	<u>Lease/Su</u> ID	SF	% share	Jan	Feb	Total
Vacant	100	5,107	2.35%			0.00
Vacant	101	5,686	2.62%			0.00
Vacant	102	5,686	2.62%			0.00
DaVita (Total Renal Care)	103	11,752	5.42%	0.00	0.00	0.00
University of Pennsylvania	200	32,713	16.95%	79,107.12	79,107.12	158,214.24
Level 3 Communications, LLC	300	25,887	11.93%	61,481.63	61,481.63	122,963.26
Lincoln University (Conf Ctr)	316	1,039	0.48%	0.00	0.00	0.00
Synterra, Ltd	302	809	0.37%	1,890.50	1,890.50	3,781.00
Lincoln University	304	6,015	2.77%			
Lincoln University	400	32,953	15.19%	0.00	0.00	0.00
Vacant	500	32,980	15.20%			0.00
Vacant	501		0.00%			
Vacant	600	32,925	15.17%			
Vacant	601		0.00%			
Level 3 Communications, LLC	S1	3,302	1.52%	2,176.13	2,176.13	4,352.26
T-Mobile Northeast, LLC	S2	657	0.30%	0.00	0.00	0.00
AT&T	S3	689	0.32%	0.00	0.00	0.00
University of Pennsylvania	S4	217	0.00%	152.25	152.25	304.50
Vacant	S5	19,089	8.80%			
T-Mobile Northeast, LLC	R1		0.00%	1,761.14	1,761.14	3,522.28
AT&T (Cingular)	R2		0.00%	1,566.67	1,566.67	3,133.34
Level 3 Communications, LLC	R3		0.00%	2,352.00	2,352.00	4,704.00
University of Pennsylvania	R4		0.00%	0.00	0.00	0.00
University of Pennsylvania	Shaft		0.00%	964.92	964.92	1,929.84
Total Rents		217,008	102.00%	151,452.36	151,452.36	302,904.72
Other Revenue		217506				
Parking - UPHS				3,000.00	3,000.00	6,000.00
Parking - DaVita				0.00	0.00	0.00
Parking - L3				780.00	780.00	1,560.00
Parking - LU				1,000.00		1,000.00
Vending/Other				0.00	0.00	0.00
Total Other Revenue		23954		4,780.00	3,780.00	8,560.00
Total Rent & Other				156,232.36	155,232.36	311,464.72
CAM Reimbursements	<u>Lease/Su</u> ID	SF	% share	Jan	Feb	Total
Vacant	100	4,359	2.01%			0.00
Vacant	101	5,686	2.62%			0.00
Vacant	102	5,686	2.62%			0.00
Vacant	103	12,500	5.76%			0.00
University of Pennsylvania	200	32,713	16.95%	2,719.28	2,719.28	5,438.56
Level 3 Communications, LLC	300	26,696	13.80%	2,213.93	2,213.93	4,427.86
Lincoln University (Conf Ctr)	301	4,958	2.28%			0.00
Synterra	302	809	0.37%			
Lincoln University	400	32,953	15.19%			0.00
Vacant	500	32,980	15.20%			0.00
Vacant	501		0.00%			0.00
Vacant	600	32,925	15.17%			0.00
Vacant	601		0.00%			0.00
Level 3 Communications, LLC	S1	500	0.23%			0.00
T-Mobile Northeast, LLC	S2	150	0.07%			0.00
AT&T	S3	540	0.25%			
University of Pennsylvania	S4		0.00%			

Vacant	S5	23,111	10.65%			
T-Mobile Northeast, LLC	R1		0.00%			
AT&T	R2		0.00%			
Level 3 Communications, LLC	R3		0.00%			
University of Pennsylvania	R4		0.00%			
University of Pennsylvania	Shaft		0.00%			
Total		217,008	100.0%	4,933.21	4,933.21	9,866.42
Utility Reimbursements	Lease/Su	SF	% share	Jan	Feb	Total
	ID					
Vacant	100	4,359	2.0%			
Vacant	101	5,686	2.6%			
Vacant	102	5,686	2.6%			
DaVita (Total Renal Care)	103	11,752	5.4%	0.00	0.00	0.00
University of Pennsylvania	200	32,713	16.95%	11,477.28	11,500.00	22,977.28
Level 3 Communications, LLC	300	26,696	13.8%	19,316.94	19,050.71	38,367.65
Lincoln University (Conf Ctr)	301	4,958	2.3%	0.00	0.00	0.00
Synterra	302	809	0.4%			
Lincoln University	400	32,953	15.3%			
Vacant	500	32,980	15.2%			0.00
Vacant	501		0.0%			
Vacant	600	32,925	15.3%			
Vacant	601		0.0%			
Level 3 Communications, LLC	S1	500	0.2%			
T-Mobile Northeast, LLC	S2	150	0.1%			
AT&T	S3	540	0.3%			
University of Pennsylvania	S4		0.0%			
Vacant	S5	23,111	10.7%			
T-Mobile Northeast, LLC	R1		0.0%	530.40	215.18	745.58
AT&T	R2		0.0%	918.53	853.39	1,771.92
Level 3 Communications, LLC	R3		0.0%			0.00
University of Pennsylvania	R4		0.0%			
University of Pennsylvania	Shaft		0.0%			
Total		215818	103.1%	32,243.15	31,619.28	63,862.43
Total Income				193,408.72	191,784.85	385,193.57
EXPENSES						
Utilities	Account #			Jan	Feb	Total
Electricity	5110			0.00	42,000.00	42,000.00
Steam	5160			0.00	13,000.00	13,000.00
Water/Sewer	5130			0.00	2,250.00	2,250.00
Total				0.00	57,250.00	57,250.00
Electr System	Account #			Jan	Feb	Total
Misc Service	5520			400.00	400.00	800.00
Total				400.00	400.00	800.00
Cleaning	Account #			Jan	Feb	Total
Janitorial Contract	5210			7,600.00	7,600.00	15,200.00
Restroom Supplies	5220			900.00	900.00	1,800.00
Day Porter	5240			4,300.00	4,300.00	8,600.00
Janitorial Other	5290			1,000.00	1,000.00	2,000.00
Total				13,800.00	13,800.00	27,600.00

Gen Building	Account #		Jan	Feb	Total
Window Washing	5230				0.00
Elevator Maint	5320		0.00	1,803.00	1,803.00
HVAC Maint	5430		0.00	3,000.00	3,000.00
R&M Roof	5510		0.00	600.00	600.00
Misc Service	5520		400.00	400.00	800.00
Ext. Maint	5540		200.00	200.00	400.00
R&M Supplies	5555		200.00	200.00	400.00
R & M Salary	5560		0.00	0.00	0.00
Fire Safety	5570		180.00	180.00	360.00
R & M Other	5590		1,500.00	1,500.00	3,000.00
Pest Control	5620		107.00	107.00	214.00
Signage	5680		0.00	0.00	0.00
Security - Contract	5710		13,500.00	13,500.00	27,000.00
Total			16,087.00	21,490.00	37,577.00
Roads & Grounds	Account #		Jan	Feb	Total
Sweeping	5610		0.00	0.00	0.00
Trash Removal	5630		0.00	650.00	650.00
Snow Removal	5670		2,000.00	2,500.00	4,500.00
Landscaping	5640		0.00	0.00	0.00
R & G Other	5650		0.00	0.00	0.00
Total			2,000.00	3,150.00	5,150.00
Administrative	Account #		Jan	Feb	Total
Mgt Fee	5810		1,549.00	4,000.00	5,549.00
Onsite Expenses	5820		420.00	700.00	1,120.00
Admin Salaries	5830		4,800.00	8,000.00	12,800.00
Other - Bank Service Charges	5860		350.00	350.00	700.00
Asset Management Salaries	5830		0.00	0.00	0.00
Total			7,119.00	13,050.00	20,169.00
Fixed	Account #		Jan	Feb	Total
R.E. Taxes	5910		0.00	0.00	0.00
U&O Tax			0.00	0.00	0.00
Insurance	6010		0.00	0.00	0.00
Total			0.00	0.00	0.00
TOTAL OPERATING EXP		217007	39,406.00	109,140.00	148,546.00
NET OPERATING INCOME			154,002.72	82,644.85	236,647.57
Mortgage Interest				(87,774.15)	(87,774.15)
Non-Operating Exp	Account #		Jan	Feb	Total
Leasing/Marketing	7280		0.00	0.00	0.00
Lease Commissions	7150		0.00	0.00	0.00
Tenant Improvements	1520		0.00	0.00	0.00
Capital Improvemnts	1515		0.00	0.00	0.00
Structural Repairs	5540		0.00	0.00	0.00
Total			0.00	0.00	0.00
Gross Income			154,002.72	(5,129.30)	148,873.42