

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:) Chapter 11
)
Clare Oaks,) Case No. 11 B 48903
)
Debtor.) Honorable Pamela S. Hollis
)
)

**INTERIM ORDER (I) AUTHORIZING DEBTOR
TO OBTAIN POSTPETITION FINANCING ON A SENIOR SECURED
SUPERPRIORITY BASIS PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, AND 364,
(II) SETTING A FINAL HEARING AND (III) GRANTING RELATED RELIEF**

Upon the motion (the Motion), dated December 13, 2011, of Clare Oaks (the "Debtor"), as debtor and debtor in possession, in the above-captioned case (the "Chapter 11 Case") pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) and 364(e) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and the Local Bankruptcy Rules for the United States Bankruptcy Court for the Northern District of Illinois (the "Local Bankruptcy Rules"), seeking, among other things, entry of an interim order (the "Interim Order") and a final order (the "Final Order");

(i) authorizing the Debtor to obtain postpetition financing (the "Financing") in the form of a multiple draw term loan made available to the Debtor in a principal amount of up to \$6,000,000 (the "Facility")¹ with superpriority claims and first priority priming liens senior to any prepetition or postpetition liens (subject to the conditions

¹ The DIP Lender (defined below) is only obligated to fund up to \$1,500,000 pursuant to this Interim Order, and the balance of the \$6,000,000 facility is contemplated to be funded pursuant of the terms of a Final Order when such order becomes a final and non-appealable order.

herein), pursuant to sections 105, 361, 362, 363, and 364 of the Bankruptcy Code from Senior Care Development, LLC or its designee (the “DIP Lender”);

(ii) authorizing the Debtor to execute and deliver final documentation substantially in the form of the Senior Secured Super-Priority Debtor-in-Possession Loan Agreement (attached hereto as Exhibit A, the “DIP Credit Agreement”)² and any other document requested by the DIP Lender (subject to the review and consent of the Secured Creditors (as hereinafter defined), which shall not be unreasonably withheld or delayed) in connection with the Financing pursuant to the DIP Credit Agreement including, without limitation, security agreements, pledge agreements, mortgages, leasehold mortgages, financing statements, deeds of trust and other security documents (along with the DIP Credit Agreement and all of the forgoing whenever executed, collectively, the “DIP Documents”);

(iii) scheduling a final hearing (the “Final Hearing”) pursuant to Bankruptcy Rules 4001(b), (c) and (d); and

(iv) granting related relief;

the Court having considered the Motion, having examined the exhibits attached thereto, and having completed the Interim Hearing (defined below) as provided for under section 364 of the Bankruptcy Code, Bankruptcy Rule 4001(c), and applicable Local Bankruptcy Rules, and finding the Debtor provided notice as set forth below to all necessary parties and that no further notice is required:

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

² All capitalized terms not otherwise defined herein shall have the meaning ascribed in the DIP Credit Agreement.

A. **Petition Date.** Commencing on December 5, 2011 (the "Petition Date"), the Debtor filed a voluntary petition under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Northern District of Illinois (the "Bankruptcy Court" or this "Court"). The Debtor has continued in the management and operation of its business and property as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Chapter 11 Case.

B. **Jurisdiction.** This Court has core jurisdiction over the Chapter 11 Case, the Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. The statutory predicates for the relief sought herein are sections 105, 361, 362, 363 and 364 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, 6004 and 9014 and the Local Bankruptcy Rules.

C. **Notice.** Due and appropriate notice of the Motion, the relief requested therein and the Interim Hearing having been served by the Debtor on: (i) the Office of the United States Trustee for the Northern District of Illinois; (ii) the Debtor's 20 largest unsecured creditors on a consolidated basis; (iii) counsel to the DIP Lender; (iv) counsel to Wells Fargo Bank, National Association, as master trustee under that certain Master Trust Indenture dated as of July 1, 2006 and as mortgagee under the Leasehold Mortgage and Security Agreement dated as of July 1, 2006 (the "Master Trustee") with respect to certain bonds (collectively, the "Series 2006 Bonds") issued for the benefit of the Debtor by the Illinois Finance Authority (the "Authority") pursuant to two separate Bond Trust Indentures between the Authority and Wells Fargo Bank, National Association, as Bond Trustee (the "Bond Trustee"), each dated as of July 1, 2006, (v) counsel to Sovereign Bank (the "Bank"; and together with the Master Trustee, the "Secured Creditors"), the issuer of certain letters of credit backing certain of the Series 2006 Bonds, (vi) counsel to The

Sisters of St. Joseph of the Third Order of St. Francis, Inc. (the "Landlord") and (vii) any other known lienholder as of the Petition Date whose liens are being primed under the Financing in compliance with Bankruptcy Rule 4001(b) and (c) and the Local Bankruptcy Rules.

D. **Opportunity to be Heard.** Pursuant to Bankruptcy Rule 4001, an interim hearing (the "Interim Hearing") on the Motion was held before this Court to consider entry of this Order on December 15, 2011.

E. **Disposition.** The Motion is granted on an interim basis in accordance with the terms of this Interim Order. Any objections to the Motion with respect to the entry of this Interim Order that have not been withdrawn, waived or settled are hereby denied and overruled for purposes of this Interim Order only. Notwithstanding the foregoing, all parties reserve all rights to object to any additional interim order or final order approving the Motion and nothing contained herein or otherwise shall be deemed a waiver or limitation of such rights.

F. **Lender's Protections.** The DIP Lender is willing to lend money and provide other financial accommodations to the Debtor only on the terms and conditions and with the protections provided herein and in the DIP Documents and is relying on such terms, conditions, and protections in agreeing to lend money and provide financial accommodations to the Debtor hereunder.

G. **Immediate Entry of the Order.** The Debtor has requested that this Interim Order become immediately effective and enforceable upon entry, notwithstanding any provisions that may apply in Bankruptcy Rules 6004(h), 6006(d), 7062, or 9014 or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure. The Debtor has demonstrated good cause for the entry of this Interim Order and for this Interim Order to become immediately effective and enforceable upon entry. Among other things, entry of this Order and the immediate

effectiveness and enforceability of this Interim Order upon entry will minimize the disruption of the Debtor's business operations and permit the Debtor to satisfy its operating expenses, and is in the best interests of the Debtor and the Debtor's bankruptcy estate. The terms of the borrowings and other financial accommodations authorized hereby are fair and reasonable under the circumstances and reflect the Debtor's exercise of prudent business judgment consistent with its fiduciary duties.

H. **Findings Regarding the Financing.**

- (i) Good cause has been shown for the entry of this Interim Order;
- (ii) The Debtor has an immediate need to obtain the Financing, to the extent set forth in the Budget (as defined in the DIP Credit Agreement and attached hereto as Exhibit B), to (a) fund the postpetition operating expenses of the Debtor incurred in the ordinary course of business, (b) pay interest, fees and expenses in connection with the Financing to the DIP Lender in accordance with the DIP Documents, (c) make adequate protection payments to the Master Trustee or its designee and (d) pay certain other costs and expenses of administration of the Chapter 11 Case. The access of the Debtor to sufficient working capital and liquidity through the incurrence of new indebtedness for borrowed money and other financial accommodations is vital to the preservation and maintenance of the going concern value of the Debtor and to a successful reorganization of the Debtor;
- (iii) The Debtor currently is unable to obtain financing on more favorable terms from sources other than the DIP Lender under the DIP Documents and is unable to obtain adequate unsecured credit allowable under

section 503(b)(1) of the Bankruptcy Code as an administrative expense. Because of the liens on the Debtor's property held by the Master Trustee securing its claims there exists no equity in such property and therefore the Debtor is unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code for the purposes set forth in the DIP Documents without the Debtor granting to the DIP Lender, subject to the Carve Out (as defined below), the DIP Liens (as defined below) and the Superpriority Claims (as defined below) under the terms and conditions set forth in this Interim Order and in the DIP Documents;

(iv) The terms of the Financing are fair and reasonable and reflect the Debtor's exercise of prudent business judgment consistent with its fiduciary duties;

(v) The Financing has been negotiated in good faith and at arm's length among the Debtor and the DIP Lender, and all of the Debtor's obligations and indebtedness arising under, in respect of or in connection with the Financing and the DIP Documents, including without limitation, all loans pursuant to the DIP Documents, and any other expenses or obligations under the DIP Documents (all of the foregoing collectively, the "DIP Obligations"), shall be deemed to have been extended by the DIP Lender and its affiliates in good faith, as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Obligations, the DIP Liens (as defined below) and the Superpriority Claims (as defined below) shall be entitled to the full protection of section 364(e) of the

Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise;

(vi) The Secured Creditors have consented to the relief requested herein and in the Second Interim Order Regarding Use of Cash Collateral and Adequate Protection (the "Interim Cash Collateral Order"), including the first priority position of the DIP Liens; provided, however, the Secured Creditors reserve all rights with respect to entry of any order extending the terms of this Interim Order or on a final basis, and nothing herein shall be deemed a waiver or release of such rights including any evidence of what constitutes adequate protection for any proposed priming of the Master Trustee's liens on a further interim or final basis;

(vii) The Landlord has consented to the relief requested herein; provided, however, the Landlord reserves all rights with respect to entry of any order extending the terms of this Interim Order or on a final basis, and nothing herein shall be deemed a waiver or release of such rights;

(viii) Entering into the Financing and the DIP Documents reflects the Debtor's exercise of prudent business judgment consistent with its fiduciary duties; and

(ix) The Debtor has requested entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2) and the Local Bankruptcy Rules. Absent granting the relief sought by this Interim Order, the Debtor's estate will be immediately and irreparably harmed. Consummation of the Financing in accordance with this Interim Order and the DIP Documents is therefore in the best interests of the Debtor's estate consistent with its fiduciary duties.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. **Authorization of the Financing and DIP Documents.**

(i) The Debtor is hereby authorized to execute and enter into the DIP Documents — on an interim basis and to the extent consistent with the terms of the Interim Order and the DIP Documents — and incorporated herein by reference, including, without limitation the execution, delivery and performance of the DIP Credit Agreement, any notes, security and pledge agreements, mortgages contemplated thereby and the other agreements referred to as and in the DIP Documents;

(ii) The Debtor is hereby authorized to execute, deliver and perform one or more amendments, waivers, consents or other modifications to and under the DIP Documents not inconsistent with the terms of this Interim Order by filing notice of such amendment, waiver, consent or other modification with this Court. Following the filing of such notice, any party in interest may contest such amendment, waiver, consent or other modification by filing a motion (an “Amendment Challenge”) with this Court within five business days of being provided notice of such amendment, waiver, consent or other modification. Subject to the convenience of this Court’s calendar, a hearing on any Amendment Challenge shall be held within five business days of the date that the Amendment Challenge is filed. If an Amendment Challenge is not timely filed and served, or if the relief sought in the Amendment Challenge is denied, the amendment, waiver, consent or other modification shall become immediately effective.

(iii) The Debtor is hereby authorized to borrow money pursuant to the DIP Documents, and the Debtor is hereby authorized to incur indebtedness up to an aggregate principal amount of \$1,500,000 (including the commitment fee described in Section 4.8(a) of the DIP Credit Agreement to be earned and paid upon the entry of this Order) (the "Interim Amount"), which shall be used only as permitted under the DIP Documents and in accordance with the Budget, subject to the variance permitted by the DIP Documents, or as otherwise approved in writing by the DIP Lender and the Secured Creditors, and to enter into any and all other and further agreements and arrangements in connection therewith and to pay interest and expenses and incur DIP Obligations all in accordance with this Interim Order and the DIP Documents, including, without limitation, the non-refundable payment to the DIP Lender of the fees referred to in the DIP Documents and reasonable costs and expenses as may be due from time-to-time, specifically including, without limitation, fees and expenses of the professionals retained by the DIP Lender provided for in the DIP Documents, subject to the limitations contained therein. The fees and expenses of professionals retained in the Chapter 11 Case by the Debtor or any statutory committee shall be subject to the provisions of Section 5 of this Order.

(iv) The Debtor shall furnish the Budget to the DIP Lender and the Secured Creditors in accordance with the terms of the DIP Documents and the Interim Cash Collateral Order. Approval or disapproval of any Budget shall be governed by the terms of the DIP Credit Agreement and the Interim Cash Collateral Order. The Court hereby expressly approves and authorizes the Debtor

to reserve or escrow any Advance drawn in respect of all accrued and unpaid fees and expenses of such professionals to the extent Debtor reasonably believes such amounts will be required to be paid and are provided for by the terms of the Budget at the time of such Advance.

(v) In furtherance of the foregoing and without further approval of this Court, the Debtor is authorized and directed to, subject to the terms of this Interim Order, perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements), and to pay all fees, that may be reasonably required or necessary for the Debtor's performance of its obligations under the Financing and under the DIP Documents.

2. **Valid, Binding, Non-Avoidable Obligations.** Upon execution and delivery of the DIP Credit Agreement and the other DIP Documents, such DIP Documents shall constitute and represent valid, binding and non-avoidable obligations of the Debtor enforceable against the Debtor in accordance with their terms and subject to the terms of this Interim Order (including, for the avoidance of doubt, Advances not to exceed the Interim Amount) for all purposes during the Chapter 11 Case, any subsequently converted case of the Debtor under chapter 7 of the Bankruptcy Code or after the dismissal of the Chapter 11 Case. No obligation, payment, right, transfer or grant of security or lien under the DIP Credit Agreement, the other DIP Documents or this Interim Order shall be stayed, restrained, voidable, avoidable or recoverable under the Bankruptcy Code or under any applicable law (including without limitation, under sections 502(d), 548 or 549 of the Bankruptcy Code or under any applicable state Uniform Fraudulent

Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law), or subject to any defense, reduction, setoff, recoupment or counterclaim.

3. **Superpriority Claims.**

(i) Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations approved under this Interim Order shall constitute allowed senior administrative expense claims against the Debtor (the "Superpriority Claims") with priority over any and all administrative expenses, adequate protection claims, diminution claims and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and which shall be payable from and have recourse to all DIP Collateral (as hereinafter defined), subject only to the payment of the Carve Out.

(ii) The DIP Lender shall have the right to credit bid up to the entire amount of the DIP Obligations and/or bid in excess of the amount of the DIP Obligations, if necessary, in any sale of DIP Collateral (which, for the avoidance of doubt, does not include the Land Premises or Existing Improvements) or in connection with any plan of reorganization and shall have standing with respect to any such sale or plan of reorganization or hearing related thereto.

(iii) The Superpriority Claim shall expressly include all of the DIP Lender's fees (including reasonable legal fees), costs, charges and reasonable out-of-pocket expenses associated with (a) the preparation and negotiation of the DIP Documents, the Interim Order and the Final Order, (b) the consummation of the transactions described in the DIP Documents, the Interim Order and the Final

Order, (c) administration of the Financing, and (d) the enforcement of rights and remedies set forth in the DIP Documents, the Interim Order and the Final Order, that have been billed to or incurred by DIP Lender, subject to the limitations in the DIP Credit Agreement; provided, however, the Superpriority Claim shall not include any of the DIP Lender's fees to the extent they are incurred in or related to the DIP Lender's role as a bidder or potential bidder for the Debtor's assets or in connection with any sale of the Debtor's assets to the extent the DIP Lender is acting in a role other than in its capacity as a DIP Lender. The Lender shall be entitled to charge the Debtor's account or receive reimbursement thereof, from the Expense Reimbursement Reserve or otherwise, in each case as a Superpriority Claim, pursuant to Section 4.8(c) of the DIP Credit Agreement without application to the Court.

4. **DIP Liens.** As security for the DIP Obligations, effective and perfected upon the date of, and through, this Interim Order and without the necessity of the execution, recordation of filings by the Debtor of mortgages, security agreements, control agreements, pledge agreements, financing statements or other similar documents, or the possession or control by the DIP Lender of, or over, any DIP Collateral (defined below), the DIP Lender shall have the DIP Liens (as defined below) on the DIP Collateral, subject to the payment of the Carve Out:

(a) **DIP Collateral.** The DIP Lender shall have DIP Liens on all assets (tangible, intangible, real, personal and mixed) of the Debtor, whether now owned or hereafter acquired, including, without limitation, cash and cash equivalents, rights in deposit accounts, management contracts, accounts, inventory, equipment, receivables, capital stock or other ownership interest in subsidiaries, investment property, instruments,

chattel paper, real estate, leasehold interests (including the Debtor's leasehold estate in the Tenant's Leasehold Estate (as defined in the Lease, as hereinafter defined)), contracts, patents, copyrights, trademarks, and other general intangibles, and all products and proceeds thereof, subject only to the Carve Out (collectively, all of the foregoing is defined herein as the "DIP Collateral"). For the avoidance of doubt, the DIP Collateral shall also include (i) all resident processing fees, entrance fees, if any, and option deposits pursuant to the residency and care agreements (or other applicable agreements) for the continuing care retirement community in Bartlett, Illinois known as "Clare Oaks" received by Debtor after the Petition Date, plus the deposits and entrance fees in the approximate amount of \$907,100 as of the Petition Date held in escrow accounts with The Chicago Trust Company, N.A., a Wintrust Wealth Management Company (collectively, the "Resident Deposits"), whether existing or new, and (ii) all other accounts of Borrower, and all proceeds and products of all of the foregoing. Notwithstanding the foregoing or any other terms of this Order or any DIP Document, the DIP Collateral shall not include (a) any account or the deposit therein as of the Petition Date which are held or controlled by the Master Trustee or any Bond Trustee pursuant to the terms of the documents evidencing and securing the Series 2006 Bonds (all such funds, the "Trustee Held Funds"), and (b) claims and causes of action that arise as of or subsequent to the Petition Date under chapter 5 of the Bankruptcy Code and the proceeds thereof and property received thereby whether by judgment, settlement or otherwise (collectively, "Avoidance Actions").

(b) First Priority Priming Lien on Prepetition and Postpetition Collateral. The obligations owing to the DIP Lender under the Facility shall be secured by a perfected

security interest in, and lien on, the DIP Collateral (collectively, the "DIP Liens"), subject to the Carve-Out (as defined below), as follows: (i) pursuant to section 364(c)(2) of the Bankruptcy Code, perfected, first priority non-avoidable senior liens on all DIP Collateral that is not otherwise subject to valid, perfected and non-avoidable liens as of the Petition Date; (ii) other than with respect to the liens described in clause (iii) below, which liens shall be primed by the liens described in such clause, pursuant to section 364(c)(3) of the Bankruptcy Code, a perfected second priority junior lien on all DIP Collateral that is otherwise subject to (x) valid, perfected and non-avoidable liens approved by the DIP Lender as of the Petition Date or (y) valid liens in existence at the Petition Date and approved by the DIP Lender and that are perfected subsequent to the Petition Date and as permitted by section 546(b) of the Bankruptcy Code and perfected thereafter as permitted by section 546(b) of the Bankruptcy Code (the liens described in the preceding sub-clauses (x) and (y), the "Permitted Encumbrances"); and (iii) pursuant to section 364(d)(1) of the Bankruptcy Code, a perfected first priority senior priming lien on the DIP Collateral senior and superior to all Liens (other than the Permitted Encumbrances) including without limitation the Prepetition Liens and any Liens granted pursuant to the Interim Cash Collateral Order or any other cash collateral order entered by the Bankruptcy Court. Notwithstanding anything herein, the DIP Liens shall be subject to the Carve Out, but, for the avoidance of doubt, payment of the Carve Out shall not reduce the amounts payable to the DIP Lender hereunder or under the DIP Documents. Notwithstanding the foregoing, the DIP Liens will be subordinate only to the prior rights of residents to the Resident Deposits pursuant to the applicable escrow agreement or any order authorizing the Debtor to escrow or segregate any Resident Deposits for the benefit

of the residents. Without limiting the forgoing, the DIP Lender has a mortgage upon the Debtor's leasehold estate in the Tenant's Leasehold Estate (as such term is defined in that certain Ground Lease between the Landlord, as landlord, and Debtor, as tenant, dated as of July 1, 2006, as in effect as of the Petition Date and as amended or supplemented after the Petition Date with the consent of DIP Lender, the Master Trustee and the Bank (the "Lease")) to secure the repayment of the Advances under the Financing that is senior and superior to all Liens upon such leasehold estate including without limitation the Master Trustee's mortgage upon such leasehold estate.

5. **Carve Out.** The carve out for certain expenses and professional fees incurred during the pendency of the Chapter 11 Case (the "Carve Out") means (a) the aggregate allowed (regardless of when allowed) and unpaid fees and expenses of professionals retained in the Chapter 11 Case by the Debtor (other than ordinary course professionals), to the extent consistent with the Budget, allowed by a final order of the Court, and accrued on or before the earlier to occur of (1) five (5) business days after written notice of the occurrence of a Termination Event (as defined in any order authoring the Borrower's use of cash collateral) is sent by the Master Trustee to the Borrower, the DIP Lender, any official committee appointed in the Chapter 11 Case and the U.S. Trustee unless the Court determines that no such Termination Event has occurred or such Termination Event is cured during such five (5) business day period and (2) the date on which the DIP Lender is entitled to take enforcement actions (other than the termination of commitments, the acceleration of the DIP Obligations or the sending of any notice in connection with an anticipated enforcement action) pursuant to the terms of this Interim Order and the DIP Credit Agreement (such earlier date, the "Termination Date"); (b) the allowed (regardless of when allowed) and

unpaid fees and expenses of professionals retained in the Chapter 11 Case by any committee appointed in the Chapter 11 Case, to the extent consistent with the Budget, allowed by a final order of the Court, and accrued on or before the Termination Date; (c) the aggregate allowed (regardless of when allowed) and unpaid fees and expenses of professionals retained in the Chapter 11 Case by the Debtor (other than ordinary course professionals) incurred after the Termination Date to wind-down the Debtor's estate to the extent necessary to protect the interests of the residents up to a maximum amount of (1) until the entry of a final order authorizing the obtaining of postpetition financing, \$100,000 and (2) thereafter, the amount set forth in clause (c) of the definition of Carve Out contained in such final order authorizing the obtaining of postpetition financing, and allowed by a final order of the Bankruptcy Court; (d) the accrued and unpaid adequate protection payments in the amount set forth in the Budget; (e) all accrued and unpaid fees of the clerk of the Bankruptcy Court or District Court, as applicable, and of the United States Trustee pursuant to 28 U.S.C. § 1930(a) and (b); and (f) reasonable fees and expense incurred by a trustee under 726(b) of the Bankruptcy Code not to exceed \$50,000; provided, however, that any sums advanced to the Debtor under and pursuant to the DIP Credit Agreement to fund the fees, expenses and payments identified in clauses (a) – (f) of the definition of "Carve Out" shall be deemed paid and satisfied for purposes of calculating the amount of the Carve Out. For the avoidance of doubt, notwithstanding anything else to the contrary in this Interim Order or the Loan Documents, the DIP Lender shall not be obligated to lend more than \$1,500,000 pursuant to this Interim Order or more than \$6,000,000 after entry of the Final Order. As provided in Section 12 of this Order, in no event shall any portion of the DIP Financing or proceeds thereof

be used to pay the fees, costs or expenses of any person in connection with a challenge of a DIP Lien or any other action adverse to the rights or interests of the DIP Lender.

6. **Protection of DIP Lender's Rights.**

(a) None of the DIP Collateral shall be subject to any liens, claims and encumbrances, except for those liens, claims and encumbrances expressly permitted under the DIP Documents or this Interim Order; and

(b) On (5) business days after notice to the Debtor, the Master Trustee, the Bank, the United States Trustee and any official committee appointed in the Chapter 11 Case, upon the occurrence and continuation of an event of default under the DIP Documents (an "Event of Default"), the automatic stay provisions of section 362 of the Bankruptcy Code will be deemed vacated and modified to the extent necessary to permit the DIP Lender to exercise all rights and remedies under the DIP Documents absent an order of this Court to the contrary. Subject to the payment provisions described below, in no event shall the DIP Lender be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the DIP Collateral or otherwise. The delay or failure to exercise rights and remedies under the DIP Documents or this Interim Order by the DIP Lender shall not constitute a waiver of the DIP Lender's rights hereunder, thereunder or otherwise, unless any such waiver is pursuant to a written instrument executed in accordance with the terms of the applicable DIP Documents. The Debtor waives and shall not be entitled to any right of setoff against the DIP Lender relating to the DIP Obligations.

8. **Limitation on Charging Expenses Against Collateral.** So long as, and to the extent that, any DIP Obligations remain outstanding, no costs or expenses of administration of

the Chapter 11 Case or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral pursuant to section 506(c) of the Bankruptcy Code; notwithstanding the foregoing, the section 506(c) waiver contained in this Section 6 shall not be effective until entry of a final order authorizing the obtaining of postpetition financing.

9. **Financial Reporting.** The Debtor shall provide the DIP Lender with financial and other reporting as described in the DIP Documents.

10. **Perfection of DIP Liens.**

(a) The Debtor and the DIP Lender are hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, 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 and perfect the liens and security interests granted to the DIP Lender hereunder; provided however, the Debtor shall perform any act in furtherance thereof if reasonably requested by the DIP Lender. Whether the DIP Lender, in its sole discretion, chooses to file such financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or take possession of or control over, or otherwise confirm perfection of the liens and security interests granted to them hereunder, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination, at the time and from the date of entry of this Interim Order forward. Upon the request of the DIP Lender, without any further consent of any party, the DIP Lender and the Debtor are each authorized to take, execute, deliver and file such instruments (in each case without representation or warranty of any kind) to enable

the DIP Lender to validate, perfect, preserve and enforce the DIP Liens. By this Interim Order, which shall serve as evidence of perfection, the DIP Lender shall be deemed to have executed all such agreements, financing statements, instruments and other documents as may reasonably be requested to more fully evidence, confirm, validate, perfect, preserve and enforce the DIP Liens;

(b) A copy of this Interim Order may, in the discretion of the DIP Lender, be filed with or recorded in 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 copy of this Interim Order for filing and recording; and

(c) To the extent allowed under applicable law, any provision of any lease or other license, contract or other agreement that requires (i) the consent or approval of one or more landlords or other parties or (ii) the payment of any fees or obligations to any governmental entity, in order for the Debtor to pledge, grant, sell, assign or otherwise transfer any such leasehold interest, or the proceeds thereof, or other postpetition collateral related thereto, is hereby deemed to be inconsistent with the applicable provisions of the Bankruptcy Code; provided, however, that this Section 9(c) does not apply to the Lease. Any such provision or any other provision inconsistent with the terms of this Interim Order shall have no force and effect with respect to the transactions granting postpetition liens, in such leasehold interest or the proceeds of any assignment and/or sale thereof by the Debtor, in favor of the DIP Lender in accordance with the terms of the DIP Documents or this Interim Order.

11. **Indemnification.**

Pending entry of a final order, Debtor shall indemnify and hold harmless DIP Lender and its affiliates, officers, directors, employees, agents, advisors, attorneys and representatives (each, an “Indemnified Party”) from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, reasonable fees and disbursements of counsel), joint or several, that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or relating to any investigation, litigation or proceeding or the preparation of any defense with respect thereto, arising out of or in connection with or relating to the DIP Credit Agreement, the other DIP Documents or the transactions contemplated hereby or thereby, or any use made or proposed to be made with the proceeds of the Facility, whether or not such investigation, litigation or proceeding is brought by Debtor, any of its shareholders or creditors, an Indemnified Party or any other person, or an Indemnified Party is otherwise a party thereto and whether or not the transactions contemplated hereby or thereby are consummated, except to the extent such claim, damage, loss, liability or expense is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party’s bad faith, gross negligence or willful misconduct. No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to Debtor or any of its shareholders or creditors for or in connection with the transactions contemplated hereby or thereby, except to the extent such liability is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party’s bad faith, gross negligence or willful misconduct. In no event, however, shall any Indemnified Party be liable on any theory of liability for any special, indirect, consequential or punitive damages. Pending entry of a final order, the indemnification obligation on the part of Debtor shall survive the payment of the DIP Obligations, the

termination of the Commitment and any cancellation of the DIP Credit Agreement. Without limitation of the foregoing, pending entry of a final order, Debtor shall pay, and hold each Indemnified Party harmless from, any and all claims of any brokers, finders or agents claiming a right to any fees in connection with arranging the financing contemplated hereby.

12. **Preservation of Rights Granted Under the Order.**

(a) No claim or lien having a priority superior to or pari passu with those granted by this Interim Order to the DIP Lender shall be granted or allowed while any portion of the Financing or the commitments thereunder (including repayment of the Carve-Out) or the DIP Obligations remain outstanding, and the DIP Liens shall not be (i) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtor's estate under section 551 of the Bankruptcy Code or (ii) subordinated to or made pari passu with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise;

(b) Unless all DIP Obligations shall have indefeasibly been paid in cash in full, the Debtor shall not seek, and others shall not seek, and it shall constitute an Event of Default, if there is, (i) any modification or extension of this Interim Order without the prior written consent of the DIP Lender, and no such consent shall be implied by any other action, inaction or acquiescence, (ii) an order converting or dismissing the Chapter 11 Case or (iii) if Debtor seeks to obtain financing from any other source on either a pari passu or priority basis;

(c) If an order dismissing the Chapter 11 Case under section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide

(in accordance with sections 105 and 349 of the Bankruptcy Code) that (i) the Superpriority Claims and DIP Liens granted to the DIP Lender pursuant to this Interim Order shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations shall have been indefeasibly paid in cash in full (and that such Superpriority Claims and DIP Liens, shall, notwithstanding such dismissal, remain binding on all parties in interest); and (ii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in clause (i) above;

(d) To the extent of applicable law, if any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed, such reversal, stay, modification or vacation shall not affect (i) the validity, priority or enforceability of any DIP Obligations and DIP Liens incurred prior to the actual receipt of written notice by the DIP Lender of the effective date of such reversal, stay, modification or vacation or (ii) the validity or enforceability of any lien or priority authorized or created hereby or pursuant to the DIP Credit Agreement with respect to any DIP Obligations. Notwithstanding any such reversal, stay, modification or vacation, DIP Obligations incurred by the Debtor prior to the actual receipt of written notice by the DIP Lender of the effective date of such reversal, stay, modification or vacation shall be governed in all respects by the original provisions of this Interim Order, and the DIP Lender shall be entitled to all the rights, remedies, privileges and benefits granted in section 364(e) of the

Bankruptcy Code, this Interim Order and pursuant to the DIP Documents with respect to all uses of DIP Obligations; and

(e) Except as expressly provided in this Interim Order or in the DIP Documents, the DIP Liens and the Superpriority Claims granted by the provisions of this Interim Order and the DIP Documents shall survive, and shall not be modified, impaired or discharged by (i) the entry of an order converting the Chapter 11 Case to a case under chapter 7, dismissing the Chapter 11 Case, or by any other act or omission or (ii) the entry of an order confirming a plan of reorganization (or a plan of liquidation) in the Chapter 11 Case and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtor has waived any discharge as to any remaining DIP Obligations. The terms and provisions of this Interim Order and the DIP Documents shall continue in this Chapter 11 Case, in any successor case, or in any superseding chapter 7 case under the Bankruptcy Code, the DIP Liens, the Superpriority Claims and all other rights and remedies of the DIP Lender granted by the provisions of this Interim Order and the DIP Documents shall continue in full force and effect until the DIP Obligations are indefeasibly paid in cash in full.

13. **Limitation on Use of Financing Proceeds and Collateral.** Notwithstanding anything herein or in any other order by this Court to the contrary, no DIP Collateral, portion of the proceeds of the Financing or part of the Carve Out may be used for any of the following (each, a "Lender Dispute") without the prior written consent of the DIP Lender or the Secured Creditors (as applicable): (a) to investigate, litigate, object, contest or raise any defense to the validity, perfection, priority, extent or enforceability of any amount due under any DIP

Document, or the Bond Documents (as defined in the Interim Cash Collateral Order) or the liens or claims granted under this Interim Order, any DIP Document, or the Interim Cash Collateral Order, other than as set forth in the Interim Cash Collateral Order for any official committee appointed in the Chapter 11 Case, (b) to assert any claim or cause of action against the DIP Lender, the Secured Creditors, or their respective agents, affiliates, representatives, attorneys or advisors with respect to the DIP Documents, the Financing, the Bond Documents, or the Bond Claim (as defined in the Interim Cash Collateral Order), (c) to prevent, hinder or otherwise delay the DIP Lender's or Secured Creditors' assertion, enforcement or realization on the DIP Collateral or the Collateral (as defined in the Interim Cash Collateral Order) in accordance with the DIP Documents, this Interim Order, the Bond Documents, or the Interim Cash Collateral Order, (d) to assert or prosecute any action for preferences, fraudulent conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests or defenses against the DIP Lender, the Secured Creditors, or their respective affiliates, representatives, attorneys or advisors in connection with matters related to the Financing, the DIP Documents, the Bond Documents, or the Bond Claim, or (e) to seek to modify any of the rights granted to the DIP Lender hereunder or under the DIP Documents; provided, however, that a Lender Dispute shall not include (i) the prosecution of the Motion and the Debtor's Emergency Motion for the Entry of an Interim Order: (I) Authorizing Use of Cash Collateral; (II) Providing Adequate Protection; and (III) Scheduling a Final Hearing, including without limitation the seeking of the Final Order and a final order authorizing the use of cash collateral, (ii) responding to any notice of an Event of Default or notice of a Termination Event (as defined in the Interim Cash Collateral Order), including without limitation seeking, appearing at, and fully participating in an emergency hearing, and (iii) actions taken after the Termination Date to wind-down the

Debtor's estate, including without limitation, incurred to protect the health and safety of residents, to preserve and protect the value of the DIP Collateral, to respond to any governmental subpoena, citation or other regulatory action or to complete the process of converting the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code. This provision shall be binding on any subsequently appointed or elected trustee or examiner, if any.

14. **Enforcement of Remedies.**

(a) Upon the occurrence of the Maturity Date under the DIP Documents, the DIP Obligations shall become immediately due and owing. Absent an order of this Court to the contrary, in the absence of full payment in cash of all of the DIP Obligations when due, as provided for in this paragraph, the automatic stay is hereby deemed vacated as provided in this Interim Order on the fifth business day after such payment becomes due (subject to the notice requirements in Section 6(c) above), and the DIP Lender shall thereafter be permitted to exercise such rights and remedies under such agreements, documents, and applicable law as to all or such part of the DIP Collateral as the DIP Lender shall, in its sole discretion, elect, including, but not limited to, the DIP Lender's right to foreclose on the leasehold mortgages and seek to take possession of any cash of the Debtor that is DIP Collateral.

(b) Upon an Event of Default of any of the DIP Obligations, as applicable, the Default Rate set forth in the DIP Documents shall immediately be applicable.

15. **Effect of Stipulations on Third Parties.**

(a) This Interim Order and the DIP Credit Agreement shall be binding upon the Debtor and any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for the Debtor) under all circumstances and for all purposes, and the Debtor is deemed to have irrevocably waived and relinquished all DIP Lender Claims as of the date of entry of this Interim Order; and

(b) Nothing in this Interim Order vests or confers on any person (as defined in the Bankruptcy Code) standing or authority to pursue any cause of action belonging to the Debtor or its estate.

16. **Order Governs.** In the event of any inconsistency between the provisions of this Interim Order and the DIP Documents, the provisions of this Interim Order shall govern.

17. **Binding Effect; Successors and Assigns.** The DIP Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in this Chapter 11 Case, including, without limitation, the DIP Lender, the Bank, the Landlord, the Master Trustee, the Bond Trustees and their respective bondholders, any committee appointed in this Chapter 11 Case, and the Debtor and of the respective successors and assigns of the foregoing (including, with respect to the Debtor, any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the Debtor's estate, an examiner appointed pursuant to section 1104 of the Bankruptcy Code or any other fiduciary appointed as a legal representative of the Debtor or with respect to the property of the estate of the Debtor) and shall inure to the benefit of the DIP Lender and its respective successors and assigns, provided, however, that the DIP Lender shall have no obligation to permit the use of DIP Collateral or to extend any financing or permit the use of cash collateral to any chapter 7 trustee or similar responsible

person appointed for the estate of the Debtor except to the extent permitted by the Carve-Out. By virtue of this Interim Order and the DIP Credit Agreement, and in determining to make any loan under the DIP Credit Agreement, the DIP Lender shall not (i) be deemed to be in control of the operations of the Debtor, (ii) owe any fiduciary duty to the Debtor, its creditors, shareholders or estate or (iii) be deemed to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtor (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601, *et seq.*, as amended, or any similar federal or state statute).

18. **Effectiveness.** This Interim Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable nunc pro tunc to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9024 or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

19. **Headings.** Section headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Interim Order.

20. **Final Hearing.** The Final Hearing will be held by this Court on January 24, 2012 at 10:30 a.m. (prevailing Central Time) to consider entry of a Final Order. Any party in interest objecting to the relief sought at the Final Hearing shall file a written objection, which shall be served upon the following parties (collectively, the “Notice Parties”): (a) Ungaretti & Harris LLP, Three First National Plaza, 70 W. Madison, Suite 3500, Chicago, Illinois 60602 (Attn: Robert A. Drobnak, Esq., Donald L. Schwartz, Esq. and George R. Mesires, Esq.), counsel for the Debtor; (b) the Office of the United States Trustee for the Northern District of Illinois; (c) the

Debtor's 20 largest unsecured creditors on a consolidated basis; (d) Hinckley, Allen & Snyder LLP, 20 Church Street, Hartford, CT 06103 (Attn: William S. Fish, Jr., Esq. and Sarah M. Lombard, Esq.), counsel to the DIP Lender; (e) Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111 (Attn: Daniel Bleck, Esq.), counsel for the Master Trustee; (f) Duane Morris LLP, 190 South LaSalle Street, Suite 3700, Chicago, Illinois 60603 (Attn: John R. Weiss, Esq.); (g) DLA Piper LLP, 203 North LaSalle Street, Suite 1900, Chicago, Illinois 60601 (Attn: Timothy W. Brink, Esq.), counsel to the Landlord and (h) any other known lienholder as of the Petition Date, and shall be filed with the Clerk of the United States Bankruptcy Court, Northern District of Illinois, in each case to allow actual receipt by the foregoing no later than January 20, 2012 at 4:00 p.m. (prevailing Central Time).

Dated: Chicago, Illinois
December 15, 2011 **DEC 15 2011**


UNITED STATES BANKRUPTCY JUDGE

Exhibit A to Interim Order

DIP Credit Agreement

**SENIOR SECURED
SUPER-PRIORITY DEBTOR-IN-POSSESSION
LOAN AGREEMENT**

dated December 22, 2011

by and between

CLARE OAKS, as Borrower, Debtor and
Debtor-in-Possession under Chapter 11 of the Bankruptcy Code

and

SENIOR CARE DEVELOPMENT, LLC, as Lender

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EXHIBITS

- EXHIBIT A - BUDGET
- EXHIBIT B - FORM OF NOTE
- EXHIBIT C - FORM OF LOAN NOTICE
- EXHIBIT D – LEASE ESTOPPEL AGREEMENT

**SENIOR SECURED SUPER-PRIORITY
DEBTOR-IN-POSSESSION LOAN AGREEMENT**

THIS SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION LOAN AGREEMENT (“Agreement”), is made and entered into as of December 22, 2011, by and between **CLARE OAKS**, an Illinois not-for-profit corporation, as Borrower, Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code (“**Borrower**”), and **SENIOR CARE DEVELOPMENT, LLC**, a Delaware limited liability company, together with its successors and assigns (“**Lender**”).

R E C I T A L S :

A. On December 5, 2011 (“**Petition Date**”), Borrower commenced a case (“**Chapter 11 Case**”) under Chapter 11 of Title 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois (“**Bankruptcy Court**”). Borrower has retained possession of its assets and is authorized under the Bankruptcy Code to continue the operation of its business as debtor in possession.

B. On December 13, 2011, the Debtor filed a motion seeking the entry by the Bankruptcy Court of an Interim Order (i) authorizing Borrower to obtain postpetition financing on a senior secured super-priority basis pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 and (ii) granting related and such other relief, including expressly authorizing Lender (or its designee as a potential purchaser that would receive an assignment from the Lender of all of the Obligations in accordance with Section 9.1 hereof immediately prior to the closing of the applicable transaction) to credit bid the outstanding amount of the Obligations at any auction process of all or substantially all of the Borrower’s assets/operations (which, for the avoidance of doubt, does not include the Land Premises or the Existing Improvements) (“**Interim Order**”).

C. Borrower has requested that Lender provide debtor-in-possession term loans to Borrower in an aggregate principal amount not to exceed Six Million Dollars (\$6,000,000.00) (“**Loan**”), available in multiple Advances, the aggregate proceeds of which shall be used as provided in Sections 3.2 and 8.2(d).

D. Lender has indicated its willingness to extend the Loan to Borrower, all on the terms and conditions set forth herein and in the other Loan Documents and in accordance with the Bankruptcy Code and pursuant to the Orders.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements herein contained, the sufficiency of which hereby is acknowledged, the parties hereto represent and agree as follows:

ARTICLE 1

INCORPORATION AND DEFINITIONS

1.1 **Incorporation and Definitions.** The foregoing recitals and all exhibits hereto are hereby made a part of this Agreement. The following terms shall have the following meanings in this Agreement:

Adequate Protection Advance: An Advance to be used for Adequate Protection Purposes.

Adequate Protection Purposes: To make adequate protection payments to the Trustee, for the benefit of itself and the holders of the Prepetition Indebtedness.

Advance: An advance of Loan Proceeds made by Lender to Borrower hereunder.

Affiliate: Any Person which, directly or indirectly, controls or is controlled by or is under common control with Borrower. A Person shall be deemed to control another Person if the controlling Person is the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act) of ten percent (10%) or more of any class of voting securities (or other voting interests) of the controlled Person or possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of the controlled Person, whether through ownership of Capital Stock, any other Equity Interest, by contract or otherwise. In no event shall Lender be considered an Affiliate of Borrower.

Aggregate Commitment: The aggregate of the Commitment, as reduced from time to time pursuant to the terms hereof. The Aggregate Commitment as of the Closing Date is Six Million Dollars (\$6,000,000.00), provided, that in no event shall the Aggregate Commitment exceed the maximum principal amount of the Loan approved by the Bankruptcy Court pursuant to the then-effective Order.

Agreement: As defined in the Preamble.

Applicable Law: As to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

Applicable Margin: Four percent (4.0%) per annum.

Applicable Period: Means (i) the two (2) weeks immediately preceding the first test date, (ii) the four (4) weeks immediately preceding the second test date, (iii) the six (6) weeks immediately preceding the third test date, (iv) the eight (8) weeks immediately preceding the fourth test date, (v) the ten (10) weeks immediately preceding the fifth test date, (vi) the twelve (12) weeks immediately preceding the sixth test date, and (vii) the thirteen (13) weeks immediately preceding the seventh test date and each test date thereafter, as applicable.

Asset Sale: With respect to any Person, the sale, lease, conveyance, disposition or other transfer by such Person of any of its assets (including by way of a sale-leaseback transaction and including the sale or other transfer of any of the Equity Interests of any Subsidiary of such Person).

Authority: The Illinois Finance Authority.

Availability Period: The period commencing on the Closing Date and ending on the Maturity Date.

Avoidance Actions: Claims and causes of action that arise on or subsequent to the Petition Date under Chapter 5 of the Bankruptcy Code and the proceeds thereof and property received thereby, whether by judgment, settlement or otherwise.

Bankruptcy Code: Title 11 of the United States Code.

Bankruptcy Court: The United States Bankruptcy Court for the Northern District of Illinois or any other court having jurisdiction over the Chapter 11 Case from time to time.

Bond Trustee: As defined in the defined term "Series 2006 Bonds".

Borrower: As defined in the Preamble.

Borrowing Date: Any date on which an Advance hereunder is made.

Budget: The Interim Order Budget and the Final Order Budget.

Business Day: Any day other than a Saturday, Sunday or other day on which lenders in the State of Illinois are required or permitted to close.

Capitalized Lease: Means, with respect to any Person, any lease of property by such Person (as lessee) which would be capitalized on a balance sheet of such Person prepared in accordance with GAAP.

Capital Stock: Means (a) in the case of a corporation, corporate stock, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock, (c) in the case of a partnership, partnership interests (whether general or limited), (d) in the case of a limited liability company, membership, ownership or other equity interests, and (e) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

Carve Out: Means (a) the aggregate allowed (regardless of when allowed) and unpaid fees and expenses of professionals retained in the Chapter 11 Case by the Borrower (other than ordinary course professionals), to the extent consistent with the Budget, allowed by a final order of the Bankruptcy Court, and accrued on or before the earlier to occur of (1) five (5) business days after written notice of the occurrence of a Termination Event (as defined in any order authoring the Borrower's use of cash collateral) is sent by the Master

Trustee to the Borrower, the Lender, any official committee appointed in the Chapter 11 Case and the U.S. Trustee unless the Bankruptcy Court determines that no such Termination Event has occurred or such Termination Event is cured during such five (5) business day period and (2) the date on which the Lender is entitled to take enforcement actions (other than the termination of commitments, the acceleration of the Obligations or the sending of any notice in connection with an anticipated enforcement action) pursuant to the terms of the Order and this Agreement (such earlier date, the "**Termination Date**"); (b) the allowed (regardless of when allowed) and unpaid fees and expenses of professionals retained in the Chapter 11 Case by any committee appointed in the Chapter 11 Case, to the extent consistent with the Budget, allowed by a final order of the Bankruptcy Court, and accrued on or before the Termination Date (as defined in clause (a) above); (c) the aggregate allowed (regardless of when allowed) and unpaid fees and expenses of professionals retained in the Chapter 11 Case by the Borrower (other than ordinary course professionals) incurred after the Termination Date to wind-down the Debtor's estate to the extent necessary to protect the interests of the residents up to a maximum amount of (1) until the Final Order Entry Date, \$100,000 and (2) thereafter, the amount set forth in clause (c) of the definition of Carve Out contained in the Final Order, and allowed by a final order of the Bankruptcy Court; (d) the accrued and unpaid adequate protection payments in the amount set forth in the Budget; (e) all accrued and unpaid fees of the clerk of the Bankruptcy Court or District Court, as applicable, and of the United States Trustee pursuant to 28 U.S.C. § 1930(a) and (b); and (f) reasonable fees and expense incurred by a trustee under 726(b) of the Bankruptcy Code not to exceed \$50,000; provided, however, that any sums advanced to the Borrower under and pursuant to the Agreement to fund the fees, expenses and payments identified in clauses (a) – (f) of the definition of "Carve Out" shall be deemed paid and satisfied for purposes of calculating the amount of the Carve Out.

Cash Collateral: As defined in the Bankruptcy Code.

Chapter 11 Case: As defined in the Recitals.

Closing Date: The date on which (i) the Interim Order is granted and (ii) all conditions precedent to the Initial Advance are satisfied or waived.

Collateral: All property and interests in property (whether tangible or intangible, real property or personal property), whether now owned or hereafter acquired by Borrower in or upon which a security interest, lien or mortgage is granted to Lender, whether under this Agreement, under any of the other Loan Documents, or under the Orders or any other order of the Bankruptcy Court (which, for the avoidance of doubt, does not include the fee interest in the Land Premises or the Existing Improvements). The definition of Collateral shall be deemed to include, without limitation, cash and cash equivalents, rights in deposit accounts, management contracts, accounts, inventory, equipment, receivables, capital stock or other ownership interest in Subsidiaries of Borrower, investment property, instruments, chattel paper, real estate, leasehold interests (including Borrower's leasehold estate in the Tenant Leasehold Estate (as defined in the Lease)), contracts, patents, copyrights, trademarks and other general intangibles, and all products and proceeds thereof. For the avoidance of doubt, the Collateral shall also include (i) all Resident Deposits (whether existing or new) and (ii) all other accounts of Borrower, and all proceeds and products of all of the foregoing.

Notwithstanding the foregoing or any other terms of this Agreement, any other Loan Document or the Orders, Collateral shall not include (a) any account or the deposit therein as of the Petition Date which are held by the Trustee pursuant to the terms of the documents evidencing and/or securing the Series 2006 Bonds (all such funds, the "Trustee Held Funds") and (b) Avoidance Actions, except that, after the Final Order Entry Date, (i) actions under section 549 of the Bankruptcy Code (and the proceeds thereof) shall be included in the Collateral, and (ii) any lien or security interest avoided pursuant to sections 550, 551 and/or 552 of the Bankruptcy Code shall have the same priority as such avoided lien.

Commitment: Lender's commitment to make the Loan under this Agreement.

Congregation: As defined in Section 2.1(b).

Contingent Obligation: As applied to any Person, (i) any Contractual Obligation, contingent or otherwise, of that Person with respect to any Indebtedness of another or other obligation or liability of another, including, without limitation, any such Indebtedness, obligation or liability of another directly or indirectly guaranteed, endorsed (other than for collection or deposit in the ordinary course of business), co-made or discounted or sold with recourse by that Person, or in respect of which that Person is otherwise directly or indirectly liable, including Contractual Obligations (contingent or otherwise) arising through any agreement to purchase, repurchase, or otherwise acquire such Indebtedness, obligation or liability or any security therefor, or to provide funds for the payment or discharge thereof (whether in the form of loans, advances, stock purchases, capital contributions or otherwise), or to maintain solvency, assets, level of income or other financial condition or to make payment other than for value received, and (ii) any other contingent obligation or liability of such Person, whether or not reflected in financial statements of such Person as a liability.

Contractual Obligation: As applied to any Person, any provision of any equity or debt securities issued by that Person or any indenture, mortgage, deed of trust, security agreement, pledge agreement, guaranty, contract, undertaking, agreement or instrument, in any case in writing, to which that Person is a party or by which it or any of its properties is bound, or to which it or any of its properties is subject.

Customary Permitted Liens:

(a) Liens with respect to the payment of taxes, assessments or governmental charges in all cases which are not yet due or (if foreclosure, distraint, sale or other similar proceedings shall not have been commenced) which are being contested in good faith by appropriate proceedings properly instituted and diligently conducted and, in each case, with respect to which adequate reserves or other appropriate provisions are being maintained;

(b) Statutory Liens of landlords and Liens of suppliers, mechanics, carriers, materialmen, warehousemen or workmen and other similar Liens imposed by law created in the ordinary course of business for amounts not yet due or which are being

contested in good faith by appropriate proceedings properly instituted and diligently conducted and with respect to which adequate reserves or other appropriate provisions are being maintained;

(c) Liens incurred or deposits made in the ordinary course of business in connection with worker's compensation, unemployment insurance or other types of social security benefits or to secure the performance of bids, tenders, sales, contracts (other than for the repayment of borrowed money), surety, appeal and performance bonds; provided that (i) all such Liens do not in the aggregate materially detract from the value of Borrower's assets or property taken as a whole or materially impair the use thereof in the operation of Borrower's business taken as a whole, and (ii) all Liens securing bonds to stay judgments or in connection with appeals do not secure at any time an aggregate amount exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00);

(d) Liens arising with respect to zoning restrictions, easements, licenses, reservations, covenants, rights-of-way, utility easements, building restrictions and other similar charges or encumbrances on the use of real property which do not in any case materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of Borrower;

(e) Liens of a collection bank arising on items in the course of collection;

(f) Normal and customary rights of setoff against deposits of cash in favor of banks and other depository institutions; and

(g) Any interest or title of the lessor in the property subject to any operating lease entered into by Borrower in the ordinary course of business.

Debt Issuance: The incurrence by Borrower or any of its Subsidiaries of any Indebtedness after the Closing Date.

Default: A condition or event that, after notice or lapse of time or both, would constitute an Event of Default.

Default Rate: As defined in Section 4.3.

Equity Interests: Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

Event of Default: One or more of the events or occurrences referred to in Article 10 of this Agreement.

Exchange Act: The Securities Exchange Act of 1934, as amended, and regulations promulgated thereunder.

Existing Improvements: As defined in the Lease.

Expense Reimbursement Reserve: As defined in Section 4.8(c).

Final Order: A final order of the Bankruptcy Court entered in the Chapter 11 Case after a final hearing under Bankruptcy Rule 4001(c)(2), granting final approval of this Agreement and the other Loan Documents and granting the priming liens and super-priority claims and other benefits and protections with respect to Borrower described herein and in the other Loan Documents (including the Interim Order) in favor of Lender, substantially on the terms provided in the Interim Order, with such changes thereto, consistent with common practice and local rules in the jurisdiction of the Bankruptcy Court, as are satisfactory to Lender in its sole and absolute discretion.

Final Order Budget: The cash flow projections prepared by the Borrower showing anticipated cash receipts and disbursements during the period commencing with the first day after the last day covered by the Interim Order Budget through the scheduled maturity date of July 31, 2012, which is attached to the entered Final Order as an exhibit, together with any amendments, modifications or updates to the cash flow projections contained therein, provided that no such projections, amendments, modifications or updates shall constitute the Final Order Budget until (and only to the extent) the same have been approved by Lender, the Trustee and Sovereign Bank in their respective sole but reasonable discretion.

Final Order Entry Date: The date the Final Order is entered in the Chapter 11 Case.

First Day Orders: As defined in Section 6.1(e).

GAAP: Generally accepted accounting principles in the United States of America in effect from time to time as applied by nationally recognized accounting firms.

Governmental Authority: Any nation or government, any state or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

Highest Lawful Rate: The maximum lawful interest rate, if any, that at any time or from time to time may be contracted for, charged, or received under the laws applicable to Lender or Borrower which are presently in effect or, to the extent allowed by law, under such applicable laws which hereafter may be in effect and which allow a higher maximum nonusurious interest rate than applicable laws now allow.

Indebtedness: As to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;

(c) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business);

(d) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(e) capital leases and synthetic lease obligations;

(f) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any equity interest in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; and

(g) all guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person.

Initial Advance: The Advance during the Interim Availability Period of a principal amount not exceeding the Interim Availability Amount.

Interest Period: The period commencing on the date of an Advance hereunder and ending on the date that is one month thereafter; provided that:

(a) each Interest Period occurring after the initial Interest Period shall commence on the day on which the preceding Interest Period expires;

(b) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the following Business Day, unless the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the preceding Business Day;

(c) any Interest Period that begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(d) no Interest Period shall extend beyond the scheduled Maturity Date.

Interest Rate: For each Interest Period, the amount that is the greater of: (i) two hundred (200) basis points plus the Applicable Margin, or (ii) the then-current LIBOR Rate for interest periods of one month plus the Applicable Margin.

Interim Availability Amount: \$1,500,000.

Interim Availability Period: The period commencing on the date of entry of the Interim Order and ending on the Final Order Entry Date.

Interim Order: As set forth in the Recitals and any subsequent extensions or modifications thereof.

Interim Order Budget: The cash flow projections prepared by the Borrower showing anticipated cash receipts and disbursements through the week ending January 27, 2011, which has been approved by Lender, the Trustee and Sovereign Bank and is attached hereto as **Exhibit A**, together with any amendments, modifications or updates to the cash flow projections contained therein, provided that no such projections, amendments, modifications or updates shall constitute the Interim Order Budget until (and only to the extent) the same have been approved by Lender, the Trustee and Sovereign Bank in their respective sole but reasonable discretion.

Land: All real estate in which Borrower held an interest on the Petition Date, including, without limitation, the interests of Borrower under and pursuant to the Lease (which, for the avoidance of doubt, does not include the fee interest in the Land Premises or the Existing Improvements).

Landlord: SSJ-TOSF, in its capacity as landlord under the Lease.

Land Premises: As defined in the Lease.

Lease: That certain Ground Lease between the Landlord and Borrower, as tenant, dated as of July 1, 2006, as in effect as of the Closing Date and as amended or supplemented after the Closing Date with the consent of Lender.

Lease Estoppel Agreement: A lease estoppel agreement in the form attached hereto as Exhibit D or such other form of lease estoppel agreement as may be agreed to in writing between the Lender and the Landlord.

Lender: As identified in the Preamble.

LIBOR Rate: For any Interest Period, the per annum rate of interest at which United States dollar deposits in an amount comparable to the amount of such Loan and for a one month period are offered in the London Interbank Eurodollar market at 11:00 a.m. (London time) two (2) Business Days prior to the commencement of such Interest Period (or three Business Days prior to the commencement of such Interest Period if banks in London, England were not open and dealing in offshore United States dollars on such second preceding Business Day), as displayed in the Bloomberg Financial Markets system (or other comparable publicly available source as may be selected by Lender and, in the absence of availability, such other method to determine such offered rate as may be selected by the Lender in its reasonable discretion.

Lien: With respect to any property or assets, any right or interest therein of a creditor to secure liabilities owed to it or any other arrangement with such creditor which provides for the payment of such liabilities out of such property or assets or which allows

such creditor to have such liabilities satisfied out of such property or assets prior to the general creditors of any owner thereof, including any lien, mortgage, leasehold mortgage, security interest, pledge, deposit, production payment, rights of a vendor under any title retention or conditional sale agreement or lease substantially equivalent thereto, tax lien, mechanic's or materialman's lien, or any other charge or encumbrance for security purposes, whether arising by law or agreement or otherwise, but excluding any right of offset which arises without agreement.

Loan: As set forth in the Recitals.

Loan Documents: This Agreement, all agreements, instruments and documents executed in connection with this Agreement that evidence the Obligations or that are intended to create, perfect or evidence Liens to secure the Obligations, including, without limitation, all security agreements, pledge agreements, mortgages, leasehold mortgages, deeds of trust, loan agreements, notes, guarantees, subordination agreements, pledges, powers of attorney, consents, assignments, contracts, fee letters, notices, leases, financing statements and all other written matter whether heretofore, now, or hereafter executed by or on behalf of Borrower and delivered to Lender, together with all agreements and documents referred to therein or contemplated thereby.

Loan Notice: A request for an Advance made by Borrower in accordance with this Agreement and substantially in the form of **Exhibit C** hereto.

Loan Proceeds: All amounts advanced as part of the Loan, whether advanced directly to Borrower or otherwise.

Master Trust Indenture: The master trust indenture dated as of July 1, 2006, as supplemented and amended by the First Supplemental Master Trust Indenture dated as of July 1, 2008, the Second Supplemental Master Trust Indenture dated as of May 1, 2010, and the Third Supplemental Master Trust Indenture dated as of October 1, 2010, as further supplemented and amended, between the Borrower and Wells Fargo Bank, National Association, as Master Trustee (the "**Master Trustee**").

Master Trustee: As defined in the defined term "Master Trust Indenture".

Material Adverse Effect: Any event, condition, obligation, liability or circumstance or set of events, conditions, obligations, liabilities or circumstances or any change(s) which:

(a) has or reasonably could be expected to have a material adverse effect upon or change in (i) the legality, validity or enforceability of any Loan Document, or (ii) the perfection or priority of any Lien granted to Lender under any of the Loan Documents;

(b) has or reasonably could be expected to have a material and adverse effect upon the value of the Collateral, taken as a whole, or the business, operations, prospects, properties, assets, liabilities or condition (financial or otherwise) of Borrower; or

(c) materially impairs or reasonably could be expected to materially impair the ability of Borrower to pay or perform any of the Obligations, or to consummate the transactions, under the Loan Documents;

provided, for the avoidance of doubt, any changes attributable solely to the commencement of the Chapter 11 Case or any defaults under the Prepetition Indebtedness or prepetition defaults under the Lease shall not constitute a Material Adverse Effect.

Maturity Date: The earliest of:

(a) July 31, 2012, as such date may be extended pursuant to Section 3.1(c);

(b) the effective date of a plan of reorganization in the Chapter 11 Case;

(c) the closing of the sale, if any, of all or substantially all of the Borrower's assets;

(d) the date to which payment and performance of the Obligations is accelerated pursuant to Section 10.2(b); or

(e) the date of payment in full of the Obligations.

Net Cash Proceeds: Cash or cash equivalents (including securities) received by any Person from any Asset Sale by any Person (including cash received as consideration for the assumption or incurrence of liabilities incurred in connection with or in anticipation of such Asset Sale), after (i) in connection with any Asset Sale, provision for all income or other taxes actually paid by such Person with respect to such Asset Sale in the taxable year thereof or in the following taxable year, (ii) payment of all reasonable brokerage and underwriting commissions and other fees and expenses related to such Asset Sale, including, without limitation, transaction fees payable to Borrower's professional advisors, financial advisors and restructuring advisors, (iii) in connection with any Asset Sale, all amounts used to repay Indebtedness secured by a prior Lien on any asset disposed of in such Asset Sale or which is or may be required (by the express terms of a post-petition instrument governing such Indebtedness or an order of the Bankruptcy Court) to be repaid in connection with such Asset Sale (including payments made to obtain or avoid the need for the consent of any holder of such Indebtedness), and (iv) in connection with any Asset Sale, deduction of appropriate amounts to be provided by such Person as a reserve, in accordance with GAAP, against any liabilities associated with the assets sold or disposed of in such Asset Sale and retained by such Person after such Asset Sale, including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with the assets sold or disposed of in such Asset Sale.

Non-Excluded Taxes: Has the meaning set forth in Section 4.6.

Note: Collectively, the promissory note or notes made by Borrower and payable to Lender substantially in the form of **Exhibit B** hereto.

Obligations: All obligations of every nature of Borrower from time to time owed to Lender, or any indemnitee, arising under any Loan Document, whether for principal, interest (including interest which, but for the filing of a petition in bankruptcy with respect to Borrower, would have accrued on any Obligation, whether or not a claim is allowed against Borrower for such interest in the related bankruptcy proceeding), fees, expenses, indemnification or otherwise.

Orders: The Interim Order and the Final Order.

Organic Documents: As to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person.

Permitted Encumbrances: As defined in the Order.

Permitted Lien: Any Lien of the type identified in Sections 8.3(c)(i) through (iv).

Permitted Purchase Money Indebtedness: As defined in Section 8.3(a)(iv).

Person: Natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other legal entities, and Governmental Authorities.

Petition Date: As set forth in the Recitals.

Prepetition Collateral: All collateral securing the Prepetition Indebtedness.

Prepetition Financing Documents: The Series 2006 Bonds, the Prepetition Letter of Credit Agreement, the Master Trust Indenture, the Prepetition Loan Agreements and each other agreement, document or instrument granting any Prepetition Lien, evidencing any Prepetition Indebtedness or otherwise executed in connection with the Prepetition Indebtedness or Prepetition Collateral.

Prepetition Indebtedness: The Prepetition Loans, plus accrued but unpaid interest, fees, costs and expenses incurred by Sovereign Bank and MB Financial Bank pursuant to the Prepetition L/C Agreement and accrued and unpaid Prepetition Swap Obligations, together with the accrued and unpaid expenses of the Master Trustee and each Bond Trustee.

Prepetition Letter of Credit Agreement: The Letter of Credit Agreement dated as of July 1, 2006, as amended by the First Amendment to Letter of Credit Agreement and Waiver dated as of December 1, 2008, and the Second Amendment to Letter of Credit Agreement dated as of October 1, 2008, between Sovereign Bank and the Borrower, as further supplemented and amended, pursuant to which Sovereign Bank issued two separate letters of credit to support the Series 2006C Bonds and the Series 2006D Bonds.

Prepetition Liens: The Liens on assets of Borrower existing on the Petition Date in favor of the Master Trustee with respect to the Prepetition Indebtedness.

Prepetition Loan Agreements: As defined in the defined term “Prepetition Loans”.

Prepetition Loans: The loans by the Authority of the proceeds of the Series 2006 Bonds to the Borrower pursuant to two separate Loan Agreements, each dated as of July 1, 2006 (collectively, the “**Prepetition Loan Agreements”), between the Authority and the Borrower.**

Prepetition Swap Obligations: Those certain direct note obligations of the Borrower issued under the Master Indenture to secure its obligations under two interest rate swaps related to the Series 2006C Bonds and the Series 2006D Bonds entered into by the Borrower with Sovereign Bank.

Regulatory Change: As to Lender, the introduction of, or any change in any applicable law, treaty, rule, regulation or guideline or in the interpretation or administration thereof by any Governmental Authority or any central bank or other fiscal, monetary or other authority having jurisdiction over Lender.

Resident Deposits: All resident processing fees, entrance fees, if any, deposits to reserve a unit at the campus and option deposits to secure the option of each entrant to terminate the residency agreement, without loss of the entrant’s deposits, pursuant to the residency and care agreements (or other applicable agreements) and riders thereto for the continuing care retirement community in Bartlett, Illinois known as “Clare Oaks” received by Borrower after the Petition Date, plus the deposits and entrance fees in the approximate amount of \$907,100 as of the Petition Date held in escrow accounts with The Chicago Trust Company, N.A., a Wintrust Wealth Management Company.

Series 2006 Bonds: The four series of tax-exempt bonds issued by the Authority in the original aggregate principal amount of \$112,725,000 pursuant to two separate Bond Trust Indentures, each dated as of July 1, 2006, each between the Authority and Wells Fargo Bank, National Association, as Bond Trustee (the “**Bond Trustee”). The Series 2006 Bonds are comprised of the following series or sub-series (the outstanding aggregate principal amount of each series or sub-series as of the Petition Date is listed in parentheses): (i) Revenue Bonds, Series 2006A (Clare Oaks Project) (\$50,365,000); (ii) Revenue Bonds, Series 2006B-1 (Clare Oaks Project), Extendable Rate Adjustable Securities (EXTRAS) (\$2,000,000); (iii) Revenue Bonds, Series 2008B-2 (Clare Oaks Project), Extendable Rate Adjustable Securities (EXTRAS) (\$4,000,000); (iv) Variable Rate Demand Revenue Bonds, Series 2006C (Clare Oaks Project) (\$38,360,000); and (v) Variable Rate Demand Revenue Bonds, Series 2008D (Clare Oaks Project) (\$1,300,000).**

SSJ-TOSF: The Sisters of St. Joseph of the Third Order of St. Francis, Inc., an Indiana not-for-profit corporation.

Subsidiary: As to any Person, (i) any corporation more than fifty percent (50%) of the outstanding securities having ordinary voting power of which shall at the time be owned or controlled, directly or indirectly, by such Person or by one or more of its Subsidiaries or by such Person and one or more of its Subsidiaries, or (ii) any partnership, association, joint venture or similar business organization more than fifty percent (50%) of the ownership

interests of which shall at the time be so owned or controlled. For purposes of this Agreement, a Person or Persons shall be deemed to have a majority ownership interest in a partnership, association, joint venture or similar business organization if such Person or Persons shall be allocated a majority of the partnership, association, joint venture or similar business organization gains or losses or shall be or control the managing general partner of such partnership, association, joint venture or similar business organization.

Trustee: The Master Trustee and/or each Bond Trustee, as applicable.

Trustee Held Funds: As defined in the defined term "Collateral".

ARTICLE 2 **REPRESENTATIONS AND WARRANTIES**

2.1 **Representations and Warranties.** To induce Lender to execute and perform this Agreement, Borrower hereby represents, covenants and warrants to Lender as follows:

(a) As of the Closing Date and at all times thereafter until the Loan is paid in full and the Commitment is terminated, Borrower will have (i) a good and indefeasible leasehold interest in the Land and good title to the personal property that serves as Collateral hereunder, subject only to the Permitted Liens, (ii) good title, or valid and enforceable rights under one or more licenses, to any and all intellectual property necessary to the conduct of Borrower's business, and (iii) good title to all material intellectual property represented as owned by Borrower.

(b) Borrower is a not-for-profit corporation, duly formed under the laws of the State of Illinois and is duly qualified to do business under the laws of each jurisdiction in which failure to be so qualified could reasonably be expected to have a Material Adverse Effect. Borrower has no Subsidiaries. The only members of the Borrower are the members of the Sisters of St. Joseph of the Third Order of St. Francis, a Roman Catholic religious institute (the "**Congregation**"), who are elected and serving as the members of the central board of the Congregation.

(c) Upon entry by the Bankruptcy Court of the Interim Order (or the Final Order, when applicable), the execution, delivery and performance of this Agreement and the other Loan Documents have been duly authorized by all necessary action on the part of Borrower, and no consent of any other party is required for the performance by Borrower of its Obligations hereunder and under the other Loan Documents.

(d) Upon entry by the Bankruptcy Court of the Interim Order (or the Final Order, when applicable), the Loan Documents and any other documents and instruments required to be executed and delivered by Borrower in connection with this Loan, when executed and delivered, will constitute the duly authorized, valid, legal and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms.

(e) The execution, delivery and performance of the Loan Documents and any other documents or instruments to be executed and delivered by Borrower pursuant to this Agreement or in connection with the Loan will not, and the continued occupancy and use of the Collateral by Borrower do not and will not: (i) violate any Organic Documents of Borrower, (ii) violate any Applicable Law as to Borrower, except in respect of violations (x) occasioned by the filing of the Chapter 11 Case and (y) resulting from obligations with respect to which the Bankruptcy Code prohibits the Borrower from complying or (iii) conflict with, be inconsistent with, or result in any breach or default of any of the terms, covenants, conditions or provisions of any Contractual Obligation of any kind to which Borrower is a party or by which it may be bound (other than the Prepetition Financing Documents), except in respect of conflicts, inconsistencies, breaches or defaults (x) occasioned by the filing of the Chapter 11 Case and (y) resulting from obligations with respect to which the Bankruptcy Code prohibits the Borrower from complying.

(f) Except for defaults under the Prepetition Financing Documents and prepetition defaults under the Lease, if any, Borrower is not in default under any Contractual Obligation of any kind to which Borrower is a party or by which it is bound, the effect of which default could reasonably be expected to have a Material Adverse Effect.

(g) No condition, circumstance, event, agreement, document, instrument, restriction, litigation or proceeding (or to the best knowledge of Borrower, litigation threatened) exists which (i) does adversely affect the validity or priority of the Liens and security interests granted Lender under the Loan Documents; (ii) could reasonably be expected to have a Material Adverse Effect; or (iii) does constitute an Event of Default or a Default under any of the Loan Documents.

(h) All governmental permits and licenses required by Applicable Law to conduct Borrower's business are validly issued and in full force and effect.

(i) The financial reports and other information prepared by Borrower are true, correct and accurate in all material respects, and to the best of Borrower's knowledge, the financial reports and other information prepared by third parties provided by Borrower to Lender are true, correct and accurate in all material respects.

(j) There is no claim, action, litigation, arbitration or other proceeding pending or, to the best of Borrower's knowledge, threatened, against Borrower which (i) relates to the Collateral or which could result in the imposition of a Lien against the Collateral, which Lien is either pari passu or senior to the Liens granted to Lender or (ii) if adversely determined, could give rise to an event, condition, liability or circumstance that would constitute a Material Adverse Effect.

(k) Borrower is in full and complete compliance with the Interim Order during the Interim Availability Period, and the Final Order after the Final Order Entry Date.

(l) Borrower is not, as of the Closing Date and, after giving effect to the transactions contemplated by the Loan Documents, will not be, an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(m) Borrower maintains and has paid all necessary premiums for the insurance required to be maintained pursuant to Section 8.2(f).

2.2 **Continuation of Representations and Warranties.** Borrower represents and warrants to Lender that each of the foregoing statements is true and correct on the date hereof and will be true and correct at all times thereafter until the Commitment has terminated and the Obligations have been paid or performed in full.

2.3 **Qualification of All Representations and Warranties.** All representations and warranties made or deemed made under this Agreement and the other Loan Documents shall be deemed made solely by the Borrower in its corporate capacity and no officer or director of the Borrower shall have any individual liability for a representation or warranty made or deemed made by the Borrower that is untrue or incorrect unless such individual has actual knowledge to the contrary.

ARTICLE 3

AMOUNT AND TERMS OF COMMITMENT

3.1 Agreement to Lend and to Borrow; Note.

(a) Subject to the terms and conditions set forth herein, Lender agrees to make Advances of the Loan to Borrower from time to time in an aggregate amount not exceeding the Aggregate Commitment. During the Interim Availability Period, Lender shall not have any Obligation (i) to make more than one (1) Advance hereunder or (ii) to Advance any amount in excess of the Interim Availability Amount. Subject to the terms of this Agreement, Borrower may request and borrow Advances. On the Maturity Date, Borrower shall repay the Loan in full in cash, together with all accrued and unpaid interest thereon and all fees and other amounts payable to Lender hereunder and under the other Loan Documents.

(b) The Loan and all Advances thereof shall be evidenced by a Note executed by Borrower, substantially in the form of **Exhibit B** hereto and payable to the order of Lender. The date and amount of each Advance and the payment or prepayment of principal and/or interest with respect thereto shall be recorded by Lender on its books. Each such recordation shall constitute prima facie evidence of the accuracy of the information so recorded in the absence of manifest error. The Note shall (i) be dated the date hereof or, if the Lender's interest in the Note hereafter is assigned, the effective date of such assignment, (ii) be stated to mature on the Maturity Date, and (iii) provide for the payment of interest in accordance with Article 4 hereof.

(c) By written notice to the Lender given on or prior to July 13, 2012, the Borrower may in its sole discretion extend the stated maturity date referred to in clause (a) of the definition of Maturity Date (i.e., July 31, 2012) to August 31, 2012.

3.2 **Use of Loan Proceeds.** Loan Proceeds may be used solely in accordance with the Budget, subject to permitted variances set forth in Section 8.2(m), and as required under the Loan Documents.

(a) Up to Five Million Dollars (\$5,000,000) of the Loan Proceeds shall be solely used for the following purposes:

(i) to pay interest, fees and expenses in connection with the Loan to Lender in accordance with the Loan Documents;

(ii) to fund the post-petition operating expenses incurred by Borrower in the ordinary course of business (which, for the avoidance of doubt, shall include payments on account of prepetition and post-petition refund claims to the extent authorized by an order of the Bankruptcy Court granting *Debtor's Emergency Motion to Authorize Debtor to (I) Honor Claims Relating to Resident Entrance Fees and Option Deposits, and (II) Escrow Entrance Fees and Option Deposit of New Residents* (Docket No. 14)); and

(iii) to pay certain costs and expenses in connection with the administration of the Chapter 11 Case.

(b) Up to One Million Dollars (\$1,000,000) of the Loan Proceeds shall be solely used for Adequate Protection Purposes.

3.3 **Prepayments and Reduction of Aggregate Commitment.**

(a) **Optional Prepayments.** Borrower may, upon notice to Lender, at any time or from time to time (but not more frequently than once per calendar week), voluntarily prepay all or part of the Loan, without premium or penalty; provided that (i) such notice must be received by Lender not later than 11:00 a.m., Eastern Standard Time, on the date that is two (2) Business Days prior to any date of prepayment; and (ii) any prepayment shall be in a principal amount of One Hundred Thousand Dollars (\$100,000.00) or a whole multiple of One Hundred Thousand Dollars (\$100,000.00) in excess thereof or, if less, the entire principal amount of the Loan then outstanding. Each such notice shall specify the date and amount of such prepayment, and Borrower shall make such prepayment in the amount and on the date specified in such notice. Any prepayment shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required hereunder.

(b) **Optional Reduction of Aggregate Commitment.** Borrower may, upon notice to Lender, at any time or from time to time, voluntarily reduce the Aggregate Commitment; provided that (i) such notice must be received by Lender not later than 11:00 a.m., Eastern Standard Time, on the date that is five (5) Business Days prior to the date of such reduction; (ii) any such reduction shall be in a principal amount of One Hundred Thousand Dollars (\$100,000.00) or a whole multiple of One Hundred Thousand Dollars (\$100,000.00) in excess thereof; and (iii) any mandatory prepayment resulting from such

reduction shall have been made. Any reduction of the Aggregate Commitment shall be permanent and irrevocable.

(c) **Mandatory Prepayments.** Each of the following shall require that Borrower make a mandatory prepayment of the Loan. The mandatory prepayments shall not exceed the Obligations owing under this Agreement.

(i) **Asset Sale Prepayments.** Upon the consummation of any Asset Sale, other than sales of assets to the extent permitted pursuant to Section 8.3(b), by Borrower, Borrower shall make a mandatory prepayment of the Loan, after satisfying or providing for the satisfaction of the Carve Out, in an amount equal to one hundred percent (100%) of Net Cash Proceeds.

(ii) **Extraordinary Receipt Proceeds.** Upon receipt of any proceeds not customarily received in Borrower's ordinary course of business, exclusive of proceeds of Avoidance Actions, if any, but including, without limitation, proceeds arising from insurance (subject to any contrary terms of the Lease, if applicable), condemnation (subject to any contrary terms of the Lease, if applicable), eminent domain (subject to any contrary terms of the Lease, if applicable), tax refunds (except, as to property tax refunds, (A) subject to any contrary terms of the Lease, if applicable, and (B) only to the extent not included in projected receipts in the then applicable approved Budget), deposit refunds, pension plan reversions, indemnity payments or any purchase price adjustments related to a sale or disposition of any or all of its assets, Borrower shall make a mandatory prepayment of the Loan in an amount equal to one hundred percent (100%) of the net cash proceeds so received.

(iii) **Proceeds of Any Indebtedness.** Upon receipt of any proceeds arising from the incurrence of any indebtedness (other than a trade indebtedness incurred in the ordinary course of business), including any Debt Issuance, Borrower shall make a mandatory prepayment of the Loan in an amount equal to one hundred percent (100%) of the net cash proceeds so received.

(iv) **Overdraws.** If, for any reason, (A) during the Interim Availability Period, the aggregate outstanding principal amount of the Loan exceeds the Interim Availability Amount; (B) at any other time prior to the Maturity Date, the aggregate outstanding principal amount of the Loan exceeds the Aggregate Commitment; or (C) at any time prior to the Maturity Date, the aggregate outstanding principal amount of Adequate Protection Advances exceeds One Million Dollars (\$1,000,000), Borrower immediately shall repay an amount equal to such excess.

(d) **Application of Prepayments.** Unless otherwise required by applicable law, prepayments shall be applied in accordance with the terms of Section 10.6.

(e) **Effects of Prepayments.**

(i) Immediately upon any prepayment of the Loan, the Aggregate Commitment shall be permanently reduced by the principal amount then prepaid.

(ii) Amounts repaid may not be reborrowed.

3.4 **Super-Priority Nature of Obligations and Status of Lender's Liens.**

(a) On and after the Closing Date, subject to Section 3.4(b), the provisions of the Loan Documents and the Orders (as applicable) shall be effective to create in favor of Lender, legal, valid and perfected Liens on and security interests in all right, title and interest of Borrower in the Collateral, enforceable against Borrower:

(i) Pursuant to section 364(c)(2) of the Bankruptcy Code and the Orders (as applicable), all Obligations shall be secured by a perfected first priority senior Lien on all Collateral that is not otherwise subject to valid, perfected and non-avoidable Liens as of the Petition Date;

(ii) Pursuant to section 364(c)(3) of the Bankruptcy Code and the Orders (as applicable), all Obligations shall be secured by a perfected second priority junior Lien on all Collateral that is otherwise subject to (1) valid, perfected and non-avoidable Liens approved by Lender as of the Petition Date or (2) valid Liens in existence at the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code and approved by Lender and perfected thereafter as permitted by section 546(b) of the Bankruptcy Code (other than with respect to the Liens described in clause (iii) below, which Liens shall be primed by the Liens described in such clause); and

(iii) Pursuant to section 364(d)(1) of the Bankruptcy Code and the Orders (as applicable), all Obligations shall be secured by a perfected first priority senior priming Lien on the Collateral senior and superior to all Liens (other than Permitted Encumbrances) including without limitation any Prepetition Liens and any Liens granted pursuant to any cash collateral order granted by the Bankruptcy Court.

Subject to the Orders, no filings, recordings or other actions shall be necessary to perfect and maintain the perfection and status of such Liens.

(b) Notwithstanding anything in this Agreement to the contrary, Lender's Liens shall be subject to the Carve Out, but, for the avoidance of doubt, (i) payment of the Carve Out shall not reduce the amounts payable to Lender hereunder or under the other Loan Documents or affect the rights of Lender to receive such payment and (ii) under no circumstances shall Lender be responsible or liable for, or itself obligated to pay, any of the fees or other items constituting the Carve Out.

(c) Pursuant to section 364(c)(1) of the Bankruptcy Code and Orders (as applicable), all Obligations at all times shall constitute allowed super-priority administrative expense claims in the Chapter 11 Case having priority over all allowed administrative expenses, subject only to (i) the Carve Out, and (ii) rights of the residents pursuant to any agreement or order requiring Borrower to escrow or segregate any Resident Deposits for the benefit of the residents.

(d) Except for (i) the Carve Out and (ii) rights of the residents to the Resident Deposits pursuant to any agreement or order requiring Borrower to escrow or segregate any Resident Deposits for the benefit of the residents, no costs or expenses of administration shall be imposed against Lender or any of the Collateral under section 105 or 506(c) of the Bankruptcy Code, or otherwise, and Borrower hereby waives for itself and on behalf of its estate in bankruptcy, any and all rights under section 105 or 506(c), or otherwise, to assert or impose or seek to assert or impose, any such costs or expenses of administration against Lender or the Collateral.

(e) Subject to the priorities set forth in Section 3.4(a) and the Carve Out, as to all Land, Borrower hereby assigns and conveys as security, grants a security interest in, hypothecates, mortgages, pledges and sets over unto Lender or such trustees as are designated by Lender all of the right, title and interest of Borrower in all of such Land, together in each case with all of the right, title and interest of Borrower in and to all buildings, improvements, and fixtures related thereto, any leases or subleases thereof, all general intangibles relating thereto and all proceeds thereof. Borrower acknowledges that, pursuant to the Orders, the Liens in favor of Lender in all of Borrower's right, title and interest in such Land shall be perfected without the recordation of any instruments of mortgage or assignment. Borrower acknowledges that, pursuant to the Orders, the Liens in favor of Lender on all of Borrower's right, title and interest in all Collateral, including all such real property and leasehold interests, shall be perfected without the filing or recordation of any UCC financing statements, notices of Lien or other instruments of mortgage or assignment and without the necessity of any party delivering, filing, registering or recording any other financing statements, filings, notices, recordings or other instruments or otherwise taking any other action to perfect such security interests or Liens. Borrower further agrees that, upon the request of Lender and its counsel, it shall enter into and execute separate mortgages, deeds of trust or similar instruments in recordable form with respect to its owned and leased real properties on terms reasonably satisfactory to Lender and Lender's counsel.

3.5 No Discharge; Survival of Liens and Claims; Waiver of Priming Rights.

(a) Borrower agrees that the Obligations hereunder shall not be discharged by (i) the entry of an order confirming a Chapter 11 plan of reorganization or liquidation in the Chapter 11 Case (and Borrower pursuant to section 1141(d)(4) of the Bankruptcy Code hereby waives any such discharge), (ii) the conversion of the Chapter 11 Case to a chapter 7 case, or (iii) the dismissal of the Chapter 11 Case.

(b) Borrower agrees that the Liens and super-priority administrative expense claims granted to Lender pursuant to the Orders shall not be affected in any manner by the entry of an order confirming a Chapter 11 plan of reorganization or liquidation in the Chapter 11 Case.

(c) Upon the Closing Date, and on behalf of itself and its estate, until all Obligations are paid or otherwise satisfied in full and the Commitment is terminated, Borrower hereby irrevocably waives any right, pursuant to section 364(c) or 364(d) of the Bankruptcy Code or otherwise, to grant any Lien on the Collateral that is of equal or greater

priority than the Liens securing the Obligations, or to approve a claim of equal or greater priority than the super-priority administrative expense claims granted to the Obligations

3.6 **Payment of Obligations.** On the Maturity Date, the Commitment shall terminate and Borrower shall pay to Lender in cash all of the Obligations owed by Borrower to Lender hereunder or under any of the other Loan Documents. Upon the maturity (whether by acceleration or otherwise) of any of the Obligations under this Agreement or any of the other Loan Documents, Lender shall be entitled to immediate payment of such Obligations in cash without further application to or order of the Bankruptcy Court.

3.7 **Escrow of Resident Deposits.** Subject to applicable state regulatory requirements, Borrower shall cause all Resident Deposits to be deposited into escrow account(s) with a third party financial institution acceptable to applicable state regulators, which escrow account(s) will be subject to a first priority Lien in favor of Lender and a junior lien in favor of the Trustee, subject and subordinate in each case to the prior rights of residents therein.

3.8 **No Marshalling.** Borrower agrees that in no event shall Lender be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the Collateral or otherwise and Borrower will not assert any such theory of law or equity as it relates to the Collateral or collection of the Loan.

ARTICLE 4

PRINCIPAL, INTEREST; SPECIAL PROVISIONS

4.1 **Interest Rate.** Borrower promises to pay interest on the principal amount of the Loan from time to time outstanding at a rate per annum equal to the Interest Rate.

4.2 **Payment of Principal and Interest.**

(a) Through and including the Maturity Date, accrued interest on each Advance shall be payable in arrears on the last day of each Interest Period and on the Maturity Date. The Loan shall be due and payable in full on the Maturity Date.

(b) Payments shall be applied as required under Applicable Law and, in the absence of any such requirement, payments shall be applied in accordance with the terms of Section 10.6.

(c) All payments of principal (including prepayments) and accrued interest shall be paid by wire transfer in United States Dollars, to Lender, at such place as Lender may from time to time direct.

(d) All payments (including prepayments) to be made by Borrower hereunder and under the Note, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 1:00 p.m., Eastern Standard Time, on the due date thereof.

(e) If any payment hereunder becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day, and, with respect to payments of principal, interest thereon shall be payable at the Interest Rate during such extension.

(f) Prepayments of the Loan shall be made in accordance with Article 3.

(g) Immediately upon any repayment of the Loan, the Aggregate Commitment shall be permanently reduced by the principal amount then repaid.

(h) Amounts repaid may not be reborrowed.

4.3 **Computation of Interest and Fees; Default Rate.**

(a) Fees and interest shall be calculated on the basis of a 360-day year for the actual days elapsed. In no event shall the Interest Rate hereunder exceed the Highest Lawful Rate.

(b) After the occurrence and during the continuance of an Event of Default, the Interest Rate shall be increased by two hundred fifty basis points (250) above the rate otherwise applicable thereto (the "**Default Rate**").

4.4 **Illegality.** Notwithstanding any other provision herein, if Lender shall reasonably determine that any Regulatory Change shall make it unlawful for Lender to make or maintain the Loan as contemplated by this Agreement, Lender shall give notice of such determination to Borrower. Upon receipt of such notice, the right of Borrower to request further Advances and the obligation of Lender to make further Advances shall immediately cease, and the Loan immediately shall become due and payable; provided, however, such Loan shall not become due and payable to the extent such illegality is the result of Lender's gross negligence or willful misconduct as found in a final non-appealable judgment by a court of competent jurisdiction.

4.5 **Legal Requirements.**

(a) If any Regulatory Change made subsequent to the date hereof shall:

(i) subject Lender to any tax of any kind whatsoever with respect to this Agreement, the Note, or the Loan, or change the basis of taxation of payments to Lender in respect thereof (except for Non-Excluded Taxes covered by Section 4.6 and changes in the rate of tax on the overall net income of Lender); or

(ii) impose on Lender any other condition regarding the Loan or Lender's funding thereof;

and the result of any of the foregoing is to increase the cost of the Loan to Lender, by an amount which Lender in good faith deems to be material, then, in any such case, Borrower shall promptly pay to Lender, upon demand, any additional amounts necessary to compensate Lender for such increased cost or reduced amount receivable.

(b) If Lender shall have reasonably determined that any Regulatory Change regarding capital adequacy or in the interpretation or application thereof or compliance by Lender or any corporation controlling Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority, in any such case made subsequent to the date hereof, does or shall have the effect of reducing the rate of return on Lender's or such corporation's capital as a consequence of its obligations hereunder to a level below that which Lender or such corporation could have achieved but for such change or compliance (taking into consideration Lender's or such corporation's policies with respect to capital adequacy) by an amount deemed by Lender to be material, then from time to time, after submission by Lender to Borrower of a written request therefor, Borrower shall pay to Lender such additional amount as will compensate Lender for such reduction.

(c) If Lender becomes entitled to claim any additional amounts pursuant to this Section 4.5, it shall promptly notify Borrower of the event by reason of which it has become so entitled. A certificate as to any additional amounts payable pursuant to this Section 4.5 submitted by Lender to Borrower shall be conclusive in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment and performance of all other Obligations hereunder.

(d) Notwithstanding anything to the contrary contained in this Section 4.5, Borrower shall not be required to pay any additional amounts to Lender pursuant to this Section 4.5 to the extent such additional amounts result from Lender's gross negligence or willful misconduct as found in a final non-appealable judgment by a court of competent jurisdiction.

4.6 Taxes.

(a) All payments made by Borrower under this Agreement and the Note shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding net income taxes and franchise taxes (imposed in lieu of net income taxes) imposed on Lender as a result of a present or former connection between Lender and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or the Note). If any such non-excluded taxes, levies, imposts, duties, charges, fees, deductions or withholdings ("**Non-Excluded Taxes**") are required to be withheld from any amounts payable to Lender hereunder or under the Note, the amounts so payable to Lender shall be increased to the extent necessary to yield to Lender (after payment of all Non-Excluded Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement; provided, however, that Borrower shall not be required to increase any such amounts payable to Lender if Lender is not organized under the laws of the United States of America or a state thereof and fails to comply with the requirements of Section 4.6(b). Whenever any Non-Excluded Taxes are payable by Borrower, as promptly as possible thereafter, Borrower shall send to Lender a certified copy of an original official receipt received by Borrower showing payment thereof. If Borrower fails to pay any Non-Excluded Taxes when due to the appropriate taxing authority or fails to remit to Lender the required receipts or other required documentary evidence, Borrower shall indemnify Lender for any incremental taxes, interest or penalties that may become payable by Lender as a result of any such failures. The agreements in this Section 4.6(a) shall survive the termination of this Agreement and the payment of the Obligations, as set forth in the Loan Documents. Notwithstanding anything to the contrary contained in this Section 4.6(a), Borrower shall not be required to pay any additional amounts to Lender pursuant to this Section 4.6(a) to the extent such additional amounts result from such Lender's gross negligence or willful misconduct as found in a final non-appealable judgment by a court of competent jurisdiction.

(b) If Lender is not incorporated under the laws of the United States of America or a state thereof, it shall:

(i) deliver to Borrower two duly completed copies of United States Internal Revenue Service Form 1001 or 4224, or successor applicable form, as the case may be, and an Internal Revenue Service Form W-8 or W-9, or successor applicable form, as the case may be;

(ii) deliver to Borrower two further copies of any such form or certification on or before the date that any such form or certification expires or becomes obsolete and after the occurrence of any event requiring a change in the most recent form previously delivered by it to Borrower; and

(iii) obtain such extensions of time for filing and complete such forms or certifications as reasonably may be requested by Borrower; unless in any such case an event (including, without limitation, any change in treaty, law or regulation) has occurred prior to the date on which any such delivery would otherwise be required which renders all such forms inapplicable or which would prevent Lender from duly completing and delivering any such form with respect to it and Lender so advises Borrower. Lender shall certify (i) in the case of a Form 1001 or 4224, that it is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income taxes, and (ii) in the case of a Form W-8 or W-9, that it is entitled to an exemption from United States backup withholding tax. Each party that shall become a transferee pursuant to Section 9.1 shall, upon the effectiveness of the related transfer, be required to provide all of the forms and statements required pursuant to this Section, provided that in the case of a participant such participant shall furnish all such required forms and statements to Lender from which the related participation shall have been purchased.

4.7 **Loan Indemnification.** Borrower shall indemnify and hold harmless Lender and its Affiliates, officers, directors, employees, agents, advisors, attorneys and representatives (each, an “**Indemnified Party**”) from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, reasonable fees and disbursements of counsel), joint or several, that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or relating to any investigation, litigation or proceeding or the preparation of any defense with respect thereto, arising out of or in connection with or relating to this Agreement, the other Loan Documents or the transactions contemplated hereby or thereby, or any use made or proposed to be made with the proceeds of the Loan, whether or not such investigation, litigation or proceeding is brought by Borrower, any of its shareholders or creditors, an Indemnified Party or any other person, or an Indemnified Party is otherwise a party thereto and whether or not the transactions contemplated hereby or thereby are consummated, except to the extent such claim, damage, loss, liability or expense is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party’s bad faith, gross negligence or willful misconduct. No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to Borrower or any of its shareholders or creditors for or in connection with the transactions contemplated hereby or thereby, except to the extent such liability is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party’s bad faith, gross negligence or willful misconduct. In no event, however, shall any Indemnified Party be liable on any theory of liability for any special, indirect, consequential or punitive damages. This Obligation on the part of Borrower shall survive the payment of the Obligations, the termination of the Commitment and any cancellation of this Agreement. Without limitation of the foregoing, Borrower shall pay, and hold each Indemnified Party harmless from, any and all claims of any brokers, finders

or agents claiming a right to any fees in connection with arranging the financing contemplated hereby.

4.8 **Fees and Expenses.**

(a) Borrower shall pay to Lender a commitment fee on the Closing Date with respect to the Aggregate Commitment in the amount of Three Hundred Thousand Dollars (\$300,000.00), to be paid from the Initial Advance.

(b) Borrower shall pay to Lender an exit fee on the Maturity Date with respect to the Aggregate Commitment in the amount of One Hundred Twenty Thousand Dollars (\$120,000.00). In addition, if the Borrower elects to exercise the extension option and the stated maturity date set forth in clause (a) of the definition of Maturity Date is extended to August 31, 2012 pursuant to Section 3.1(c) hereof, Borrower shall pay to Lender an extension fee on the Maturity Date with respect to the Aggregate Commitment in the amount of Sixty Thousand Dollars (\$60,000.00).

(c) On (i) the Closing Date, from the Loan Proceeds, (ii) from time to time thereafter, upon demand by Lender, and (iii) on the Maturity Date, Borrower shall pay or reimburse Lender for all fees (including reasonable legal fees), costs, charges and reasonable out-of-pocket expenses associated with (w) the preparation and negotiation of this Agreement and the other Loan Documents, (x) the consummation of the transactions described in this Agreement and the other Loan Documents, (y) administration of the Loan, and (z) the enforcement of rights and remedies set forth in this Agreement and the other Loan Documents, that have been billed to or incurred by Lender; provided, however, that the maximum amount of all such fees, costs, charges and expenses shall not exceed \$150,000. On the Closing Date, Borrower shall pay to Lender \$100,000 from the Initial Advance as an expense reimbursement reserve to supplement the \$50,000 paid by Clare Oaks to the Lender on the Petition Date prior to the filing of the Chapter 11 Case (such \$150,000, the "Expense Reimbursement Reserve"). Reimbursements shall commence with the first such demand to occur on or after the Closing Date, but the obligation of Borrower to make any final reimbursement shall survive the Maturity Date. If Borrower shall fail to pay any such fees, costs, charges and expenses within three (3) Business Days after demand or other time specified in this Section 4.8(c) for such payment, such failure shall permit Lender to apply funds in the Expense Reimbursement Reserve to the payment or reimbursement for such fees, costs, charges and expenses, subject to the limitations in the preceding proviso.

ARTICLE 5

CONDITIONS PRECEDENT TO EACH ADVANCE

5.1 **Conditions Precedent to Each Advance.** The obligation of Lender to honor any Loan Notice (including the Loan Notice relating to the Initial Advance) is subject to the following conditions precedent:

(a) Lender shall have obtained a copy of the Interim Order (as to the Initial Advance) and subsequently the Final Order (as to each other Advance).

(b) There exists no Default or Event of Default under this Agreement or any other Loan Document.

(c) The representations and warranties contained in this Agreement and each of the other Loan Documents are true and correct in all material respects as of such Borrowing Date except for changes thereto as the result of actions required by the terms of this Agreement and the other Loan Documents or with the written consent of Lender; provided, that the words "in all material respects" in this Section 5.1(c) shall, as to any representation or warranty that contains a materiality standard, operate without duplication with such standard.

(d) During the Interim Availability Period, (i) the Interim Order shall be in full force and effect and shall not have been reversed, modified, amended, rescinded, vacated or subject to a presently effective stay pending appeal, without the prior written consent of Lender, and (ii) the outstanding amount of the Loan shall not exceed the Interim Availability Amount.

(e) Following the Final Order Entry Date and during the Availability Period, (i) the Final Order shall be in full force and shall not have been reversed, modified, amended, rescinded, vacated or subject to a presently effective stay pending appeal, without the prior written consent of Lender, (ii) the aggregate of all Advances (including the Initial Advance) shall not exceed the Aggregate Commitment and (iii) the aggregate of all Adequate Protection Advances shall not exceed \$1,000,000.

(f) Before and after giving effect to the requested Advance and the application of the proceeds thereof, Borrower shall be in compliance in all material respects with the Budget (except as otherwise permitted by Section 8.2(m)), and the proposed use of the proceeds is consistent with the Budget.

(g) There has been no event, condition, obligation, liability, or circumstance that would constitute a Material Adverse Effect; provided that, any changes attributable solely to the commencement of the Chapter 11 Case shall not constitute a Material Adverse Effect.

(h) Borrower shall have executed this Agreement and such other Loan Documents as Lender reasonably shall require to secure the performance of Borrower's Obligations and to perfect Lender's interests in the Collateral.

(i) Borrower shall have granted to Lender access to and the right to inspect all reports, audits and other internal information of Borrower relating to environmental matters and any third party verification of certain matters relating to compliance with environmental laws and regulations applicable to the Land, to the extent reasonably requested by Lender.

(j) Lender shall have received such information and materials relating to the Collateral as Lender reasonably shall require, including, without limitation, mortgagee

title insurance policies, casualty and liability insurance policies, surveys and environmental site assessments, exclusive of any information or materials related to the proposed sale or other disposition of the Collateral not otherwise provided to other parties interested in submitting a proposed bid to acquire the Collateral (other than the Trustee).

(k) Borrower shall have complied with the funding conditions and procedures described in Section 7.1.

(l) The Lender shall have received a Lease Estoppel Agreement executed by the Landlord, which shall still be in effect.

(m) The Interim and Final Order shall permit Lender (or its designee as a potential purchaser that would receive an assignment from the Lender of all of the Obligations in accordance with Section 9.1 hereof immediately prior to the closing of the applicable transaction) to credit bid the outstanding amount of the Obligations at any auction process of all or substantially all of the Borrower's assets/operations.

(n) The Lender shall have a Lien in the Collateral that is senior and superior to all other Liens on the Collateral as and to the extent provided in the Orders.

Each request for an Advance shall constitute a representation and warranty by Borrower that the conditions contained in this Section 5.1 have been satisfied or waived in writing by Lender.

ARTICLE 6

CONDITIONS TO CLOSING AND THE INITIAL ADVANCE

6.1 **Conditions to Closing and the Initial Advance.** The obligation of Lender to close and make the Initial Advance on the Closing Date is further subject to the satisfaction, or waiver in accordance with Section 11.2, of the following conditions on or before the Closing Date:

(a) **Delivery of Documents.** Borrower shall have furnished to Lender each of the following, all in form and substance satisfactory to Lender:

(i) Executed copies of this Agreement and each of the other Loan Documents required to be executed and delivered by Borrower, dated as of the Petition Date and delivered on or prior to the Closing Date;

(ii) A certificate of the Secretary of State of Illinois, dated as of a date not earlier than thirty (30) days prior to the Closing Date, as to the good standing of and payment of taxes by Borrower; and

(iii) A certificate of the Secretary or an Assistant Secretary of Borrower dated the Closing Date and certifying on behalf of Borrower (A) that attached thereto is a true and complete copy of the articles of incorporation and by-laws of Borrower as in effect on the date of such certification, (B) that attached

thereto is a true and complete copy of resolutions adopted by the board of directors of Borrower authorizing the filing of its bankruptcy petition and authorizing the execution, delivery and performance in accordance with the terms of this Agreement, each of the other Loan Documents, and any other documents required or contemplated hereunder or thereunder, the granting of the security interests contemplated by the Loan Documents, and the other transactions contemplated by this Agreement, and (C) as to the incumbency and specimen signature of each officer of Borrower executing this Agreement and the other Loan Documents or any other document delivered by it in connection herewith or therewith.

(b) **Fees and Expenses.** All costs, charges, fees, expenses (including, without limitation, legal fees and expenses and the commitment fee) and other compensation payable or reimbursable to Lender, to the extent due as of the Closing Date or in connection with the Initial Advance, shall have been paid or provisions satisfactory to Lender shall have been made to pay such costs, charges, fees, expenses and other compensation using the proceeds of the Initial Advance.

(c) **[Intentionally Omitted].**

(d) **Objections to Lender's Liens and Security.** No timely objection shall have been filed challenging the amount, validity, enforceability, perfection, non-avoidability and priority and seniority of the Obligations and Lender's Liens, as applicable.

(e) **First Day Orders.** All orders approving all necessary motions filed by Borrower on the Petition Date ("**First Day Orders**") shall have been entered by the Bankruptcy Court as promptly as practicable after the commencement of the Chapter 11 Case and the terms thereof shall be consistent with this Agreement and the other Loan Documents and reasonably satisfactory in all respects to Lender.

(f) **Motions and Other Documents.** Borrower shall have provided Lender with a copy of all motions and other documents to be filed by Borrower with and submitted to the Bankruptcy Court in connection with the Loan, which motions and other documents shall be in form and substance reasonably satisfactory to Lender. Borrower shall not have filed any motion or pleading which has or may have an effect on the rights granted to Lender hereunder or under the Orders without first providing Lender with sufficient and reasonable notice of such a motion or pleading, exclusive of any motions or pleadings related to the proposed sale or other disposition of the Collateral not otherwise provided to other parties interested in submitting a proposed bid to acquire the Collateral (other than the Trustee).

(g) **No Material Adverse Effect.** No change shall have occurred that results in a Material Adverse Effect; provided that, any changes attributable solely to the commencement of the Chapter 11 Case shall not constitute a Material Adverse Effect.

(h) **Estoppel Certificate.** The Landlord shall have delivered to Lender a Lease Estoppel Agreement.

(i) **Budget.** Borrower shall have furnished the Interim Order Budget to Lender, and Lender, Trustee and Sovereign Bank shall have approved such Interim Order Budget in the sole but reasonable discretion of each.

(j) **Additional Documents.** Lender shall have received such other papers, reports and documents regarding Borrower or the Collateral as Lender or its counsel reasonably may require, exclusive of any information or materials related to the proposed sale or other disposition of the Collateral not otherwise provided to other parties interested in submitting a proposed bid to acquire the Collateral (other than the Trustee).

ARTICLE 7

FUNDING CONDITIONS AND MECHANICS

7.1 **Funding Conditions and Mechanics.** The obligation of Lender to honor any Loan Notice is subject to the following conditions precedent:

(a) Each request for an Advance shall be made by Borrower in an irrevocable Loan Notice signed by a responsible officer of Borrower and delivered to Lender. Each such Loan Notice must be received by Lender not later than 11:00 a.m., Eastern Standard Time, two (2) Business Days prior to the requested date of the applicable Advance. Each Advance (other than those made by Lender pursuant to the last sentence of Section 4.8(c) or Section 10.3) shall be in a principal amount of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) or such lesser amount then available for an Advance pursuant to the terms of the Loan Documents. Each Loan Notice shall specify:

(i) the requested date of the Advance (which shall be a Business Day);

(ii) the principal amount of the Advance requested to be borrowed;

(iii) the recipient of each portion of the Loan Proceeds requested to be borrowed and appropriate wiring or other instructions regarding disbursement of such Loan Proceeds;

(iv) the principal amount of the Advance requested, if any, that shall be an Adequate Protection Advance; and

(v) from and after the Final Order Entry Date, the specific use of the Loan Proceeds.

(b) Borrower shall have no right to request, and Lender shall have no obligation to honor, more than two requests for Advances in any calendar week.

(c) Following receipt of a Loan Notice, and upon satisfaction of the applicable conditions set forth in this Section 7.1 and Sections 5.1 and 6.1, Lender shall initiate the amount of the requested Advance available to Borrower by wire transfer not later than 1:00 p.m., Eastern Standard Time, on the Business Day specified in the Loan Notice.

Lender shall make the Advance in accordance with instructions provided by Borrower to (and reasonably acceptable to) Lender.

(d) After the occurrence of a Default, Lender shall have no obligation to honor any Loan Notice or other Borrower request for an Advance.

ARTICLE 8

FURTHER AGREEMENTS OF BORROWER

8.1 **Furnishing Information.** Borrower will:

(a) deliver to Lender the reports required by Section 8.2(l);

(b) [INTENTIONALLY OMITTED];

(c) deliver to Lender monthly updates certified by a responsible officer of Borrower with respect to Asset Sales, costs savings and other matters reasonably requested by Lender, exclusive of any information or materials related to the proposed sale or other disposition of the Collateral not otherwise provided to other parties interested in submitting a proposed bid to acquire the Collateral (other than the Trustee);

(d) deliver to Lender, as soon as practicable, and in advance of filing with the Bankruptcy Court: (i) the proposed Final Order, (ii) all other proposed orders and pleadings related to the Collateral or the Loan, (iii) the proposed order and pleadings related to the auction process for the sale of substantially all of the Borrower's assets/operations, (iv) any plan of reorganization or liquidation, and/or (v) any disclosure statement related to such plan; provided, however, that with respect to subsections (ii) and (iii) herein Borrower shall not be required to provide any information or materials related to the proposed sale or other disposition of the Collateral not otherwise provided to other parties interested in submitting a proposed bid to acquire the Collateral (other than the Trustee).

(e) as soon as available and in no event later than forty-five (45) days after the end of each fiscal quarter (commencing with the fiscal quarter ending December 31, 2011), unaudited financial statements of Borrower, signed by a responsible officer of Borrower. Such financial statements shall show the results of operations of Borrower and shall consist of a balance sheet, cash flow statement, and statement of income and expense prepared in accordance with GAAP;

(f) promptly notify Lender of any condition or event which constitutes a Default or an Event of Default;

(g) promptly notify Lender of any circumstance or condition which constitutes or, unless abated, would constitute a Material Adverse Effect, and of any material adverse change in the financial condition of Borrower or the value of the Collateral;

(h) promptly after the same is available (to the extent not otherwise previously delivered), furnish to Lender's counsel all pleadings, motions, applications,

judicial information, financial information and other documents filed by or on behalf of Borrower with the Bankruptcy Court or the United States Trustee in the Chapter 11 Case, or distributed by or on behalf of Borrower to any committee appointed in the Chapter 11 Case (other than confidential information provided to Borrower by any other bidder for Borrower's assets), which shall be deemed satisfied upon the retention of Garden City Group or any other claims agent;

(i) promptly upon receiving a request therefor from Lender, prepare and deliver to Lender such other information with respect to Borrower or the Collateral, including, without limitation, schedules identifying and describing the Collateral and any dispositions thereof or any Asset Sale and the use of the Net Cash Proceeds thereof, as from time to time reasonably may be requested by Lender, exclusive of any information or materials related to the proposed sale or other disposition of the Collateral not otherwise provided to other parties interested in submitting a proposed bid to acquire the Collateral (other than the Trustee).

(j) as promptly as practicable after the Petition Date, deliver to Lender certificate of incorporation of Borrower, certified as of a date not earlier than thirty (30) days prior to the Closing Date by the Secretary of the State of Illinois.

8.2 Affirmative Covenants.

(a) Existence, Etc. Borrower shall at all times maintain its organizational existence and preserve and keep, or cause to be preserved and kept, in full force and effect, all rights and franchises material to its business.

(b) Powers; Conduct of Business. Borrower shall qualify and remain qualified to do business in each jurisdiction in which the nature of its business requires it to be so qualified and where the failure to be so qualified will have or could reasonably be expected to have a Material Adverse Effect. Borrower shall carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted.

(c) Compliance with Laws, Etc. Borrower shall (i) comply with all Applicable Laws and all restrictive covenants affecting Borrower or its business, properties, assets or operations, except in respect of conflicts, inconsistencies, breaches or defaults (x) occasioned by the filing of the Chapter 11 Case, and (y) resulting from obligations with respect to which the Bankruptcy Code prohibits the Borrower from complying, and (ii) obtain, as needed, all permits necessary for its operations and maintain such permits in good standing unless the failure to comply or obtain same could not reasonably be expected to have a Material Adverse Effect.

(d) Use of Proceeds. Borrower will solely and exclusively use the Loan Proceeds in the manner specified in this Agreement, the Loan Notices, the Budget and the Orders, as applicable. No portion of the Loan Proceeds shall be used in any manner that causes or might cause the Loan or the application of such proceeds to violate Regulation T,

Regulation U or Regulation X of the Board of Governors of the Federal Reserve System or any other regulation thereof or to violate the Exchange Act.

(e) **Payment of Taxes.** To the extent provided for in the Budget, Borrower shall pay all post-petition taxes (other than property taxes contemplated to be paid upon consummation of a sale of the applicable property or the effectiveness of a plan in the Chapter 11 Case), assessments and other governmental charges imposed upon it or on any of its properties or assets or in respect of any of its franchises, business, income or property before any penalty or interest accrues thereon; provided, however, that no such taxes, assessments and governmental charges (and interest, penalties or fines relating thereto) need be paid if being contested in good faith by appropriate proceedings diligently instituted and conducted and for which adequate reserves are maintained.

(f) **Insurance.** Borrower shall maintain in full force and effect insurance policies and programs or other policies and programs as reflect coverage that is consistent with prudent industry practice. Not later than ten (10) Business Days following the Closing Date, Borrower shall deliver to Lender endorsements in form and substance acceptable to Lender (i) to all "All Risk" physical damage insurance policies on all of Borrower's tangible real and personal property and assets and business interruption insurance policies naming Lender as loss payee, and (ii) to all general liability and other liability policies naming Lender as an additional insured. In the event Borrower at any time or times hereafter shall fail to obtain or maintain any of the policies or insurance required herein or to pay any premium in whole or in part relating thereto, then Lender, without waiving or releasing any obligations or resulting Event of Default hereunder and without obligation to do so, may at any time or times thereafter obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto which Lender deems advisable. All sums so disbursed by Lender shall constitute part of the Obligations, payable as provided in this Agreement.

(g) **Inspection of Property; Books and Records; Discussions.** Borrower shall permit any authorized representative(s) designated by Lender to visit and inspect any of the properties of Borrower to examine, audit, check and make copies of its financial and accounting records, books, journals, orders, receipts and any correspondence and other data relating to its business, the Collateral or the transactions contemplated hereby (exclusive of any information or materials related to the proposed sale or other disposition of the Collateral not otherwise provided to other parties interested in submitting a proposed bid to acquire the Collateral (other than the Trustee)) (including, without limitation, in connection with environmental compliance, hazard or liability), and to discuss its affairs, finances and accounts with its officers and independent certified public accountants, all upon reasonable notice and at such reasonable times during normal business hours, as often as reasonably may be requested. Without limiting the foregoing, Borrower shall permit any authorized representatives designated by Lender to complete each such audit, collateral analysis, appraisal, field examination, environmental survey, or other business analysis with respect to Borrower as Lender shall request, all upon reasonable notice and at such reasonable times during normal business hours, as often as reasonably may be requested.

(h) **Insurance and Condemnation Proceeds.** Subject to the applicable terms of the Lease and the Carve Out, Borrower hereby directs all insurers under policies of property damage, boiler and machinery and business interruption insurance and payors of any condemnation claims or awards relating to the property to pay all proceeds payable under such policies or with respect to such claim or award for any loss with respect to the Collateral directly to Lender up to the amount of the Obligations outstanding.

(i) **Maintenance of Property.** Borrower shall cause all property used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and shall cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of Borrower may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; provided, however, that nothing contained herein shall prevent Borrower from discontinuing the operation or maintenance of any of such property if such discontinuance is, in the judgment of Borrower, desirable in the conduct of its business and not disadvantageous in any material respect to the interests of Lender.

(j) **Waiver of Claims.** Borrower shall waive any claims arising under Bankruptcy Code section 506(c) against Lender or the Loan, and shall not commence any actions adverse to Lender or its rights and remedies in respect of the Loan.

(k) **Further Assurance.** At Lender's reasonable request, Borrower will execute and deliver such documents as may be necessary (i) to perfect and maintain perfected and valid Liens upon the Collateral and the personal property located thereon and the Liens granted to Lender pursuant to this Agreement or any of the other Loan Documents, and (ii) to fully consummate the transactions contemplated by this Agreement.

(l) **Cash Reports.** On each two (2) week anniversary of the last Business Day in the calendar week in which the Closing Date occurred (or, if such anniversary is not a Business Day, on the next succeeding Business Day), an updated rolling cash flow forecast setting forth in the same format as the initial Budget anticipated cash receipts and expenditures for Borrower for the succeeding thirteen (13) week period (together with a comparison of actual payments to budgeted line items for the immediately preceding two (2) week period).

(m) **Budget.** Borrower shall incur and make expenditures, and shall advance funds to other Persons, only (i) as provided for in the Budget, tested on each two (2) week anniversary of the last Business Day in the calendar week in which the Closing Date occurred Petition Date (or if such anniversary is not a Business Day, on the next succeeding Business Day), for the Applicable Period with regard to aggregate cash receipts (subject to a twenty percent (20%) negative variance to the Budget over the Applicable Period (thus, not less than eighty percent (80%))) and aggregate cash disbursements (subject to a ten percent (10%) negative variance to the Budget over the Applicable Period (thus, not more than one hundred ten percent (110%))), or (ii) with the prior written approval of, and subject to any conditions as set forth by, Lender and the Trustee in their respective reasonable discretion.

(n) **Other Reports.** Borrower shall deliver to Lender monthly updates with respect to Asset Sales, cost savings and other matters reasonably requested by Lender, exclusive of any information or materials related to the proposed sale or other disposition of the Collateral not otherwise provided to other parties interested in submitting a proposed bid to acquire the Collateral (other than the Trustee).

(o) **Certain Milestones.**

(i) Borrower shall cause the Final Order Entry Date to occur not later than thirty (30) days after entry of the Interim Order.

(ii) On or prior to February 6, 2012, Borrower has received and notified Lender of Borrower's receipt of a non-binding letter of intent from a potential stalking horse bidder for the purchase of all or substantially all of Borrower's assets.

(iii) On or prior to March 6, 2012, Borrower has received and notified Lender of Borrower's receipt of a binding letter of intent from a potential stalking horse bidder for the purchase of all or substantially all of Borrower's assets.

(iv) Not later than April 23, 2012, Borrower shall (x) have received and notified Lender of Borrower's receipt of an asset purchase agreement for the purchase of all or substantially all of Borrower's assets and (y) file a motion for approval of certain bid procedures and authority to sell its assets to the stalking horse bidder or such other bidder making a higher and better offer for such assets, which shall authorize Lender (or its designee as a potential purchaser that would receive an assignment from the Lender of all of the Obligations in accordance with Section 9.1 hereof immediately prior to the closing of the applicable transaction) to credit bid the outstanding amount of the Obligations.

(v) If applicable, on or before June 4, 2012, Borrower shall have conducted an auction for the sale of all or substantially all of the Borrower's assets.

(vi) Borrower shall close the sale of all or substantially all of the Borrower's assets on or before July 13, 2012.

(p) **Nondisclosure of Asset Sale Information.** Notwithstanding anything to the contrary contained herein, Borrower shall not be required to disclose to Lender any information or materials related to the proposed sale or other disposition of the Collateral not otherwise provided to other parties interested in submitting a proposed bid to acquire the Collateral (other than the Trustee).

8.3 **Negative Covenants.**

(a) **Indebtedness.** Neither Borrower nor its Subsidiaries, if any, shall directly or indirectly create, incur, assume or otherwise become or remain directly or indirectly liable with respect to any Indebtedness, except:

(i) the Obligations;

(ii) the Prepetition Indebtedness;

(iii) Indebtedness constituting Contingent Obligations permitted by Section 8.3(d);

(iv) secured or unsecured purchase money Indebtedness (including Capitalized Leases) incurred subsequent to the Petition Date to finance the acquisition of assets used in Borrower's business, if (1) at the time of such incurrence, no Default or Event of Default has occurred and is continuing or would result from such incurrence, (2) such Indebtedness has a scheduled maturity and is not due on demand, (3) such Indebtedness does not exceed the lower of the fair market value or the cost of the applicable assets on the date acquired, (4) such Indebtedness does not exceed One Hundred Thousand Dollars (\$100,000.00) in the aggregate outstanding at any time, and (5) any Lien securing such Indebtedness is permitted under Section 8.3(c) (such Indebtedness being referred to herein as "**Permitted Purchase Money Indebtedness**");

(v) Indebtedness under and pursuant to the Lease;

(vi) Indebtedness owing to SSJ-TOSF as of the Petition Date; and

(vii) unsecured Indebtedness with respect to surety, appeal and performance bonds obtained by Borrower in the ordinary course of business.

(b) **Sales of Assets.** Borrower will not sell, transfer, lease, exchange, alienate or dispose of any or all Collateral, other than (i) in the ordinary course of Borrower's business, and then only to the extent such transfers are limited to Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate, and (ii) in accordance (or not inconsistent) with the Orders.

(c) **Liens.** Borrower shall not, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any of their respective property or assets except:

(i) Liens in favor of Lender created by this Agreement or the other Loan Documents or otherwise securing the Obligations;

(ii) Prepetition Liens and Permitted Encumbrances;

(iii) Customary Permitted Liens; and

(iv) purchase money Liens (including the interest of a lessor under a Capitalized Lease and Liens to which any property is subject at the time of Borrower's acquisition thereof) securing Permitted Purchase Money Indebtedness; provided that such Liens shall not apply to any property of Borrower other than that purchased or subject to such Capitalized Lease;

(v) Liens in favor of the Trustee in or against the Trustee Held Funds; and

(vi) replacement and additional Liens in favor of the Trustee as adequate protection granted pursuant to a cash collateral order (the form of which shall be satisfactory to Lender in its reasonable discretion), which Liens are junior to the Liens granted in favor of the Lender pursuant to the Orders. Nothing herein shall affect any right of the Trustee to seek to enforce any cash collateral order. For avoidance of doubt, any amounts recovered by the Trustee from Collateral, other than the Resident Deposits, shall be paid to Lender until all outstanding Obligations have been indefeasibly satisfied in full.

(d) **Contingent Obligations.** Borrower shall not, directly or indirectly, create or become or be liable with respect to any Contingent Obligation, except: (i) recourse obligations resulting from endorsement of negotiable instruments for collection in the ordinary course of business; (ii) Prepetition Contingent Obligations; (iii) obligations, warranties and indemnities, not relating to Indebtedness of any Person, which have been or are undertaken or made in the ordinary course of business and not for the benefit of or in favor of an Affiliate of Borrower; (iv) Contingent Obligations entered into in connection with any Indebtedness of Borrower permitted by Section 8.3(a)(iii); and (v) Contingent Obligations with respect to surety, appeal and performance bonds obtained by Borrower in the ordinary course of business.

(e) **Sales and Leasebacks.** Borrower shall not become liable, directly, by assumption or by Contingent Obligation, with respect to any lease, whether an operating lease or a Capitalized Lease, of any property (whether real or personal or mixed) (i) which it sold or transferred or is to sell or transfer to any other Person, or (ii) which it intends to use for substantially the same purposes as any other property which has been or is to be sold or transferred by it to any other Person in connection with such lease.

(f) **[Intentionally Omitted].**

(g) **Material Investments.** Borrower shall not (i) make any investment in excess of Fifty Thousand Dollars (\$50,000.00) unless set forth in the Budget and authorized by Lender or otherwise in accordance with the United States Trustee's Guidelines for Debtors in Possession; or (ii) make any loan or advance to any Person.

(h) **Restriction on Fundamental Changes.** Borrower shall not enter into any merger or consolidation, or liquidate, wind-up or dissolve (or suffer any liquidation or dissolution), discontinue or otherwise change any of its lines of business or, except as otherwise permitted or required by this Agreement, convey, lease, sell, transfer or otherwise dispose of, in one transaction or series of transactions, all or substantially all of Borrower's business or property, whether now or hereafter acquired, except as otherwise contemplated herein.

(i) **Corporate Documents.** Borrower shall not amend, modify or otherwise change (i) in any material manner the nature and type of its business or the manner in which such business is conducted or (ii) its organizational documents, except as required by the Bankruptcy Code.

(j) **Prohibition Against Additional Recordings.** Borrower will not record or permit to be recorded any document, instrument, agreement or other writing against the Collateral, other than Liens in favor of Lender which secure the Obligations or any replacement and additional Liens in favor of the Trustee as adequate protection granted pursuant to a cash collateral order.

(k) **Chapter 11 Claims.** Borrower shall not incur, create, assume, suffer to exist or permit any administrative expense, unsecured claim, or other super-priority claim or Lien on the Collateral that is pari passu with or senior to the claims of Lender against Borrower, or apply to the Bankruptcy Court for authority to do so, except for Permitted Liens and the Carve Out.

(l) **Limitation on Prepayments of Prepetition Indebtedness.** Other than (i) payments authorized by the Bankruptcy Court (A) in respect of accrued payroll and related expenses as of the Petition Date, (B) in respect of certain creditors, in each case to the extent authorized by a First Day Order or (C) in respect of cure payments in connection with the assumption of the Ground Lease to the extent payment thereof is in accordance with the Budget, subject to permitted variances set forth in Section 8.2(m); (ii) payments authorized by the Bankruptcy Court with respect to any settlement or other stipulation with any creditor of Borrower, other than Lender, individually or in the aggregate not in excess of One Hundred Thousand Dollars (\$100,000.00); and (iii) as contemplated by an approved Budget, Borrower shall not (i) make any payment or prepayment on or redemption or acquisition for value (including, without limitation, by way of depositing with the trustee with respect thereto money or securities before due for the purpose of paying when due) of any Prepetition Indebtedness, (ii) pay any interest on any Prepetition Indebtedness (whether in cash, in in-kind securities or otherwise), except to the extent authorized by any order entered by the Bankruptcy Court, (iii) make any payment or create or permit any Lien pursuant to section 361 of the Bankruptcy Code (or pursuant to any other provision of the Bankruptcy Code authorizing adequate protection), other than replacement and additional Liens in favor of the Trustee as adequate protection granted pursuant to a cash collateral order; or (iv) apply to the Bankruptcy Court for the authority to do any of the foregoing, except as provided herein.

(m) **Orders.** Borrower shall not make or permit to be made any change, amendment or modification, or make any application or motion for any change, amendment or modification, to the Orders other than as approved in writing by Lender.

(n) **Budget.** Except to the extent set forth in an approved Budget, (A) Borrower shall make no payment or other transfer to any Affiliate of Borrower; and (B) Borrower shall not incur any capital expenses or make any capital expenditures.

(o) **Fiscal Year.** Borrower shall not change its fiscal year.

(p) **Subsidiaries.** The Borrower shall not form any Subsidiaries.

ARTICLE 9

ASSIGNMENTS; CONFIDENTIALITY

9.1 **Successors and Assigns.** The terms and provisions of the Loan Documents shall be binding upon and inure to the benefit of Borrower, Lender and their respective successors and assigns, except that Borrower shall not have the right to assign its rights or obligations under the Loan Documents. Lender may at any time, and from time to time, assign or transfer the Loan, subject to the prior consent of Borrower, not to be unreasonably withheld or delayed, except that no such consent by Borrower shall be required if an Event of Default has occurred and is continuing or for any assignment to or participation by an Affiliate of Lender. No assignment by Lender shall release Lender from its obligations hereunder arising prior to the date of assignment. Any assignee or transferee agrees by acceptance thereof to be bound by all the terms and provisions of the Loan Documents. Any request, authority or consent of any Person, who at the time of making such request or giving such authority or consent is the holder of the Note, shall be conclusive and binding on any subsequent holder, transferee or assignee of the Note or of any instruments issued in exchange therefor. The Lender may at any time, and from time to time, sell to any third party one or more participations in a portion of the Loan and Aggregate Commitment so long as, after giving effect to any such sale, the Lender holds at least fifty-one percent (51%) of the Loan and Aggregate Commitment; provided, however, that, whether as a result of any term of any Loan Document or of such participation, (i) no such participant shall have a commitment directly to Borrower, or be deemed to have made an offer to commit directly to Borrower, to make Advances hereunder, and none shall be liable for any obligation of the Lender to Borrower hereunder, (ii) the Lender's rights and obligations directly to Borrower, and the rights and obligations of the Borrower directly toward the Lender, under any Loan Document shall remain unchanged and Borrower shall continue to deal solely with the Lender, which shall remain the holder of the Obligations, (iii) such participant shall have no voting or consent rights under any Loan Document, (iv) such participant shall not be entitled to require the Lender to take or omit to take any action under any Loan Document, (v) no participant shall have the right to enforce any of the terms of any Loan Document and (vi) no participant shall have any of the rights that the Lender may have under the Lease by virtue of the Lease Estoppel Agreement or under any leasehold mortgage or other agreement to which SSJ-TOSF or the Congregation is a party.

9.2 **Confidentiality.** Subject to Section 9.3, Lender and its representatives, consultants and advisors shall hold all nonpublic information obtained pursuant to the requirements of this Agreement and identified as such by Borrower in accordance with such Person's customary procedures for handling confidential information of this nature and in accordance with safe and sound banking practices; provided, however, such Persons may make disclosure (i) to Affiliates of Lender, (ii) to prospective transferees or participants in connection with a contemplated participation or assignment, or (iii) as required or requested by any Governmental Authority or representative thereof or pursuant to legal process and shall require any such Affiliate or transferee to agree (and require any of its transferees to agree in writing) to comply with this Section 9.2. In no event shall Lender or any of its

Affiliates be obligated or required to return any materials furnished by Borrower; provided, however, each prospective transferee shall be required to agree that if it does not become a participant or assignee, it shall return all materials furnished to it by or on behalf of Borrower in connection with this Agreement.

9.3 **Dissemination of Information.** Borrower authorizes Lender and its Affiliates to disclose to any prospective participant or transferee any and all information in the possession of Lender or its Affiliates concerning each of Borrower and its Subsidiaries, if any, and the Collateral; provided that prior to any such disclosure, such prospective participant or transferee shall agree in writing to preserve, in accordance with Section 9.2, the confidentiality of any confidential information therein.

9.4 **Non-Disclosure and Confidentiality Agreements.** Notwithstanding any terms herein, in any other Loan Document or in any other agreement between Lender and Borrower or between any third party and Borrower regarding non-disclosure and confidentiality, Lender hereby is granted the right, at its sole discretion (and Borrower hereby agrees that it shall not be a violation of any such non-disclosure or confidentiality agreement if Lender exercises such right), to communicate with, and request and receive information from and use information received from, third parties (including, without limitation, the Landlord, the Trustee, and creditors of Borrower), exclusive of any information or materials related to the proposed sale or other disposition of the Collateral not otherwise provided to other parties interested in submitting a proposed bid to acquire the Collateral (other than the Trustee), relating to the transactions described herein, the Collateral and any other matters relating to Borrower, provided that (i) Lender shall hold and use such information subject to the terms of Section 9.2 and 9.3, and (ii) (a) Lender shall limit its communications and requests to the Landlord to issues regarding the Lease, the property subject to the Lease, the Lease Estoppel Agreement and the Lender's rights, privileges and protections thereunder, and (b) Lender shall keep Borrower's attorneys and financial advisor reasonably informed about, and permit them to participate in, such communications to Landlord.

ARTICLE 10

EVENTS OF DEFAULT BY BORROWER

10.1 **Event of Default Defined.** The occurrence of any one or more of the following shall constitute an "Event of Default" hereunder, and any Event of Default which may occur hereunder shall constitute an Event of Default under each of the other Loan Documents:

(a) Borrower shall fail to pay when due hereunder or under any other Loan Document any of the Obligations, including without limitation, any principal, interest or other charges required to be paid;

(b) Borrower fails to perform or cause to be performed any obligation or observe any condition, covenant, term, agreement or provision required to be performed or observed by Borrower or its Subsidiaries, if any, under Section 8.2 or 8.3 (except as otherwise provided in Section 10.1(c));

(c) Borrower fails to perform or cause to be performed any obligation or observe any condition, covenant, term, agreement or provision required to be performed or observed by Borrower or its Subsidiaries, if any, under Sections 8.2(g), (i) or (n) for more than ten (10) days after written notice of such failure from Lender;

(d) Except as otherwise provided in this Section 10.1, Borrower fails to perform or cause to be performed any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Borrower or its Subsidiaries, if any, under this Agreement or under the other Loan Documents, after written notice of such failure from Lender;

(e) The existence of any inaccuracy or untruth in any material respect in any representation or warranty contained in this Agreement or any of the other Loan Documents or of any statement or certification as to facts delivered to Lender by Borrower, except for changes thereto as the result of actions required by the terms of this Agreement and the other Loan Documents or with the written consent of Lender; provided, that the words "in any material respect" in this Section 10.1(e) shall, as to any representation or warranty that contains a materiality standard, operate without duplication with such standard;

(f) The dissolution, termination or merger of Borrower;

(g) The occurrence of a "Termination Event" under any order authorizing the Borrower to use Cash Collateral;

(h) The occurrence of an "Event of Default" under the Note or any of the other Loan Documents;

(i) The Bankruptcy Court shall dismiss the Chapter 11 Case or shall convert the Chapter 11 Case to a Chapter 7 Case;

(j) Borrower shall file, support or fail to oppose a motion seeking, or the Bankruptcy Court shall enter, an order in the Chapter 11 Case appointing (i) a trustee under Chapter 7 or Chapter 11 of the Bankruptcy Code, or (ii) an examiner, in each case with enlarged powers relating to the operation of the business (powers beyond those set forth in subclauses (3) and (4) of section 1106(a) of the Bankruptcy Code) under section 1106(b) of the Bankruptcy Code in the Chapter 11 Case;

(k) Borrower shall file, support or fail to oppose a motion seeking, or the Bankruptcy Court shall enter, an order in the Chapter 11 Case (i) approving additional financing under section 364(c) or (d) of the Bankruptcy Code not otherwise permitted pursuant to this Agreement, (ii) granting any Lien (other than Liens expressly permitted in the Orders) upon or affecting any Collateral which are pari passu or senior to the Liens on the Collateral in favor of Lender, (iii) granting any claim priority senior to or pari passu with the claims of Lender under the Loan Documents or any other claim having priority over any or all administrative expenses of the kind specified in section 503(b) or section 507(b) of the Bankruptcy Code, other than the Carve-Out, or (iv) granting any other relief that is adverse

to Lender's interests under any Loan Document, its rights and remedies hereunder or thereunder or its interests in the Collateral;

(l) Borrower shall fail to comply with the terms of the Orders or any other Bankruptcy Court Order (unless waived by such other non-breaching party) in any material respect;

(m) Any material term of this Agreement or the other Loan Documents shall cease to be valid and binding on Borrower, or Borrower shall so assert in any pleading filed in any court;

(n) Either of the Orders shall be (i) reversed, stayed for a period in excess of fourteen (14) days, vacated or rescinded; or (ii) amended, supplemented or otherwise modified without the written consent of Lender;

(o) Borrower shall file a motion for reconsideration or other motion which seeks to materially and adversely affect Lender's rights;

(p) The right of Borrower to borrow under this Agreement is terminated by an order entered by the Bankruptcy Court;

(q) Borrower shall seek to, or shall support (in any such case by way of any motion or other pleading filed with the Bankruptcy Court or any other writing to another party-in-interest executed by or on behalf of Borrower), any other Person's motion to, disallow in whole or in part Lender's claim in respect of the Obligations or to challenge the validity, perfection, priority, non-avoidability or enforceability of the Liens in favor of Lender;

(r) Borrower shall seek to, or shall support (in any such case by way of any motion or other pleading filed with the Bankruptcy Court or any other writing to another party-in-interest executed by or on behalf of Borrower), any other Person's motion to reject or terminate the Lease or, in the absence of Lender's consent, to amend, supplement or otherwise modify its terms;

(s) Unless in connection with a duly confirmed plan of reorganization, the Bankruptcy Court shall enter an order granting relief from the automatic stay to any creditor or party in interest (i) to permit foreclosure (or the granting of a deed in lieu of foreclosure or the like) on any assets of Borrower which have an aggregate value in excess of One Hundred Thousand Dollars (\$100,000.00), exclusive of any relief from the automatic stay granted to the Trustee and Sovereign Bank in connection with any orders entered with respect to the Borrower's use of cash collateral, provided that neither the Trustee nor Sovereign Bank commences any action to exercise such rights or remedies against the Collateral, or (ii) to permit other actions that would have a Material Adverse Effect on Borrower, the Chapter 11 estate or Lender;

(t) The Landlord shall move for relief from the automatic stay in order to pursue any of its rights or remedies under, or with respect to, the Lease;

(u) [Intentionally omitted];

(v) Any judgments which, to the extent not covered by insurance, are in the aggregate in excess of Fifty Thousand Dollars (\$50,000.00) as to any postpetition obligation shall be rendered against Borrower and the enforcement thereof shall not be stayed (by court ordered stay or by consent of the party litigants); or there shall be rendered against Borrower a non-monetary judgment with respect to a postpetition event which causes or would reasonably be expected to cause a material adverse change or a Material Adverse Effect on the ability of Borrower to perform its obligations under the Loan Documents;

(w) Absent the written consent of Lender and unless in connection with a duly confirmed plan of reorganization, entry by the Bankruptcy Court of an order under section 363 or 365 of the Bankruptcy Code authorizing or approving the sale or assignment of any of Borrower's assets, or procedures in respect thereof, or Borrower shall seek, support, or fail to contest in good faith, the entry of such an order in the Chapter 11 Case, unless, immediately, upon the closing of any such sale or assignment, the proceeds thereof are used to repay the Obligations;

(x) A Chapter 11 plan of reorganization or liquidation with respect to Borrower is filed by Borrower or, after the termination of the exclusivity period, by any other Person, and (i) the treatment of the claims of Lender in such plan is not approved by Lender, or (ii) such plan does not provide for the payment in full, in cash, and other performance, in full, of the Obligations on or prior to the effective date of such plan; or

(y) Borrower shall be in default under any commitment or Indebtedness (other than in connection with any Prepetition Indebtedness) affecting such Persons or the Collateral that could reasonably be expected to have a Material Adverse Effect.

LENDER'S REMEDIES UPON EVENT OF DEFAULT

10.2 **Remedies.** Upon the occurrence and during the continuance of any Event of Default, in the sole discretion of Lender (without the need for further order of or application to the Bankruptcy Court), and (i) with respect to items (a) and (b) of this Section 10.2, upon notice to Borrower; or (ii) with respect to items (c), (d) and (e) of this Section 10.2, upon five (5) Business Days' notice to Borrower, the Trustee, Sovereign Bank and any committee appointed in the Chapter 11 Case and the United States Trustee for the Northern District of Illinois:

(a) the Commitment immediately shall terminate;

(b) all Obligations, including the unpaid principal amount of and accrued interest on the Loan, immediately shall become due and payable, in each case without presentment, demand, protest or other requirements of any kind, all of which hereby are expressly waived by Borrower;

(c) In addition to any rights of setoff that Lender may have under applicable law, Lender may appropriate and apply to the payment of the Note or of any other Obligations due under this Agreement or the other Loan Documents, any and all

balances, deposits, credits, accounts, certificates of deposit, instruments or money of Borrower then or thereafter in the possession of Lender or any of its Affiliates (whether or not held by Lender as cash collateral), provided that, after receipt of the notice required by clause (ii) of this Section 10.2, Borrower may continue to make ordinary course disbursements to the extent of available funds in the accounts referred to in this clause (c) of this Section 10.2 to the extent and at the times set forth in an approved Budget, but otherwise may not withdraw or disburse any amounts from such accounts;

(d) Lender may enforce any and all Liens and security interests created pursuant to the Loan Documents and subject to the Orders; and

(e) Lender may enforce its other rights and remedies under the Loan Documents or applicable law and subject to the Orders.

10.3 **Right of Lender to Make Advances to Cure Event of Defaults; Obligatory Advances.** If Borrower shall fail to perform any of its covenants or agreements herein or in any of the other Loan Documents, Lender may (but shall not be required to) perform any of such covenants and agreements, and any amounts expended by Lender in so doing, and any amounts advanced by Lender pursuant to this Agreement shall be deemed advanced by Lender under an obligation to do so regardless of the identity of the person or persons to whom said funds are disbursed. Loan Proceeds advanced by Lender to protect its security for the Loan are obligatory advances hereunder and shall constitute additional indebtedness payable on demand and evidenced and secured by the Loan Documents.

10.4 **Attorneys' Fees.** Subject to the limitation set forth in the proviso in Section 4.8(c), Borrower shall pay Lender's reasonable attorneys' fees and costs in connection with the negotiation, preparation, administration and enforcement of this Agreement and shall pay Lender's reasonable attorneys' fees and costs in connection with the administration and enforcement of this Agreement and the other Loan Documents; provided, however, Borrower shall not be required to pay Lender's attorneys' fees and costs to the extent they are incurred in or related to Lender's role as a bidder or potential bidder for the Debtors' asset or in connection with any sale of the Debtors' assets to the extent the Lender is acting in a role other than in its capacity as Lender. Without limiting the generality of the foregoing, if at any time or times hereafter Lender employs counsel for advice or other representation with respect to any matter concerning Borrower, the Collateral, this Agreement or the Loan Documents (including any bankruptcy proceeding) or if Lender employs one or more counsel to protect, collect, lease, sell, take possession of, or liquidate any of the Collateral, or to attempt to enforce or protect any security interest or Lien or other right in any of the Collateral or under any of the Loan Documents, or to enforce any rights of Lender or obligations of Borrower or any other Person which may be obligated to Lender by virtue of this Agreement or under any of the other Loan Documents or any other agreement, instrument or document heretofore or hereafter delivered to Lender in furtherance hereof, then in any such event, all of the reasonable attorneys' fees arising from such services, and any reasonable expenses, costs and charges relating thereto, shall constitute an additional indebtedness owing by Borrower to Lender payable on demand and evidenced and secured by the Loan Documents, subject to the limitations set forth in the proviso in Section 4.8(c).

10.5 **No Waiver.** No failure by Lender to exercise, and no delay by Lender in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.6 **Application of Payments.** Amounts paid in respect of the Loan and other Obligations pursuant to this Agreement shall be applied in the following order of priority:

(a) **First,** to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to Lender, including fees, charges and disbursements of counsel to Lender and other amounts payable under Sections 4.8 and 10.4;

(b) **Second,** to payment of accrued and unpaid interest on the Loan and the other Obligations; and

(c) **Third,** to payment of unpaid principal on the Loan and the other Obligations.

ARTICLE 11

MISCELLANEOUS

11.1 **Time is of the Essence.** Borrower agrees that time is of the essence with respect to all of its covenants and Obligations under this Agreement.

11.2 **Amendments, Etc.** No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by Borrower therefrom, shall be effective unless in writing and signed by Lender and Borrower, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, that this Section 11.2 shall not apply to an extension of the stated maturity date in clause (a) of the definition of Maturity Date pursuant to Section 3.1(c) hereof.

11.3 **Determination of Facts.** Lender shall be free at all times to establish independently to its satisfaction and in its sole and absolute discretion the existence or nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Agreement.

11.4 **Prior Agreements.** This Agreement and the other Loan Documents, and any other documents or instruments executed pursuant hereto or thereto, or contemplated hereby or thereby, shall represent the entire, integrated agreement between the parties hereto with respect to the transactions contemplated hereby and thereby, and shall supersede all prior negotiations, representations or agreements pertaining thereto, either oral or written.

11.5 **Disclaimer by Lender.** Lender shall not be liable to any subcontractor, supplier, laborer, architect, engineer or any other Person for services performed or materials supplied, nor shall Lender be liable for any debts or claims accruing in favor of any such Persons against Borrower or against the Collateral. Borrower is not and shall not be an agent of Lender for any purposes, nor shall it be a venture partner with Lender in any manner whatsoever. Lender shall not be deemed to be in privity of contract with any subcontractor, or provider of services on or to any Collateral, nor shall any payment of funds directly to a subcontractor or provider of services be deemed to create any third party beneficiary status or recognition of same by Lender unless and until Lender expressly assumes such status in writing. No subcontractor, supplier, laborer, architect, engineer or other Person shall be deemed to be a third party beneficiary of this Agreement or any of the other Loan Documents.

11.6 **Captions; Section References.** The captions and headings of various Articles and Sections of this Agreement and exhibits pertaining hereto are for convenience only and are not to be considered as defining or limiting in any way the scope or intent of the provisions hereof. Section references in this Agreement refer to Sections of this Agreement, unless otherwise provided.

11.7 **Inconsistent Terms and Partial Invalidity.** In the event of any inconsistency among the terms hereof (including incorporated terms), or between such terms and the terms of any other Loan Document, Lender may elect which terms shall govern and prevail. If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstances, is adjudicated by a court of competent jurisdiction to be invalid, the validity of the remainder of this Agreement shall be construed as if such invalid part were never included herein.

11.8 **Subsidiaries.** Borrower and Lender acknowledge that Borrower currently has no Subsidiaries. In the event Borrower has one or more Subsidiaries in the future, provisions herein pertaining to Subsidiaries shall apply to such Subsidiary or Subsidiaries of Borrower.

11.9 **Approvals.** All consents and approvals required in this Agreement shall be in writing. Any approval granted by Lender for any matter covered under this Agreement shall be narrowly construed to cover only the Persons and facts identified in such approval.

11.10 **Gender and Number.** Any word herein which is expressed in the masculine or neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural number shall be deemed, whenever appropriate in the context, to include the singular and the plural.

11.11 **Notices.** Any notices, communications and waivers under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) transmitted by overnight express carrier, addressed in each case as follows:

To Lender: Senior Care Development, LLC
500 Mamaroneck Avenue, Suite 406
Harrison, New York 10528
Attn: David Reis

With copy to: Hinckley, Allen & Snyder LLP
20 Church Street, 18th Floor
Hartford, Connecticut 06103
Attn: William S. Fish, Jr. and Sarah M. Lombard

To Borrower: Clare Oaks
801 W Bartlett Road
Bartlett, Illinois 60103
Attn: Director – Finance

With copy to: Ungaretti & Harris LLP
Three First National Plaza
70 W. Madison Street, Suite 3500
Chicago, IL 60602
Attn: Robert A. Drobnak, George R. Mesires and
Donald L. Schwartz

-and-

Alvarez & Marsal Healthcare Industry Group
55 W. Monroe, Suite 4000
Chicago, IL 60603
Attn: Paul Rundell and David McLaughlin

or to any other address as to any party hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Section 11.11 shall be deemed received (a) if personally delivered, then on the date of delivery, (b) if sent by overnight express carrier, then on the next Business Day immediately following the day sent, or (c) if sent by registered or certified mail, then on the earlier of the third day following the day sent or when actually received.

11.12 **Effect of Agreement.** The submission of this Agreement and the other Loan Documents to Borrower for examination does not constitute a commitment or an offer by Lender to lend money to Borrower. This Agreement shall become effective only after entry of the Interim Order and upon execution and delivery hereof by Lender to Borrower.

11.13 **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois, without reference to the choice of law or conflicts of law principles of such State.

11.14 Waiver of Defenses. OTHER THAN CLAIMS BASED UPON THE FAILURE OF LENDER TO ACT IN ACCORDANCE WITH THE EXPRESS TERMS OF THIS AGREEMENT, BORROWER HEREBY WAIVES EVERY PRESENT AND FUTURE DEFENSE (OTHER THAN THE DEFENSE OF PAYMENT OR PERFORMANCE IN FULL, AS APPLICABLE), CAUSE OF ACTION, COUNTERCLAIM OR SETOFF WHICH BORROWER NOW MAY HAVE OR HEREAFTER MAY HAVE TO ANY ACTION BY LENDER IN ENFORCING THIS AGREEMENT. PROVIDED THAT LENDER ACTS IN GOOD FAITH, BORROWER RATIFIES AND CONFIRMS WHATEVER LENDER MAY DO PURSUANT TO THE TERMS OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER.

11.15 Consent to Jurisdiction. TO INDUCE LENDER TO ACCEPT THE NOTE, BORROWER IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE LOAN DOCUMENTS WILL BE LITIGATED IN COURTS HAVING SITUS IN THE STATE OF ILLINOIS. BORROWER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN THE STATE OF ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON BORROWER, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO BORROWER AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

11.16 Waiver of Jury Trial. EACH OF BORROWER AND LENDER, HAVING BEEN REPRESENTED BY COUNSEL, KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (A) UNDER THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH IN THE FUTURE MAY BE DELIVERED IN CONNECTION WITH THIS AGREEMENT OR (B) ARISING FROM ANY CREDIT RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. BORROWER AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST LENDER OR ANY OTHER PERSON INDEMNIFIED UNDER THIS AGREEMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

11.17 Lender's Right to Credit Bid. In connection with any bid for or purchase of assets of Borrower by Lender, Lender (or its designee as a potential purchaser that would receive an assignment from the Lender of all of the Obligations in accordance with Section 9.1 hereof immediately prior to the closing of the applicable transaction) shall have the right to credit bid and apply to the purchase price an amount equal to the aggregate outstanding Obligations of Borrower hereunder.

11.18 **Usury Savings Clause.** Notwithstanding any other provision herein, the aggregate interest rate charged with respect to any of the Obligations, including all charges or fees in connection therewith deemed in the nature of interest under applicable law, shall not exceed the Highest Lawful Rate. If the rate of interest (determined without regard to the preceding sentence) under this Agreement at any time exceeds the Highest Lawful Rate, the outstanding amount of the Loan made hereunder shall bear interest at the Highest Lawful Rate.

11.19 **Counterparts; Facsimile Signatures.** This Agreement may be executed in any number of counterparts and by the parties hereto on separate counterparts. Each such counterpart shall be deemed to be an original, but all such counterparts together shall constitute but one and the same agreement. Receipt of an executed signature page to this Agreement by facsimile or other electronic transmission shall constitute effective delivery thereof. Electronic records of executed Loan Documents maintained by Lender shall be deemed to be originals thereof.

11.20 **Final Agreement.** **THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.**

(No further text on page)

IN WITNESS WHEREOF, Lender and Borrower have caused these presents to be executed the day and year first above written.

BORROWER:
CLARE OAKS

By: Paul Shull
Name: Paul Shull
Title: Chief Restructuring Officer

LENDER:
SENIOR CARE DEVELOPMENT, LLC

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, Lender and Borrower have caused these presents to be executed the day and year first above written.

BORROWER:
CLARE OAKS

By: _____
Name: _____
Title: _____

LENDER:
SENIOR CARE DEVELOPMENT, LLC


By:  _____
Name: David P. K. S.
Title: _____

EXHIBIT A

Budget

(See attached)

Interim DIP Budget
for Clare Oaks
(\$000s Omitted)

Interim DIP Budget
Not-For-Profit Clare Oaks
(\$ in Thousands)

Week	6 Weeks					
	3	4	5	6	7	8
Week Ended	Week Ended	Week Ended	Week Ended	Week Ended	Week Ended	Week Ended
12/23/2011	12/30/2011	1/6/2012	1/13/2012	1/20/2012	1/27/2012	1/27/2012
Beginning Book Cash Balance	\$ 979	\$ 1,806	\$ 1,554	\$ 1,163	\$ 884	\$ 879
Receipts						
ILU	34	-	34	135	135	34
ALF/MS	35	-	8	64	67	35
SNF	154	335	-	48	114	518
Co-Insurance	86	-	-	-	89	89
Other	5	-	-	-	15	5
Total Receipts	314	335	42	248	420	682
Disbursements - Operating						
Payroll	300	150	-	300	-	300
Trade Payables Current	157	157	196	196	196	196
Entrance Fee Refunds	-	-	207	-	200	-
Capital Expenditures	15	265	15	15	15	15
Other Expenses	15	15	15	15	15	15
Total Operating Disbursements	487	587	433	526	426	526
Net Operating Cash Flow	(173)	(252)	(391)	(278)	(6)	156
Restructuring Disbursements						
Professional Fees	-	-	-	-	-	-
US Trustee Fees	-	-	-	-	-	13
Utility Deposits	100	-	-	-	-	100
DIP Interest and Fees	400	-	-	-	-	400
Total Restructuring Disbursements	500	-	-	-	-	513
Financing Disbursements						
DIP Funding	1,500	-	-	-	-	1,500
Total Financing Disbursements	1,500	-	-	-	-	1,500
Net Cash Flow	827	(252)	(391)	(278)	(6)	143
Ending Book Cash Balance	\$ 1,806	\$ 1,554	\$ 1,163	\$ 884	\$ 879	\$ 1,021
Beginning DIP Balance	-	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500
Accrued Professional Fee Holdback	-	-	-	-	-	-
DIP Funding	1,500	-	-	-	-	1,500
Ending DIP Balance	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500

Interim DIP Budget
for Clare Oaks
(\$000s Omitted)

DRAFT -
SUBJECT TO CHANGE

Estimated Total Professional Fees for Clare Oaks

	December	January	Total
(\$ in Thousands)			
Clare Oaks			
<i>Financial Advisors:</i>			
Alvarez & Marsal	100	100	200
Ziegler (1)	-	-	-
Total FA	100	100	200
<i>Legal Advisors:</i>			
Ungaretti & Harris	175	125	300
Total Legal	175	125	300
Sheila King (PR Firm)	5	5	10
Larson Allen	20	10	30
Claims Agent	30	20	50
Total Clare Oaks	330	260	590
<i>Other:</i>			
Bondholder Counsels & Advisor	100	100	200
Committee	20	20	40
Umbudsman	5	5	10
Grand Total	455	385	840

Notes: (1) Fees will be paid at closing

EXHIBIT B

Form of Note

(See attached)

PROMISSORY NOTE

\$6,000,000.00

Chicago, Illinois
December 22, 2011

FOR VALUE RECEIVED, CLARE OAKS, an Illinois not-for-profit corporation (the “**Borrower**”) promises to pay to the order of **SENIOR CARE DEVELOPMENT, LLC**, a Delaware limited liability company (“**Lender**” which term shall mean the holder at any particular time of this Note), the principal sum of **SIX MILLION AND 00/100 DOLLARS (\$6,000,000.00)** or so much thereof as may be advanced to Borrower and outstanding from time to time in accordance with the provisions of the Loan Agreement (as defined below) together with interest thereon at the rates, in the manner and on the dates specified in the Loan Agreement.

This Note is the Note referred to in that certain Senior Secured Super-Priority Debtor-in-Possession Loan Agreement dated of even date herewith between Borrower and Lender (the “**Loan Agreement**”), and this Note and Lender are entitled to all of the benefits provided thereby or referred to therein, to which such Loan Agreement reference is hereby made for a statement thereof. All capitalized terms used but not defined in this Note shall have the meanings ascribed to such terms in the Loan Agreement.

This Note shall be governed by and construed in accordance with the internal laws of the State of Illinois.

Borrower hereby waives demand, presentment, protest or notice of any kind hereunder, except as otherwise required by the express terms of the Loan Documents.

[signature page attached]

IN WITNESS WHEREOF, this Promissory Note has been duly executed and delivered by the Borrower on the date first set forth above.

BORROWER:

CLARE OAKS

By: _____

Name: Paul Rundell

Title: Chief Restructuring Officer

EXHIBIT C

Form of Loan Notice

(See attached)

LOAN NOTICE

Date: _____

To: **SENIOR CARE DEVELOPMENT, LLC**, as Lender (the "Lender")

Ladies and Gentlemen:

Reference is made to that certain Senior Secured Super-Priority Debtor in Possession Loan Agreement (the "Loan Agreement") dated as of December 22, 2011 between **CLARE OAKS**, an Illinois not-for-profit corporation (the "Borrower") and Lender.

The Borrower hereby requests an Advance as follows:

1. On _____ (a Business Day).
2. In the amount of \$_____ (must be at least \$250,000).
3. Which such Loan Proceeds shall be disbursed in accordance with the wire or other instructions set forth on Exhibit A, hereto.
4. Which such Loan Proceeds shall be used for the purposes described on Exhibit B hereto.

The Borrower hereby confirms that the amount of the requested Advance that is an Adequate Protection Advance is \$_____.

The undersigned hereby authorizes and directs, on behalf of the Borrower, the Lender to distribute the Loan Proceeds to Borrower in accordance with the foregoing.

[signature page attached]

IN WITNESS WHEREOF, the undersigned has caused this Loan Notice to be executed and delivered by its duly authorized representative dated as of the first date written above.

CLARE OAKS

By: _____
Name: Paul Rundell
Title: Chief Restructuring Officer

EXHIBIT A TO LOAN NOTICE

WIRE OR OTHER INSTRUCTIONS

[to be inserted]

EXHIBIT B TO LOAN NOTICE

USE OF LOAN PROCEEDS DESCRIPTION

[to be inserted]

EXHIBIT D

Lease Estoppel Agreement

(See attached)

ESTOPPEL CERTIFICATE AND AGREEMENT

Landlord: The Sisters of St. Joseph of the Third Order of St. Francis, Inc., an Indiana not for profit corporation

Tenant: Clare Oaks, an Illinois not for profit corporation

Lease: Ground Lease between The Sisters of St. Joseph of the Third Order of St. Francis, Inc. and Clare Oaks dated July 1, 2006

On December 5, 2011, Tenant filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Code") in the United States Bankruptcy Court for the Northern District of Illinois (the "Court"), which has been assigned Case No. 11 B 48903 (the "Case").

In connection with the Case, Tenant and Senior Care Development, LLC, as Lender (the "Lender") have entered into a Senior Secured Super-Priority Debtor-In-Possession Loan Agreement dated December 22, 2011 (the "DIP Agreement").

Among the conditions precedent to the Initial Advance under the DIP Agreement is Lender's receipt of this estoppel certificate and agreement ("Estoppel Certificate").

Landlord hereby certifies as of the date hereof, to the best knowledge of the signer of this Estoppel Certificate, that:

1. The Lease is unmodified and in full force and effect.
2. No Rent or any other payments due from Tenant have been paid in advance, except as follows: None.
3. The Tenant is not in default in performance of any covenant, agreement or condition contained in the Lease, except as follows: Tenant's failure to prepare and deliver to Landlord an as-built survey of the CCRC, as required by Section 3.1.2 of the Lease, or to satisfy the other requirements of Section 3.1.2 of the Lease; Tenant's failure to obtain the required endorsements to, and to deliver certified copies to the Landlord of, the insurance policies required under Section 11.2 of the Lease, as required by Section 11.3 of the Lease; Tenant's filing of a petition for bankruptcy, as described in Section 18.1.3 of the Lease, and Tenant's being generally unable to pay its debts as such debts become due, as described in Section 18.1.4 of the Lease.

Landlord also hereby agrees that notwithstanding anything to the contrary contained in the Lease:

(a) Landlord consents to Tenant granting Lender a leasehold mortgage (a "Leasehold Mortgage") on, and security interest in, Tenant's leasehold estate in the Premises (which Leasehold Mortgage may be recorded by Lender and shall be in form and substance satisfactory to Landlord) and agrees that neither the grant of such Leasehold Mortgage nor the enforcement thereof in accordance with the terms and provisions of the Lease will create a default under the Lease;

(b) Subject to the entry by the Court of a final, non-appealable order approving the DIP Agreement, which may be an interim or final order (the "DIP Order"), which shall be in form and substance satisfactory to Landlord, Landlord recognizes Lender as a permitted "Leasehold Mortgagee" (as that term is defined in the Lease) for purposes of Section 23 of the Lease, subject to all restrictions and limitations contained in the Lease (and notwithstanding the provisions of Section 6.5 of the Lease), and Lender shall have the benefit of all provisions inuring to the benefit of leasehold mortgagees or their successors and permitted assigns contained in the Lease, including without limitation the provisions of Section 23 of the Lease, which are incorporated herein by reference and restated and confirmed by Landlord for the benefit of Lender, its successors and permitted assigns, subject, however, to all of the restrictions, limitations and terms of the Lease applicable to a leasehold mortgagee, Tenant and/or any of their respective successors or permitted assigns. This consent shall be limited solely to the consent that Lender is a "Leasehold Mortgagee," and Landlord reserves all other rights under the Lease, including without limitation the right to grant or withhold its consent with respect to any other matters as to which Landlord's consent is required by the terms of the Lease;

(c) Lender acknowledges that Landlord has heretofore consented to Tenant's grant of a leasehold mortgage of Tenant's leasehold estate in the Premises to the mortgagee identified in Section 6.5.3 of the Lease, and Landlord makes no representation whatsoever as to the priority or status of such leasehold mortgage or as to the existence or non-existence of any other liens or encumbrances on or against the Premises; and

(d) no consent or authorization of any other party is necessary to the effectiveness of this Estoppel Certificate.

Notwithstanding anything in this Estoppel Certificate or any other agreement or document to the contrary: (a) without limitation of the applicability to the Leasehold Mortgage herein consented to of the provisions of Section 6.5.3 of the Lease, in no event shall any interest of Landlord in the Premises (as defined in the Lease), including without limitation Landlord's fee interests, be subject or subordinate to the Leasehold Mortgage herein consented to or to any lien or encumbrance of any mortgage, deed of trust or other security instrument in favor of Lender or any other person; (b) no security interest or other right, title or interest shall attach to the Landlord's interests in the Premises; (c) Landlord shall have the right to sell, encumber, hypothecate or otherwise encumber or transfer its interests in the Premises without consent or other restriction by Tenant or Lender, but subject to the Lease, the Lender's Leasehold Mortgage and this Estoppel Certificate; and (d) Landlord shall not be bound by any terms or conditions of the Leasehold Mortgage herein consented to (except as has been expressly agreed to in this Estoppel Certificate) or any other agreements between Tenant and Lender, and Landlord shall have no liability of any kind under such Leasehold Mortgage (except as been expressly agreed to in this Estoppel Certificate) or any such other agreements.

In no circumstances shall the mortgaged premises or property under the Leasehold Mortgage herein consented to include the Land, the Existing Improvements or the Remainder Property (as each term is defined in the Lease). It is hereby agreed that the fee title and the leasehold estate in the property demised by the Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates in either mortgagor or a third party, whether by purchase or otherwise.

Except as otherwise provided herein, nothing contained in this Estoppel Certificate shall be deemed to modify, impair, affect, alter or amend the terms of the Lease, or as a waiver of any of Landlord's rights under the Lease, or to impose or create any liability on the part of Landlord.

Capitalized terms used but not otherwise defined in this Estoppel Certificate shall have the meanings given to them in the Lease.

[Signature Page Follows]

WITNESS the signature of the Landlord as of the _____ day of December, 2011.

**THE SISTERS OF ST. JOSEPH OF THE
THIRD ORDER OF ST. FRANCIS, INC.**

By: _____
Its: _____

STATE OF WISCONSIN)
)ss.
COUNTY OF PORTAGE)

On this __ day of December, 2011, before me, a Notary Public in and for said state, personally appeared Michelle Wronkowski, being the Treasurer and Vice President of The Sisters of St. Joseph of the Third Order of St. Francis, Inc., an Indiana not for profit corporation, known to me to be the person who executed the within Estoppel Certificate on behalf of said corporation, and that said instrument was signed on behalf of said corporation by the authority of its _____, and she acknowledged to me that she executed the same for the purposes therein contained.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first written above.

Notary Public
My term expires: _____

Accepted and agreed:

SENIOR CARE DEVELOPMENT, LLC

By: _____
Its: _____
Date: _____

Exhibit B to Interim Order

Budget

Interim DIP Budget
for Clare Oaks
(\$000s Omitted)

Interim DIP Budget
Not-For-Profit Clare Oaks
(\$ in Thousands)

Week	3	4	5	6	7	8	6 Weeks Total
Week Ended	12/23/2011	12/30/2011	1/6/2012	1/13/2012	1/20/2012	1/27/2012	12/23/2011 1/27/2012
Beginning Book Cash Balance	\$ 979	\$ 1,806	\$ 1,554	\$ 1,163	\$ 864	\$ 879	\$ 979
Receipts							
ILU	34	-	34	135	135	34	372
ALF/MS	35	-	8	64	67	35	210
SNF	154	335	-	48	114	518	1,170
Co-Insurance	86	-	-	-	89	89	264
Other	5	-	-	-	15	5	25
Total Receipts	314	335	42	248	420	682	2,041
Disbursements - Operating							
Payroll	300	150	-	300	-	300	1,050
Trade Payables Current	157	157	196	196	196	196	1,097
Entrance Fee Refunds	-	-	207	-	200	-	407
Capital Expenditures	15	265	15	15	15	15	341
Other Expenses	15	15	15	15	15	15	90
Total Operating Disbursements	487	587	433	528	428	528	2,985
Net Operating Cash Flow	(173)	(252)	(391)	(278)	(6)	156	(944)
Restructuring Disbursements							
Professional Fees	-	-	-	-	-	-	-
US Trustee Fees	-	-	-	-	-	13	13
Utility Deposits	100	-	-	-	-	-	100
DIP Interest and Fees	400	-	-	-	-	-	400
Total Restructuring Disbursements	500	-	-	-	-	13	513
Financing Disbursements							
DIP Funding	1,500	-	-	-	-	-	1,500
Total Financing Disbursements	1,500	-	-	-	-	-	1,500
Net Cash Flow	827	(252)	(391)	(278)	(6)	143	43
Ending Book Cash Balance	\$ 1,806	\$ 1,554	\$ 1,163	\$ 884	\$ 879	\$ 1,021	\$ 1,021
Beginning DIP Balance	\$ -	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ -
Accrued Professional Fee Holdback	-	-	-	-	-	-	-
DIP Funding	1,500	-	-	-	-	-	1,500
Ending DIP Balance	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500

Interim DIP Budget
for Clare Oaks
(\$000s Omitted)

DRAFT -
SUBJECT TO CHANGE

	December	January	Total
Estimated Total Professional Fees for Clare Oaks			
(\$ in Thousands)			
Clare Oaks			
<i>Financial Advisors:</i>			
Alvarez & Marsal	100	100	200
Ziegler (1)	-	-	-
Total FA	100	100	200
<i>Legal Advisors:</i>			
Ungaretti & Harris	175	125	300
Total Legal	175	125	300
Sheila King (PR Firm)	5	5	10
Larson Allen	20	10	30
Claims Agent	30	20	50
Total Clare Oaks	330	260	590
<i>Other:</i>			
Bondholder Counsels & Advisor	100	100	200
Committee	20	20	40
Umbudsman	5	5	10
Grand Total	455	385	840

Notes: (1) Fees will be paid at closing