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

**In re:**

**TARRANT COUNTY SENIOR LIVING  
CENTER, INC.<sup>1</sup>**

**Debtor.**

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**CHAPTER 11**

**CASE NO. 19-33756 (SGJ)**

**MOTION OF THE DEBTOR FOR INTERIM AND FINAL ORDERS  
(I) AUTHORIZING THE DEBTOR TO USE THE CASH COLLATERAL OF  
UMB BANK, N.A., AS TRUSTEE; (II) PROVIDING UMB BANK, N.A., AS TRUSTEE,  
ADEQUATE PROTECTION; AND (III) MODIFYING THE AUTOMATIC STAY**

The above-captioned debtor and debtor-in-possession (the “Debtor”), by and through its proposed counsel, DLA Piper LLP (US), hereby submits this motion (the “Motion”), pursuant to sections 102, 361, 362, and 363 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 4001, 6003, and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for entry of an interim order, substantially in the form attached hereto as **Exhibit A** (the

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<sup>1</sup> The last four digits of the Debtor’s federal tax identification number are 8602.

“Proposed Interim Order”), and a final order, which will be submitted in substantially the same form as the Proposed Interim Order in advance of any final hearing on this Motion (the “Proposed Final Order” and together with the Proposed Interim Order, the “Proposed Orders”), (i) authorizing the Debtor to use cash collateral (the “Cash Collateral”) of the Trustee (as defined below), (ii) approving the form of adequate protection provided to the Trustee, and (iii) modifying the automatic stay. In support of this Motion, the Debtor relies upon, and incorporates by reference, (i) the *Declaration of Louis E. Robichaux IV in Support of Chapter 11 Petition and First Day Pleadings* (the “First Day Declaration”),<sup>2</sup> filed with the Court contemporaneously herewith, and (ii) the *Attorney Checklist Concerning Motion and Order Pertaining to Use of Cash Collateral and Post-Petition Financing* attached hereto as **Exhibit B**. In further support of this Motion, the Debtor respectfully represents as follows:

### **JURISDICTION AND VENUE**

1. The Court has jurisdiction over the Debtor, its estate, and this chapter 11 case (the “Chapter 11 Case”) pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory bases for the relief requested herein are sections 102, 361, 362, and 363 of the Bankruptcy Code and rules 4001, 6003, and 6004 of the Bankruptcy Rules.

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<sup>2</sup> All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.

## **BACKGROUND**

### **A. The Chapter 11 Case**

4. On November 5, 2019 (the "Petition Date"), the Debtor commenced this Chapter 11 Case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

5. The Debtor remains in possession of its assets and continues to operate and manage its business as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

6. As of the date hereof, no trustee, examiner or committee of creditors has been appointed in this Chapter 11 Case.

7. Additional information regarding the Debtor and this Chapter 11 Case, including the Debtor's business operations, capital structure, and the reasons for and objectives of this Chapter 11 Case, is set forth in the First Day Declaration.

### **B. The Debtor**

8. Incorporated in 2006, the Debtor is a not-for-profit corporation that built a best in class senior living facility in Fort Worth, Texas (the "Facility"). In particular, the Debtor operates a continuing care retirement community (a "CCRC") that offers its senior residents (the "Residents") a continuum of care in a campus-style setting, providing living accommodations and related health care and support services to a target market of seniors aged sixty-two and older. The Debtor enables seniors to remain on the same campus as they age and their needs change by providing various levels of support and care at the same facility. In addition, the Debtor provides Residents with multiple entertainment outlets and other social benefits for all stages of their retirement living.

9. The Facility consists of approximately 188 independent living ("IL") apartment-style residences in one-, two- and three-bedroom configurations within three towers, each of which

is eleven stories. The Facility also houses 42 residential-style assisted living (“AL”) suites, 20 memory support (“MS”) assisted living suites and a skilled nursing facility (“SNF”) with 46 skilled nursing beds, all located on a 574,000 square foot, 2.5 acre campus. As of October 25, 2019, 176 IL units were occupied (93.6% occupancy), 42 AL units were occupied (100% occupancy), 20 MS units were occupied (100% occupancy), and 45 SNF units were occupied (97.8% occupancy).

10. The Debtor is known for its exceptional service and quality as evidenced by its five star overall rating and a five star health inspection rating by the Centers for Medicare & Medicaid Services. Additionally, the Debtor is the recipient of a Silver Achievement in Quality Award by the American Health Care Association and National Center for Assisted Living.

11. The Debtor is governed by a Board of Directors that is designated by Lifespace Communities, Inc. (“Lifespace”). Lifespace has been the sole corporate member of the Debtor since the Membership Substitution Effective Date. Lifespace is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “IRC”), that is chartered under the laws of the State of Iowa and is authorized to do business in the State of Texas (among other states). Lifespace’s mission is to create communities that celebrate the lives of seniors. Lifespace, directly or through affiliates, owns and operates fourteen (14) other communities in eight (8) states.

12. Prior to the Membership Substitution Effective Date, Stayton’s sole corporate member and sponsor was SQLC, a non-profit corporation chartered under the laws of the State of Texas, a tax-exempt organization under section 501(c)(3) of the IRC, and a “supporting organization” and public charity under section 509(a)(3) of the IRC.

**C. The Resident Contracts**

13. As is common practice in the CCRC industry, a resident interested in occupying an IL unit in the Facility must enter into a continuing care contract (a “Continuing Care Contract”) with the Debtor. Unlike a pure rental retirement community, whereby a resident pays monthly fees for services (which fees may increase as the resident’s needs change), the Continuing Care Contract is a life care residency contract whereby a resident pays an entrance fee (an “Entrance Fee”) and fixed monthly fees for the Debtor’s commitment to provide life care benefits for the duration of the resident’s life, regardless of whether the resident’s needs change over time which may require additional services to be provided by the Debtor. Significantly, in certain circumstances, the Debtor’s commitment to provide life care benefits continues even if the resident’s financial condition deteriorates and the resident is unable to continue making payments under his or her Continuing Care Contract.

14. In addition to Continuing Care Contracts, the Debtor also offers contracts for direct admission into an AL suite (the “Assisted Living Residency Agreement”) and the SNF (the “SNF Residency Agreement”) and collectively with Continuing Care Contracts and Assisted Living Residency Agreements, the “Residency Agreements”).

**D. The Debtor’s Capital Structure**

15. As of August 31, 2019, on a net book value basis, Stayton had approximately \$124.3 million in Assets consisting of approximately: (i) \$11.7 million in unrestricted cash and cash equivalents; (ii) \$899,000 in accounts receivable; (iii) \$174,000 of deferred entrance fee receivables; (iv) \$106.0 million in fixed assets; (v) \$4.9 million of restricted cash; and (vi) \$603,000 of other Assets, net of accumulated amortization and depreciation.

16. As of August 31, 2019, Stayton had approximately \$222.7 million of liabilities, net of accumulated amortization of non-refundable entrance fees, deferred financing costs and original issue premium, which consisted of approximately: (i) \$355,000 of trade accounts payable; (ii) \$2.9 million of oversight fees owed to SQLC; (iii) \$2.6 million of current resident refund obligations; (iv) \$102.3 million in entrance fee liabilities; (v) \$110.4 million of long-term municipal bond obligations; and (vi) \$7.5 million of subordinated note obligations.

17. The Debtor's primary liabilities are related to the long-term municipal bonds issued for the benefit of the Debtor totaling approximately \$109.7 million, inclusive of outstanding principal and interest. Specifically, Tarrant County Cultural Education Facilities Finance Corporation (the "Issuer") and UMB Bank, N.A., in its capacity as successor trustee (the "Bond Trustee"), are parties to an Indenture of Trust, dated as of October 1, 2009 (the "Bond Indenture"), pursuant to which the Issuer issued retirement facility revenue bonds in the initial principal amount of \$166,575,000, consisting of (i) \$100,275,000 principal amount direct note obligation, Series 2009A Bonds (the "2009A Bonds"); (ii) \$10,000,000 principal amount direct note obligation, Series 2009B Bonds (the "2009B Bonds"); and (iii) \$56,300,000 principal amount direct note obligation, Series 2009C Bonds (the "2009C Bonds") (the 2009A Bonds, 2009B Bonds and 2009C Bonds will hereafter be collectively referred to as, the "Bonds").

18. Pursuant to a Loan Agreement, dated as of October 1, 2009 (the "Loan Agreement"), between the Debtor and the Issuer, the Issuer loaned the proceeds of the Bonds to the Debtor for the purpose of acquiring, constructing, and equipping the Facility.

19. The Debtor and UMB Bank, N.A., in its capacity as successor master trustee (the "Master Trustee") and together with the Bond Trustee, the "Trustee"), entered into a Master Bond Indenture, Deed of Trust and Security Agreement, dated as of October 1, 2009 (as it may be further

amended from time to time in accordance with its terms, the “Master Indenture” and together with the Bond Indenture and Loan Agreement, the “Original Bond Documents”), pursuant to which the Debtor issued the Tarrant County Senior Living Center Inc. Series 2009A, Series 2009B and Series 2009C Notes (collectively, the “Notes”) to provide for its loan repayment obligations under the Loan Agreement.<sup>3</sup>

**E. Events Leading to Restructuring**

20. The Debtor relies on revenue generated by existing and new residents to, among other things, maintain its day-to-day operations, service its debt obligations, and honor its resident refund obligations. This revenue is impacted, in large part, by the Debtor’s ability to attract new residents, especially in its early “fill-up” stage. However, as has become common in the senior living industry and in particular among CCRCs, Stayton was hampered by ramp up delays both in construction and original move-in sales which caused a ripple effect that has threatened the Debtor’s ability to honor its long-term debt obligations and maintain its operational stability. To address those issues, in July 2017, SQLC retained Seniority, Inc., which immediately implemented a number of initiatives to control operating costs and improve service quality. However, due to highly competitive market conditions in Fort Worth and surrounding areas as well as other factors, the Debtor continued to face pressure on its margins. Specific historical factors leading to the Debtor’s financial issues, which were not anticipated when Stayton developed its projections in support of its bond financing, include: (a) net resident revenue approximately five percent (5%) less than initially projected; (b) a competitive labor market resulting in operating expenses being approximately twenty-five percent (25%) higher than initially projected; (c) implied monthly rent

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<sup>3</sup> The 2009C Bonds and Series 2009C Note are no longer outstanding under the Original Bond Documents.

per occupant lower than initially projected; and (d) adjusted net operating income margin approximately fifty-four percent (54%) less than initially projected.

21. In light of its financial condition, the Debtor's Board of Directors decided to halt debt service payments to allow the Debtor to address its pressing need to restructure its bond debt and to ensure it maintained sufficient liquidity to meet its operational and resident obligations. As a result of these challenges, the Debtor defaulted on its Bond Obligations by, among other things, failing to (i) maintain certain financial covenants, (ii) deliver certain audited financial statements, and (iii) make payments on the Series 2009 Notes from July 1, 2018 to May 1, 2019. Consequently, prior to the filing of this Chapter 11 Case, the Trustee was entitled to exercise certain remedies against the Debtor, subject to the terms of the Second Forbearance Agreement (as defined below), which limits the exercise of those remedies for the period and upon the conditions set forth therein.

**F. The Refinancing Transaction**

22. In order to address the Debtor's financial condition, the Debtor, SQLC, Lifespace, the Trustee, and the holders of at least sixty-seven percent (67%) of the outstanding principal amount of the Bonds issued, as applicable, negotiated and entered into that certain (i) Plan Support Agreement, dated as of May 10, 2019 (the "Plan Support Agreement"), (ii) Second Forbearance Agreement, dated as of May 10, 2019 (the "Second Forbearance Agreement"), (iii) Affiliation Agreement, dated as of May 10, 2019, and (iv) Liquidity Support Agreement, dated as of June 1, 2019 (the "Liquidity Support Agreement") that together with a refinancing of the Debtor's bond obligations, provide for the following (the "Refinancing Transaction"):

- a. The substitution of Lifespace as the sole member of the Debtor, which occurred on June 20, 2019;

- b. A consensual, tax-exempt refinancing of the Debtor's Bonds (the "Bond Refinancing");
- c. An agreement by the Trustee to forbear from exercising remedies under the Original Bond Documents while the Debtor pursues the Bond Refinancing;
- d. An agreement by Lifespace to provide liquidity support for the benefit of the Debtor prior to, during and following the Bond Refinancing; and
- e. A pre-packaged chapter 11 bankruptcy proceeding to implement the Bond Refinancing.

23. In accordance with the Liquidity Support Agreement, Lifespace has deposited Three Million Dollars (\$3,000,0000.00) with the Trustee to be held in a newly-created account known as the Liquidity Support Account through the effective date of the Plan to provide an additional source of funding to the Debtor for, among other things, operating expenses.

24. As contemplated by the Plan Support Agreement, the parties negotiated the terms of the *Debtor's Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* (as it may be amended, modified, or supplemented, the "Plan"), filed contemporaneously herewith, pursuant to which the Debtor seeks to, among other things, (i) implement the Bond Refinancing; (ii) provide that all General Unsecured Claims of the Debtor will be paid in the ordinary course of business as if this Chapter 11 Case had not commenced; and (iii) assume all Executory Contracts and unexpired leases, including the Residency Agreements, pursuant to section 365 of the Bankruptcy Code.

**G. Prepetition Solicitation**

23. Commencing on September 30, 2019, the Debtor distributed the Disclosure Statement, the Plan, and related documents to the Holders of Bond Claims (as such terms are defined in the Plan) in Class 3, which is the only Impaired class entitled to vote on the Plan, to solicit votes to accept or reject the Plan through a "prepackaged" solicitation process.

24. A voting deadline of 5:00 p.m., prevailing Central Time, on October 31, 2019 was established to cast votes on the Plan. Of the Holders of Bond Claims that voted, 94.2% in number and 99.7% in dollar amount voted in favor of the Plan.

25. Concurrently with the filing of this Motion, the Debtor has filed the *Debtor's Motion for Entry of an Order (I) Scheduling Combined Hearing on (A) Adequacy of Disclosure Statement and (B) Confirmation of Prepackaged Plan; (II) Fixing Deadline to Object to Disclosure Statement and Prepackaged Plan; (III) Approving Prepetition Solicitation Procedures and Form and Manner of Notice of Commencement, Combined Hearing, and Objection Deadline; (IV) Conditionally Directing the United States Trustee Not To Convene Section 341(A) Meeting of Creditors; and (V) Granting Related Relief* seeking, among other relief, a combined hearing on approval of the Disclosure Statement and confirmation of the Plan.

#### **H. Cash Collateral**

26. The Trustee has the right to enforce the Debtor's obligation to pay the amounts borrowed from the Issuer, pursuant to its rights under the Master Indenture, and by the fact that the Issuer's rights under the Loan Agreement and the Notes (and its rights under the other Bond Documents) were assigned to the Trustee pursuant to the Bond Indenture.

27. Subject to certain exceptions, the Trustee has a security interest, lien, and mortgage on substantially all of the Debtor's assets. Specifically, pursuant to the Master Indenture, the Debtor has pledged and granted to the Trustee certain collateral, including but not limited to: (i) a first mortgage lien on the Facility and the land on which the Facility is located; (ii) a security interest in all personal property owned or hereafter acquired by the Debtor; and (iii) a security interest in all of the Gross Revenues (as defined in the Original Bond Documents) of the Debtor. In addition, all moneys and securities held by the Trustee have been pledged and assigned to the

Trustee as security for the payment amounts owed on account of the Bonds. All of the collateral described herein is referred to as the “Prepetition Collateral.” The Trustee’s liens on the Prepetition Collateral are referred to herein as the “Prepetition Liens.”

28. In addition, pursuant to the terms of the Original Bond Documents and the Liquidity Support Agreement, certain accounts were established and are held by the Trustee, including, but not limited to the following funds, each as defined in the Original Bond Documents and Liquidity Support Agreement: the Bond Fund, the Construction Fund, the Reserve Fund, the Entrance Fee Fund, the Working Capital Fund, the Liquidity Support Account, and the Revenue Fund (collectively, the “Trustee-Held Funds”). As of the Petition Date, the Trustee-Held Funds totaled approximately \$7.86 million.

**I. Agreed Use of Cash Collateral and Need for Adequate Protection**

29. Pursuant to section 362(c)(2)(A) of the Bankruptcy Code, the Trustee has consented to the Debtor’s use of Cash Collateral in accordance with the terms and conditions set forth in the Proposed Orders. Without the use of Cash Collateral, the Debtor would suffer immediate and irreparable harm and would likely be required to cease operations immediately or, at a minimum, the Debtor’s inability to use Cash Collateral would disrupt the Debtor as a going concern and would otherwise not be in the best interests of the Debtor or its creditors, including the holders of the Bonds and the Residents.

30. In lieu of giving the Trustee relief from the automatic stay or attempting to obtain this Court’s approval for use of Cash Collateral on a non-consensual basis, the Debtor has agreed to provide adequate protection of the Prepetition Liens and other Prepetition Collateral on the terms set forth in the Proposed Orders and summarized below. The Debtor and the Trustee have

agreed to terms of the Proposed Orders as part of the Second Forbearance Agreement and Plan Support Agreement.

**J. Summary of Key Terms of Proposed Orders**

31. Certain of the terms of the Proposed Orders are summarized below:<sup>4</sup>

Term	Brief Summary
<b>Use of Cash Collateral</b>	The Debtor is authorized to use Cash Collateral upon the terms and conditions set forth in the Proposed Orders from the Petition Date until the earlier of (i) the Debtor’s ability to use Cash Collateral terminates as the result of the occurrence of a Termination Event or (ii) February 29, 2020.
<b>Adequate Protection</b>	<p>The Trustee is entitled to adequate protection of its interest in the Cash Collateral. The following forms of adequate protection (collectively, the “<u>Adequate Protection</u>”) shall be provided:</p> <p>(a) The Debtor shall pay to the Trustee for deposit into the Bond Fund, with respect to the immediately preceding month, amounts representing the lesser of (a) the monthly debt service payment due for such month with respect to the Series 2009 Notes as set forth in the Original Bond Documents and (b) an amount equal to 75% of any positive Forbearance Net Cash Flow for the preceding month;</p> <p>(b) the Trustee shall have a valid, perfected, and enforceable replacement lien and security interest (the “<u>Replacement Lien</u>”) in (i) all assets of the Debtor existing on or after the Petition Date of the same type as the Prepetition Collateral, together with the proceeds, rents, products, and profits thereof, whether acquired or arising before or after the Petition Date, to the same extent, validity, perfection, enforceability, and priority of the liens and security interests of the Trustee as of the Petition Date (the “<u>Postpetition Bond Collateral</u>”); and (ii) all other assets of the Debtor of any kind or nature whatsoever within the meaning of section 541 of the Bankruptcy Code, whether acquired or arising prepetition or postpetition, together with all proceeds, rents, products, and profits thereof (the “<u>Supplemental Collateral</u>”); <u>provided, however</u>, Supplemental Collateral shall be exclusive of causes of action under Chapter 5 of the Bankruptcy Code and proceeds thereof with the exception of any causes of action pursuant to section 542 of the Bankruptcy Code). The Replacement Lien shall be subject and subordinate to only the Carve Out (as defined below) and any valid and perfected liens existing on the Petition Date that are senior to Liens of the Trustee against the Prepetition</p>

<sup>4</sup> The summary contained herein is only a brief summary. Capitalized terms used in the summary and not defined shall have the meanings ascribed to them in the Proposed Interim Order. The terms of the Debtor’s use of Cash Collateral are set forth in detail in the Proposed Orders. In the event of any inconsistency between the above summary and the Proposed Orders, the terms of the Proposed Orders shall control.

	<p>Collateral (“<u>Prior Liens</u>”);</p> <p>(c) the Trustee shall have a superpriority administrative expense claim pursuant to section 507(b) of the Bankruptcy Code with recourse to and payable from any and all assets of the Debtor’s estate, including but not limited to rights of the Debtor in, choses in action, or claims of any kind whatsoever, choate or inchoate, present or residual that for any reason cannot be made the subject of the Replacement Lien (the “<u>Superpriority Claim</u>”). The Superpriority Claim shall be subject only to Prior Liens and the Carve Out and shall have priority, pursuant to section 507(b) of the Bankruptcy Code, over any and all administrative expenses, diminution claims, and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all other administrative expenses of the kind specified in section 503(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 328, 330, 331, 503(b), 506(c) (following entry of the Final Order), 507(a), 507(b), 546, 726, 1113, or 1114 of the Bankruptcy Code, and shall at all times be senior to the rights of the Debtor, any successor trustee, or any creditor in this Chapter 11 Case, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment.</p>
<p><b>Carve Out</b></p>	<p>In partial consideration of the Debtor’s continuing acknowledgement of the debt due and owing and the waiver of any claims under section 506(c) (following entry of the Final Order) and section 552(b) of the Bankruptcy Code, the Trustee consents to certain expenses and professional fees incurred during the pendency of this Chapter 11 Case that shall be superior in all instances to the liens and claims of the Trustee and all other parties (the “<u>Carve Out</u>”). For purposes hereof, the “Carve Out” means (a) the statutory fees of the United States Trustee pursuant to 28 U.S.C. § 1930 and the fees of the Clerk of this Court; and (b) for professionals retained by the Debtor or its estate and any statutory committee appointed in the Chapter 11 Case pursuant to section 1103 of the Bankruptcy Code, the fees and expenses of such professionals solely to the extent such fees and expenses (i) have actually been incurred by the corresponding professional between the Petition Date and the Termination Date, and (ii) have been allowed by the Court; <u>provided, however</u>, the amount of the “Carve Out” in (b) above shall be subject to a cap in the amount of \$75,000 per week (with such amounts to be treated on a pro-rated basis for any partial weeks) for the period between the Petition Date and a Termination Date, minus the aggregate of (x) the amount of any retainer, deposit, or other identified funds that is available to pay such fees and expenses (including any amounts paid into any professional fee escrow), and (y) any additional amounts actually paid to such professionals (solely to the extent such payments are in addition to amounts included in the foregoing subsection (x)). The Debtor is authorized to use Cash Collateral to pay the fees, costs and expenses that constitute the Carve Out, as the same may be due and payable, either during the period this Interim Order remains in effect or thereafter, provided that no portion of the Prepetition Collateral or the Cash Collateral may be used by the Debtor, any committee or any of their professionals or any other person or entity to commence or prosecute (as opposed to analyze and investigate) any action, contest, challenge or objection with respect to the</p>

	Trustee, the Bonds, the Bond Documents, or the Prepetition Collateral. Nothing herein shall constitute a waiver of any right of the Trustee to object to fees and expenses of any professionals or to challenge any assertion that any amount of the fees and expenses are not unpaid. The entry of this Interim Order shall continue to be a conclusive and binding determination on all parties that, except for the Carve Out, no costs or expenses of administration shall be imposed against the Trustee or the Prepetition Collateral or the Collateral under sections 105 , 506(c) (following entry of the Final Order) or 552(b) of the Bankruptcy Code, or otherwise.
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32. The Debtor believes that the adequate protection described herein and in the Proposed Orders is sufficient to protect any diminution in the value of the Trustee’s interests and is fair and reasonable. The Trustee will be adequately protected and, as a result, will not be prejudiced in any way by the Debtor’s use of Cash Collateral. Given these circumstances, the Court should authorize the use of Cash Collateral on the terms and conditions set forth herein and in the Proposed Orders.

**RELIEF REQUESTED**

33. By this Motion, the Debtor seeks entry of the Proposed Orders, pursuant to sections 105(a), 361, 362, 363, and 364 of the Bankruptcy Code and rules 4001, 6003, and 6004 of the Bankruptcy Rules (i) authorizing the Debtor to use Cash Collateral, (ii) approving the form of adequate protection provided to the Trustee, (iii) modifying the automatic stay, and (iv) scheduling a final hearing.

**BASIS FOR RELIEF**

**A. Legal Standard**

34. The Debtor’s use of property of its estate is governed by section 363 of the Bankruptcy Code, which provides in pertinent part that:

If the business of the debtor is authorized to be operated under section . . . 1108 . . . of this title and unless the court orders otherwise, the [debtor] may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of

business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

11 U.S.C. § 363(c)(1).

35. Section 363(c)(2)(A) of the Bankruptcy Code permits a debtor to use cash collateral with the consent of “each entity that has an interest in such cash collateral.” 11 U.S.C. § 363(c)(2)(A) The Trustee is the only entity with an interest in the Cash Collateral and has consented to its use by the Debtor. Accordingly, the Debtor has satisfied section 363(c)(2) of the Bankruptcy Code. This Court has authorized debtors’ use of cash collateral with the consent of entities with an interest in such cash collateral. *See In re Taco Bueno Restaurants, Inc., et al.*, Case No. 18-33678 (SGJ) (Bankr. N.D. Tex. Nov. 30, 2018) [Docket No. 160]; *In re Hingham Campus, LLC and Linden Ponds, Inc.*, 11-33912 (SGJ) (Bankr. N.D. Tex. August 1, 2011) [Docket No. 171].

36. Additionally, section 363(e) of the Bankruptcy Code requires a debtor to adequately protect the secured creditors’ interest in property to be used by a debtor against any diminution in value of such interest resulting from the debtor’s use of the property during the chapter 11 case.

37. A determination as to the adequacy of a debtor’s proposed adequate protection is decided on a case-by-case basis. *See In re George Ruggiere Chrysler-Plymouth, Inc.*, 727 F.2d 1017, 1019 (11th Cir. 1984); *In re Swedeland Dev. Group. Inc.*, 16 F.3d 552, 564 (3d Cir. 1994); *In re O’Connor*, 808 F.2d 1393, 1396 (10th Cir. 1987); *In re Martin*, 761 F.2d 472 (8th Cir. 1985); *In re Columbia Gas Sys., Inc.*, 1992 WL 79323, at \*2 (Bankr. D. Del. Feb. 18, 1992); *In re Mosello*, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996); *In re Sw. Assocs.*, 140 B.R. 360 (Bankr. S.D.N.Y. 1992). By requiring adequate protection, the Bankruptcy Code seeks to shield a secured creditor from diminution in the value of its interest in its collateral during the period of use by the debtor in possession. *See Glasstream Boats*, 110 B.R. at 613; *George Ruggiere Chrysler-Plymouth*, 727

F.2d at 1019; *In re 495 Cent. Park Ave. Corp.*, 136 B.R. 626, 631 (Bankr. S.D.N.Y. 1992); *In re Beker Indus. Corp.*, 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986); *In re Hubbard Power & Light*, 202 B.R. 680 (Bankr. E.D.N.Y. 1996). Adequate protection can come in various forms, including payment of adequate protection fees, payment of interest as well as granting of replacement liens and administrative claims.

**B. The Trustee is Adequately Protected**

38. A debtor's authority to use Cash Collateral is typically conditioned on providing "adequate protection" to secured creditors that assert an interest in such cash. "The concept of 'adequate protection' is not defined in the [Bankruptcy] Code except by the implications of the examples of adequate protection listed in [Bankruptcy Code section 361 of the Bankruptcy Code]." *In re Beker Industrial Corp.*, 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986). Section 361 identifies various types of adequate protection, including cash payments, additional liens, replacement liens, and such other relief that will result in the realization by the secured creditor of the "indubitable equivalent" of its interest in its collateral. *See* 11 U.S.C. § 361.

39. The determination of adequate protection is a fact-specific inquiry that is to be made on a case-by-case basis. *See, e.g., MBank*, 808 F.2d at 1396-97 (the determination is a question of fact "which is to be decided flexibly on the proverbial 'case-by-case' basis") (citing *Martin*, 761 F.2d at 474); *In re Mosello*, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996) (the determination "is left to the vagaries of each case"). *See also In re Royal d'Iberville Corp.*, 10 B.R. 37, 39 (Bankr. S.D. Miss. 1981) ("Opinions as to what is adequate protection must be determined on a case-by-case basis and opinions will vary greatly from court-to-court because adequate protection is not defined in the Bankruptcy Code."). Furthermore, in determining adequate protection, "[t]he equities in each case must be weighed in striking a balance." *Stein*, 19 B.R. at 459.

40. The focus of the adequate protection requirement is to preserve the secured creditor's position at the time of the bankruptcy filing and protect the secured creditor from diminution in the value of its collateral during the reorganization process. *See Mosello*, 195 B.R. at 288; *Beker*, 58 B.R. at 736. *See also In re WorldCom, Inc.*, 304 B.R. 611, 618-19 (Bankr. S.D.N.Y. 2004) (“The legislative history for section 361 of the Bankruptcy Code, which sets forth how adequate protection may be provided under section 363, makes clear that the purpose is to insure that the secured creditor receives the value for which the creditor bargained for prior to the debtor's bankruptcy.”).

41. Here, the Adequate Protection proposed by the Debtor will fully protect the Trustee. In addition to monthly payments, the Trustee is also receiving the Replacement Lien and Superpriority Claim, subject only to the Carve Out. Furthermore, the Adequate Protection and other terms of the Debtor's use of Cash Collateral were the product of negotiations and agreement by the Trustee.

42. Based on the foregoing, the Debtor submits that the proposed Adequate Protection will fully protect the Trustee from any diminution in the value of its interest in the Cash Collateral and is fair, reasonable and sufficient to satisfy the requirements of the Bankruptcy Code. Accordingly, the Adequate Protection proposed herein and in the Proposed Orders is fair and reasonable and sufficient to satisfy the requirements of sections 363(c)(2) and (e) of the Bankruptcy Code.

**C. The Requirements of Bankruptcy Rules 4001(c)(2) and 6003(b) Have Been Satisfied**

43. Pursuant to Bankruptcy Rule 4001(c)(2), a minimum of fifteen (15) days' notice is required before a final hearing on this Motion may take place. The same rule, however, also provides that the Court “may conduct a hearing before such 15-day period expires, but . . . may

authorize the obtaining of credit only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing.” FED. R. BANKR. P. 4001(c)(2).

44. In addition, Bankruptcy Rule 6003(b) provides that, “[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition,” grant relief upon “a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate[.]” FED. R. BANKR. P. 6003(b).

45. As set forth above, the Debtor has an immediate and urgent need to use Cash Collateral. Absent the use of Cash Collateral, the Debtor will not be able to meet its working capital and liquidity needs, and its estate, Residents, and creditors will suffer immediate and irreparable harm. Accordingly, the Debtor submits that the requirements of Bankruptcy Rules 4001(c)(2) and 6003(b) have been satisfied.

**D. The Carve Out**

46. With the inclusion of the Carve Out, the Proposed Orders do not directly or indirectly deprive the Debtor’s estate or other parties-in-interest of possible rights and powers by restricting the services for which professionals may be paid in this Chapter 11 Case. *See In re Ames Dept. Stores, Inc.*, 115 B.R. 34, 38 (Bankr. S.D.N.Y. 1990) (observing that courts insist on carve outs for professionals representing parties in interest because “[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced”). In *Ames*, the court found such “carve outs” for professional fees to be not only reasonable, but necessary to ensure that official committees and debtors’ estates can retain assistance from counsel. *See id.* at 41. The Adequate Protection is expressly subject and subordinated to the Carve Out, as described above.

**E. The Court Should Schedule a Final Hearing**

47. Pursuant to Bankruptcy Rule 4001(b)(2), the Debtor requests that the Court schedule a final hearing on the Motion as soon as practicable, but in no event later than thirty (30) days following the entry of an interim order, and fix the date prior to the final hearing for the filing of objections to the Motion.

**NOTICE**

48. Notice of this Motion has been provided to: (a) the Office of the United States Trustee for the Northern District of Texas; (b) each of the Debtor's twenty (20) largest unsecured creditors; (c) counsel to the Trustee; (d) the Internal Revenue Service; (e) the Office of the Attorneys General for Texas; (f) the State of Texas Department of Health; (g) the Texas Secretary of State, Securities Division; (h) the Banks; and (i) all parties that assert a lien on the Debtor's assets.

*[Remainder of page left intentionally blank]*

**CONCLUSION**

WHEREFORE, the Debtor respectfully requests that the Court enter the Proposed Orders granting the relief requested herein and grant such other and further relief as the Court may deem just and appropriate.

Dated: November 5, 2019  
Dallas, Texas

**DLA PIPER LLP (US)**

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*Proposed Counsel for the Debtor*

**EXHIBIT A**

**PROPOSED INTERIM ORDER**

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

<b>In re:</b>	§	
	§	<b>Case No. 19-33756 (SGJ)</b>
<b>TARRANT COUNTY SENIOR LIVING CENTER, INC.,<sup>1</sup></b>	§	
	§	<b>Chapter 11</b>
<b>Debtor.</b>	§	
	§	

**INTERIM ORDER (1) AUTHORIZING THE DEBTOR TO USE THE  
CASH COLLATERAL OF UMB BANK, N.A., AS TRUSTEE; (2) PROVIDING  
UMB BANK, N.A., AS TRUSTEE, ADEQUATE PROTECTION;  
AND (3) MODIFYING THE AUTOMATIC STAY**

This *Interim Order (1) Authorizing the Debtor to Use the Cash Collateral of UMB Bank, N.A., as Trustee; (2) Providing UMB Bank, N.A., as Trustee, Adequate Protection; and (3) Modifying the Automatic Stay* (this “Interim Order”) is entered upon the motion (the “Motion”) of the above-captioned debtor (the “Debtor” or “Borrower”) requesting entry of an order authorizing the Debtor to use cash collateral of UMB Bank, N.A., in its capacity as Trustee (the “Trustee”), and to provide the Trustee with adequate protection, upon terms agreed to by the Debtor and the Trustee. Capitalized terms used in this Interim Order but not specifically defined have the meanings set forth in the Motion.

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<sup>1</sup> The last four digits of the Debtor’s federal tax identification number are 8602.

Upon the terms of the Motion, the stipulations, acknowledgements, statements and arguments of the Debtor and the Trustee, including by their respective counsel at the interim hearing on the Motion, and based further on the record of these proceedings, the Court makes the following findings of fact and rulings of law:

**The Debtor's Chapter 11 Case; Procedural Background; Jurisdiction; Notice**

A. On November 5, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code and thereby commenced a case thereunder (the "Chapter 11 Case"). The Debtor is operating its business and managing its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. As of the date hereof, no trustee or examiner has been appointed in this Chapter 11 Case.

C. This Court held a hearing to consider granting the relief requested in the Motion on an interim basis on November 7, 2019.

D. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

E. The Debtor has properly served notice of the Motion and the interim hearing thereon pursuant to sections 102, 361, 362 and 363 of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure 2002 and 4001, and the Local Bankruptcy Rules of this Court (the "Local Rules"), as applicable, as described more fully in Paragraph 3 hereof.

**The Secured Bond Obligations**

F. The Issuer and the Bond Trustee are parties to an Indenture of Trust, dated as of October 1, 2009 (the "Bond Indenture"), pursuant to which the Tarrant County Cultural Education Facilities Finance Corporation (the "Issuer") issued its Retirement Facility Revenue

Bonds (The Stayton At Museum Way Project), Series 2009A, Series 2009B and Series 2009C (collectively, the “Bonds”) in the initial principal amount of \$166,575,000.

G. The Issuer loaned the proceeds of the Bonds to the Debtor pursuant to a Loan Agreement, dated as of October 1, 2009 (the “Loan Agreement”).

H. The Debtor and the Master Trustee entered into a Master Bond Indenture, Deed of Trust and Security Agreement, dated as of October 1, 2009 (as amended by the Supplemental Indentures defined below and as it may be further amended from time to time in accordance with its terms, the “Master Indenture”), pursuant to which the Debtor issued the Tarrant County Senior Living Center Inc. Series 2009A, Series 2009B and Series 2009C Notes (collectively, the “Notes”) to provide for its loan repayment obligations under the Loan Agreement.

I. The Debtor and the Master Trustee entered into a Supplemental Indenture Number 1, dated as of October 1, 2009 (the “First Supplemental Indenture”), pursuant to which the terms and conditions upon which the Notes were authenticated, issued and delivered were clarified, and a Supplemental Indenture No. 2, dated as of May 10, 2019, pursuant to which provisions relating to draws on the LSA (as defined below) were added (the “Second Supplemental Indenture” and together with the First Supplemental Indenture, the “Supplemental Indentures”). The Bond Indenture, the Master Indenture, the Loan Agreement, the Supplemental Indentures, the Notes, the LSA and any other documents executed in connection with such documents or the Bonds are referred to herein as the “Bond Documents”.

J. The Trustee has the right to enforce the Borrower’s obligation to pay the amounts borrowed from the Issuer, pursuant to its rights under the Master Indenture, and by the fact that the Issuer’s rights under the Loan Agreement and the Notes (and its rights under the other Bond Documents) were assigned to the Trustee pursuant to the Bond Indenture.

K. Subject only to the provisions regarding certain escrowed Entrance Fees set forth

in paragraph 23 below, the Trustee has a security interest, lien and mortgage on substantially all of the Borrower's assets. Specifically, pursuant to the Master Indenture, the Debtor has pledged and granted to the Trustee certain collateral, including but not limited to: (i) a first mortgage lien on the Debtor's continuing care retirement community located in Fort Worth, Texas (the "Facility") and the land on which the Debtor's Facility is located; (ii) a security interest in all personal property owned or hereafter acquired by the Debtor; and (iii) a security interest in all of the Gross Revenues (as defined in the Bond Documents) of the Debtor. In addition, all moneys and securities held by the Trustee have been pledged and assigned to the Trustee as security for the payment amounts owed on account of the Bonds. All of the collateral described in this Paragraph K is referred to as the "Prepetition Collateral". The Trustee's liens on the Prepetition Collateral are referred to herein as the "Prepetition Liens".

L. In addition, under the terms of the Bond Documents, certain accounts were established and are held by the Trustee, including, but not limited to the following funds, each as defined in the Bond Documents: the Bond Fund, the Construction Fund, the Reserve Fund, the Entrance Fee Fund, the Working Capital Fund, the Liquidity Support Account, and the Revenue Fund (collectively, the "Trustee-Held Funds"). As of the Petition Date, the Trustee-Held Funds totaled approximately \$7.86 million.

M. The Debtor acknowledges and agrees, and the Court finds, that the Trustee-Held Funds are held in trust for the holders of the Bonds (the "Bondholders"). In the alternative, the Debtor acknowledges that the Trustee holds a validly perfected possessory security interest in the Trustee-Held Funds, and is entitled to access the Trustee-Held Funds in accordance with the terms of the Bond Documents. To the extent that the automatic stay applies to such Trustee-Held Funds pursuant to section 362(a) of the Bankruptcy Code, as adequate protection for the use of the Trustee's Cash Collateral (as defined below), the Debtor stipulates to relief from such

stay for the purpose of allowing the Trustee to administer and apply the Trustee-Held Funds in accordance with the Bond Documents, including in the case of any funds held in the Liquidity Support Account. The Trustee-Held Funds shall be administered and applied as set forth in the Bond Documents and for the express purposes set forth therein, and shall not be used or made available to Debtor as Cash Collateral or otherwise pursuant to this Interim Order or any other order entered in this Chapter 11 Case. Notwithstanding the foregoing acknowledgments in this paragraph M, if there is a breach of the Plan Support Agreement dated May 10, 2019 (as described more fully below, the “PSA”) by a Directing Holder (as defined below), the Bond Trustee, or the Master Trustee at the direction of the Directing Holders that prevents the consummation of the Plan of Reorganization (as defined below) or causes a termination of the PSA, any remaining amounts in the Liquidity Support Account shall, upon written request by Lifespace Communities, Inc. (“Lifespace”), be returned to Lifespace as set forth in the LSA.

**The Plan Support Agreement, the Membership Substitution, the Liquidity Support Agreement and the Plan of Reorganization**

N. On May 10, 2019, the Trustee entered into the PSA with the Debtor, Lifespace, and certain bondholders constituting a majority of the holders of the Bonds (the “Directing Holders”), which among other things committed the Trustee and the Directing Holders to support a pre-packaged plan of reorganization to be filed by the Debtor on the Petition Date of this Chapter 11 Case (as such plan of reorganization was filed [Docket No. ●], the “Plan of Reorganization”). In addition, under the PSA, the Debtor and the Trustee agreed to the form of this Interim Order to allow the Debtor to use the Trustee’s Cash Collateral as set forth herein. The Debtor distributed the Plan of Reorganization, an accompanying disclosure statement, and a ballot to all creditors and other parties in interest entitled to vote on the Plan of Reorganization prior to the filing of this Chapter 11 Case. As described more fully in the First Day Declaration

filed on the first day of this Chapter 11 Case, each class of creditors entitled to vote on the Plan of Reorganization voted in favor of confirmation.

O. At the same time that the PSA was entered into, Lifespace and the Debtor, among other parties, entered into an Affiliation Agreement dated May 10, 2019 (the “Affiliation Agreement”), pursuant to which it was agreed that Lifespace would be substituted for Senior Quality Lifestyles Corporation (“SQLC”) as the sole member of the Debtor (the “Membership Substitution”). The Membership Substitution occurred on June 20, 2019. At the same time that the Membership Substitution occurred, the Debtor, Lifespace, and the Trustee entered into a Liquidity Support Agreement (the “LSA”). Under the LSA, Lifespace provided \$3,000,000 (the “Interim LSA Amount”) to be held by the Trustee in a newly-created account (the “Liquidity Support Account”), held under the Master Indenture.

### **The Bond Claim**

P. The Debtor stipulates that as of the Petition Date, the amounts due and owing under the Bonds and Bond Documents are not less than:

- (i) unpaid principal in the amount of \$105,795,000;
- (ii) accrued but unpaid interest on the Bonds in the amount of \$6,288,298.61 (the aggregate of (i) and (ii) are referred to herein as the “Bond Claim”), which interest continues to accrue on the Bonds and will be added to the Bond Claim; and
- (iii) unliquidated, accrued and unpaid reasonable fees and expenses of the Trustee and its professionals incurred through the Petition Date. Such amounts when liquidated shall be added to the Bond Claim.

The Trustee reserves any and all rights to amend the Bond Claim. Nothing herein shall be deemed to be a waiver of such rights. In the event the Trustee amends the Bond Claim to increase the amount of such claim, the Debtor may challenge any amounts in excess of (i) and (ii) above.

**Use of Cash Collateral and Need for Adequate Protection**

Q. The Debtor has requested the use of the Trustee's Cash Collateral in connection with the Chapter 11 Case to preserve the value of its business and implement the Plan of Reorganization. Pursuant to the Bankruptcy Code, the Debtor is required to provide adequate protection to the Trustee for the use of such Cash Collateral. As noted above, the form of this Interim Order was agreed to by the Debtor and the Trustee as part of the Second Forbearance Agreement dated May 10, 2019 (the "Forbearance Agreement") and PSA, including the adequate protection provided herein. The Trustee has informed the Debtor and the Court that the Trustee does not consent to the use of Cash Collateral except upon the terms and conditions of this Interim Order.

R. Without the use of Cash Collateral, the Debtor would suffer immediate and irreparable harm and would likely be required to cease operations immediately or, at a minimum, the Debtor's inability to use Cash Collateral would disrupt the Debtor as a going concern and would otherwise not be in the best interests of the Debtor or its creditors, including the Bondholders and residents of the Debtor's Facility. In lieu of giving the Trustee relief from the automatic stay or attempting to obtain this Court's approval for use of Cash Collateral on a non-consensual basis, the Debtor wishes to provide adequate protection of the liens and security interests of the Trustee in Cash Collateral and other Prepetition Collateral on the terms set forth in this Interim Order, reflecting the agreement of the Debtor and the Trustee.

S. The Trustee is willing to consent to the use of its Cash Collateral by the Debtor on the terms set forth in this Interim Order, including: (i) that Cash Collateral may only be used solely for the categories of expenses set forth in the Cash Collateral Budget (as defined below); and (ii) upon the full amount of the Interim LSA Amount being validly withdrawn from the Liquidity Support Account ("LSA Depletion"), Cash Collateral may be used solely in the

amounts and categories set forth in the Updated Cash Collateral Budget (as defined below).

T. The terms of the proposed use of Cash Collateral, and this Interim Order are fair and commercially reasonable, reflect the Debtor's prudent exercise of business judgment consistent with its fiduciary duties and constitute reasonably equivalent value and fair consideration. Good cause has been shown for the entry of this Interim Order.

U. To the extent any portion of the foregoing constitute rulings of law, they shall constitute this Court's rulings with respect to the matters so-stated.

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

1. Disposition. The Motion is granted on an interim basis, on the terms set forth in this Interim Order. Any objections to the relief sought in the Motion that have not been previously resolved or withdrawn, and all reservations of rights contained therein, are overruled on the merits.

2. Jurisdiction. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b) and 1334, and this matter constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409. The Debtor has operated its business and managed its property as Debtor in possession pursuant to 11 U.S.C. §§ 1107 and 1108.

3. Notice. The Debtor has properly served notice of the Motion and the interim hearing thereon pursuant to sections 102, 361, 362, and 363 of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001, and the Local Rules, which notice was sent to, among others: (i) counsel to the Trustee; (ii) each of the Debtor's twenty largest unsecured creditors as set forth in the list filed by the Debtor in the Chapter 11 Case pursuant to Bankruptcy Rule 1007(d); (iii) the Office of the United States Trustee for the Northern District of Texas; (iv) the Office of the Attorney General of the State of Texas; (v) all known holders of liens on the Debtor's assets; (vi) all

applicable governmental agencies to the extent required by the Bankruptcy Rules or Local Rules; (vii) all parties that have filed a notice of appearance in this Chapter 11 Case; and (viii) those who have formally appeared and requested service in these proceedings pursuant to Bankruptcy Rule 2002. This notice is appropriate in the particular circumstances and is sufficient for all purposes under the Bankruptcy Code and the applicable Bankruptcy Rules and Local Rules in respect to the relief requested.

4. Good Cause. Good cause has been shown for entry of this Interim Order.

5. Authorization to Use Cash Collateral. The Debtor is authorized to use, as cash collateral (as defined in section 363 of the Bankruptcy Code), Gross Revenues (as defined in the Master Indenture) and other cash received by the Debtor in the ordinary course of operations of its business, including all amounts currently held in the Debtor's operating account at Banker's Trust (collectively, the "Cash Collateral"), until the earlier of (i) the Debtor's ability to use Cash Collateral terminates as the result of the occurrence of a Termination Event (as set forth below) or (ii) February 29, 2020. Such use of Cash Collateral is only permitted in accordance with the terms of this Interim Order. Prior to a LSA Depletion, use of Cash Collateral shall be limited solely to the categories of expenses listed (and not to the amounts) in the budget attached hereto as Exhibit A (the "Cash Collateral Budget"), which shall include, among other things, an itemized list of those Budgeted Expenses (as defined below) identified in the last sentence of this paragraph. Prior to a LSA Depletion, the Debtor's use of Cash Collateral in accordance with the Cash Collateral Budget shall not be subject to variance testing. In the event there is a LSA Depletion during this Chapter 11 Case, use of Cash Collateral shall be limited solely to pay expenses in the amounts and at the times set forth in a revised budget to be agreed-upon by the Debtor and the Trustee in good faith no later than five (5) business days after the LSA Depletion (the "Updated Cash Collateral Budget"); provided, however, that the Debtor shall have authority

to use Cash Collateral in excess of, and at times different from, the amounts set forth in the Updated Cash Collateral Budget (the “Budgeted Expenses”) to the extent such a variance does not constitute a Termination Event described in paragraph 17(i) of this Interim Order. Notwithstanding the foregoing, at all times during this Chapter 11 Case (whether prior to or after a LSA Depletion): (1) no amounts in excess of the applicable line items in the Cash Collateral Budget or Updated Cash Collateral Budget, as applicable, shall be paid by Borrower to any affiliate of Lifespace or SQLC other than amounts payable under Stayton’s (x) management agreements (provided, for the avoidance of doubt, that any such management agreements shall be subject to the limitations set forth in section II(H)(4) of the Forbearance Agreement notwithstanding any prior termination of the Forbearance Agreement) or (y) any administration and operational agreements pursuant to which an affiliate of Lifespace or SQLC pays costs incurred on Stayton’s behalf to third parties and allocates to, and receives reimbursement of such costs from, Stayton, and (2) other than fees and expenses associated with this Chapter 11 Case and the transactions contemplated in the PSA that are disclosed to, and if applicable approved by, the Bankruptcy Court, Stayton shall incur expenses and pay disbursements only in the ordinary course.

6. Exclusion from Cash Collateral. No party, other than the Debtor, may use the Cash Collateral of the Trustee. The Debtor is not authorized to use and shall not use any Gross Revenues not derived in the ordinary course of the Debtor’s operations. Nothing in this Interim Order, or in any subsequent order concerning the extension of the use of Cash Collateral, or other order of this Court entitles the Debtor to use any Trustee-Held Funds. The Trustee-Held Funds are held in trust for the Bondholders. In the alternative, the Trustee holds a validly perfected possessory security interest in the Trustee-Held Funds, and is entitled to access the Trustee-Held Funds in accordance with the terms of the Bond Documents. The Trustee is granted relief from

the automatic stay pursuant to section 362 of the Bankruptcy Code for the purpose of allowing the Trustee to administer and apply the Trustee-Held Funds in accordance with the Bond Documents, including in the case of the Liquidity Support Account, the LSA. Notwithstanding the foregoing provisions of this paragraph 6, if there is a breach of the PSA by a Directing Holder or the Trustee or the Master Trustee at the direction of the Directing Holders that prevents the consummation of the Plan of Reorganization or causes a termination of the PSA, any remaining amounts in the Liquidity Support Account shall, upon written request by the Lifespace, be returned to Lifespace as set forth in the LSA.

7. Prohibited Use of Cash Collateral. Except as expressly provided in this Interim Order, no Cash Collateral or proceeds thereof shall be used for the purpose of: (i) objecting to, or contesting in any manner, or raising any defense to, the validity, amount, extent, perfection, priority, or enforceability of the Bonds, the Prepetition Collateral, the Bond Claim, or any liens or security interests with respect thereto, or any other rights or interests of the Trustee therein or in the Trustee-Held Funds; (ii) asserting any claims or defenses or causes of action arising out of, based upon, or related to, in whole or in part, the Bonds or the Bond Documents, against the Trustee, the Bondholders in their capacity as such, or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors including, without limitation, any actions under Chapter 5 of the Bankruptcy Code, including with respect to payments made pursuant to the Bond Documents; (iii) seeking to modify any of the rights granted to the Trustee hereunder; (iv) seeking to bifurcate any claims of the Trustee; or (vi) pursuing confirmation of a plan of reorganization or liquidation other than the Plan of Reorganization.

8. Amendment or Extension of Budget. The Debtor may, at any time, propose to the Trustee in writing (including by email) an amended Cash Collateral Budget or Updated Cash

Collateral Budget, for the period covered by this Interim Order. Any such proposed amendment or modification of the terms and conditions, or any amendment, modification, roll-forward or replacement of the Cash Collateral Budget or the Updated Cash Collateral Budget itself, shall be subject to the prior written consent of the Trustee. At such time as the amended budget becomes the Cash Collateral Budget or the Updated Cash Collateral Budget, the Debtor shall file a copy thereof with this Court and serve it upon all parties entitled to notice in accordance with Bankruptcy Rule 4001(b).

9. Adequate Protection Payments. In consideration of the Debtor's use of Cash Collateral and the diminution in its Prepetition Collateral on and after the Petition Date, (i) on or before the tenth (10<sup>th</sup>) day of each month, the Debtor shall pay to the Trustee for deposit to the Bond Fund with respect to the immediately preceding month, amounts representing the lesser of (a) the monthly debt service payment due for such month with respect to the Series 2009 Notes as set forth in the Bond Documents and (b) an amount equal to 75% of any positive Forbearance Net Cash Flow (as defined below) for the preceding month (each, an "Adequate Protection Payment"), provided, however, that such lesser amount shall not exceed the amount of unrestricted cash and investments cash (as calculated in the entry for "Ending Book Balance-Operating" in the Forbearance Budget) of the Debtor on the last day of the preceding month in excess of \$5,464,000; and (ii) on November 15, 2019, the amount in the Bond Fund shall be paid by the Trustee to the holders of the Bonds, but no draw shall be made from amounts on deposit in the Reserve Fund. Nothing herein constitutes a waiver of the amounts due with respect to the Series 2009 Notes and amounts due on the Series 2009 Notes and not paid as a result of the deferral in the preceding sentence shall become immediately due and payable upon a Termination Event. For the purposes of this Interim Order, "Forbearance Net Cash Flow" shall mean Net Cash Flow, as such term is calculated in the Forbearance Budget, including Net

Entrance Fees, as such term is calculated in the Forbearance Budget. If Net Cash Flow as calculated under the Forbearance Budget is less than or equal to zero for a given month, Forbearance Net Cash Flow for the purposes of this Order shall be equal to zero.

10. Any and all payments or proceeds remitted to the Trustee pursuant to the provisions of this Interim Order or otherwise shall be received by the Trustee, free and clear of any claim, charge, assessment or other liability, including, without limitation, any such claim or charge arising out of or based on sections 506(c) and/or 552(b) of the Bankruptcy Code, whether directly or indirectly, all of which are hereby waived by the Debtor.

11. Replacement Lien. Except as otherwise provided in this paragraph 11, as further adequate protection for any diminution in the value of Cash Collateral and other Prepetition Collateral resulting from the Debtor's use thereof after the Petition Date ("Diminution"), and solely to the extent of any Diminution, the Trustee shall have a valid, perfected, and enforceable replacement lien and security interest (the "Replacement Lien") in (i) all assets of the Debtor existing on or after the Petition Date of the same type as the Prepetition Collateral, together with the proceeds, rents, products, and profits thereof, whether acquired or arising before or after the Petition Date, to the same extent, validity, perfection, enforceability, and priority of the liens and security interests of the Trustee as of the Petition Date (the "Postpetition Bond Collateral"); and (ii) all other assets of the Debtor of any kind or nature whatsoever within the meaning of section 541 of the Bankruptcy Code, whether acquired or arising prepetition or postpetition, together with all proceeds, rents, products, and profits thereof (the "Supplemental Collateral"; and, collectively with the Postpetition Bond Collateral, the "Collateral"); provided, however, Supplemental Collateral shall be exclusive of causes of action under Chapter 5 of the Bankruptcy Code and proceeds thereof with the exception of any causes of action pursuant to section 542 of the Bankruptcy Code). The Replacement Lien shall be subject and subordinate to only the Carve

Out (as defined below) and any valid and perfected liens existing on the Petition Date that are senior to Liens of the Trustee against the Prepetition Collateral (“Prior Liens”).

12. No Further Action Required. The approval of this Interim Order by the Court shall be sufficient and conclusive evidence of the validity, extent, enforceability, and perfection of the Replacement Lien granted to the Trustee, whether or not the Trustee elects to file or record financing statements or any other documents that may otherwise be required under federal or state law in any jurisdiction, or to take such other steps as may otherwise be required to obtain, evidence, or perfect such liens under applicable law; provided, however, that upon the request of the Trustee, the Debtor shall execute such other documents as may be reasonably requested to evidence and perfect such liens; that the Trustee may, in its sole discretion, but shall not be required to, file a certified copy of this Interim Order in any filing or recording office in any jurisdiction in which the Debtor has real or personal property; that the Debtor is authorized and directed to execute, or cause to be executed, all such financing statements or other documents upon the Trustee’s reasonable request; and that such filing or recording shall be accepted and shall constitute further evidence of perfection of the Trustee’s liens and security interests. No obligation, payment, transfer, or grant of security under this Interim Order shall be stayed (other than by court order in an appeal from this Interim Order), restrained, voidable, avoidable, or recoverable under the Bankruptcy Code or under any otherwise applicable state law, or subject to any defense, reduction, setoff, recoupment, or counterclaim.

13. Superpriority Claim. As additional adequate protection for any Diminution, the Trustee shall have a superpriority administrative expense claim pursuant to section 507(b) of the Bankruptcy Code with recourse to and payable from any and all assets of the Debtor’s estate, including but not limited to rights of the Debtor in, choses in action, or claims of any kind whatsoever, choate or inchoate, present or residual that for any reason cannot be made the subject

of the Replacement Lien (the “Superpriority Claim”). The Superpriority Claim shall be subject only to Prior Liens and the Carve Out and shall have priority, pursuant to section 507(b) of the Bankruptcy Code, over any and all administrative expenses, diminution claims, and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all other administrative expenses of the kind specified in section 503(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 328, 330, 331, 503(b), 506(c) (following entry of the Final Order), 507(a), 507(b), 546, 726, 1113, or 1114 of the Bankruptcy Code, and shall at all times be senior to the rights of the Debtor, any successor trustee, or any creditor in this Chapter 11 Case, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment.

14. Allowance of Claim. As set forth in paragraph 26 below, the entry of this Interim Order by the Court shall be a conclusive and binding determination on all parties (x) as to the amount and validity of the Bond Claim, and (y) as to the scope, extent, perfection, validity, and enforceability, in all respects, of the Trustee’s security interests and liens in the Prepetition Collateral, including, without limitation, the Cash Collateral.

15. Financial Information. As further additional adequate protection of the Trustee’s security interests in the Cash Collateral and the Prepetition Collateral, the Debtor shall (i) on Wednesday of each week, provide a report indicating all receipts received and disbursements made by the Debtor in the week ending on the prior Friday; (ii) host a weekly call with the Trustee and its professionals, the Directing Holders, and the Borrower’s professional advisors, to discuss the weekly expense and disbursement report, the monthly financials of the Borrower, sales and reservations for the prior month, the status of the confirmation of the Plan of Reorganization, the results of operations, and other matters pertaining to the Facility and the

Chapter 11 Case, and any other information reasonably requested by the Trustee; and (iii) allow the Trustee and its professionals and designees reasonable access, during normal business hours and on not less than 48 hours' notice, to the premises of the Debtor in order to conduct appraisals, analyses, and/or audits of the Prepetition Collateral and the Collateral, and shall otherwise reasonably cooperate in providing any other financial information reasonably requested by the Trustee for this purpose. Following LSA Depletion, commencing with the second Wednesday after the LSA Depletion, the Debtor shall provide to the Trustee and the Directing Holders on Wednesday of every other week a report showing the cumulative actual expenses and the cumulative Budgeted Expenses for the four-week period ending the Friday preceding such Wednesday (each, a "Four-Week Testing Period") (except, that for the first such report shall compare the actual expenses and the cumulative Budgeted Expenses for the period between the LSA Depletion and the Friday before the Wednesday the report is delivered), and detailing any variances of more than 12.5% and at least \$10,000 from the expenditures and receipts in the Updated Cash Collateral Budget for the corresponding Four-Week Testing Period, which report shall also be discussed on the weekly calls referenced above. The Debtor shall provide to the Trustee such other reports and information as the Trustee may reasonably request from time to time.

16. Compliance With Bond Documents. As further adequate protection against Diminution, the Debtor shall comply with those terms and provisions of the Bond Documents set forth on **Exhibit B** attached hereto and incorporated herein. The requirements of this Interim Order shall be in addition to, and not in substitution for, the terms and provisions of the Bond Documents set forth on Exhibit B; provided, however, in the event of any inconsistency between the Bond Documents and this Interim Order, the terms of this Interim Order shall control.

17. Termination of Use of Cash Collateral With Notice. A Termination Event shall

be deemed to have occurred five (5) business days after written notice sent by the Trustee to the Debtor, its counsel, and the United States Trustee of the occurrence of any of the following (a “Termination Event”):

- (i) following LSA Depletion, the payment of any expense that would cause aggregate actual expenditures in the Updated Cash Collateral Budget to exceed 112.5% of the total budgeted expenses in the Updated Cash Collateral Budget for a Four-Week Testing Period, provided, however, that entrance fee refunds, if any, shall not be counted against actual expenditures or total budgeted expenses, and, provided further that professional fees and any fees of Seniority, Inc. shall not be subject to any such variance. This foregoing variances shall be measured for each Four-Week Testing Period. Any budgeted expenditures not paid in a particular budget period may be paid during a subsequent period and, for the purpose of calculating the variances set forth above, the Updated Cash Collateral Budget will be revised to move such expenditures to the later period;
- (ii) the failure of the Debtor to pay, within ten (10) days of the applicable due date, all undisputed administrative expenses in full in accordance with their terms except for any expenses under sections 503(b)(9) or 546(c) of the Bankruptcy Code;
- (iii) the failure of the Debtor to timely pay all fees due under 28 U.S.C. § 1930;
- (iv) the failure to timely pay the monthly Adequate Protection Payment; and
- (v) the failure of the Debtor to comply with, keep, observe, or perform any of its agreements or undertakings under this Interim Order.

Unless prior to the expiration of the five (5) business day period described in this paragraph 17 the Debtor has cured the Termination Event(s) specified in the Trustee’s notice, or obtained an order of this Court, on notice to and with the opportunity to be heard by the Trustee, that no such Termination Event has occurred, the authority of the Debtor to use Cash Collateral hereunder shall terminate without further action of any kind (the “Termination Date”), and all amounts owed as set forth in the Bond Claim shall be accelerated and immediately due and payable upon discretion of the Trustee, and the Trustee shall be automatically relieved of any

further stay under section 362 of the Bankruptcy Code, or other restriction on enforcement of its prepetition and postpetition liens and security interests in the Collateral to collect amounts due. Following the occurrence of a Termination Event under this Paragraph 17, the Debtor shall schedule a status conference within five business days after the occurrence of such Termination Event to discuss the outstanding issues related to the proceedings with the Court. Notwithstanding the foregoing provision regarding relief from the stay under section 362 of the Bankruptcy Code, the Trustee shall take no action with respect to the enforcement of its prepetition and postpetition liens and security interests in the Collateral or to collect the amounts due from the Debtor until such status conference has been held.

18. Termination of Use of Cash Collateral Without Prior Notice. The Debtor's authority to use Cash Collateral hereunder shall terminate without any further action by this Court, and a Termination Event shall occur without prior notice, upon the occurrence of any of the following (also a "Termination Event"):

- (i) Occurrence of the effective date of the Plan of Reorganization;
- (ii) the Chapter 11 Case is dismissed or converted to a case under Chapter 7 of the Bankruptcy Code;
- (iii) the earlier of (y) the date of the entry of an order of this Court appointing a Chapter 11 trustee or an examiner with enlarged powers (beyond those set forth in sections 1104(c) and 1106(a)(3) and (4) of the Bankruptcy Code) for the Debtor; or (z) the date the Debtor files a motion, application, or other pleading consenting to or acquiescing in any such appointment;
- (iv) the Debtor files or supports confirmation of, or fails to actively oppose confirmation of, a plan of reorganization that is inconsistent with the Plan of Reorganization or that would result in the modification or amendment of the Plan of Reorganization in a way that materially adversely affects the Trustee;
- (v) the Debtor fails to take all reasonable necessary steps in seeking to obtain from the Bankruptcy Court an order confirming the Plan of Reorganization by December 20, 2019;

- (vi) the Debtor fails to take all reasonable steps so that the effective date of the Plan of Reorganization occurs not later than February 29, 2020;
- (vii) termination of the PSA;
- (viii) an order is entered in the Chapter 11 Case over the objection of the Trustee approving financing pursuant to section 364 of the Bankruptcy Code that would grant an additional security interest or a lien on any Collateral or granting a superpriority administrative claim that is equal or superior to the superpriority administrative claim granted to the Trustee under this Interim Cash Collateral Order; and
- (ix) an adversary proceeding or contested matter is commenced or joined by the Debtor challenging the amount, validity, enforceability, priority, or extent of the Trustee's liens, security interests, or claims.

Upon the occurrence of a Termination Event described in this paragraph 18, the Debtor's authority to use Cash Collateral hereunder shall automatically terminate (also a "Termination Date"), and all amounts owed all amounts owed as set forth in the Bond Claim shall be accelerated and immediately due and payable upon discretion of the Trustee, the Trustee shall be permitted to exercise all available remedies without further notice or court order, and the Trustee shall be automatically relieved of any further stay under section 362 of the Bankruptcy Code, or other restriction on enforcement of its prepetition and postpetition liens and security interests in the Collateral to collect the amounts due. Following the occurrence of a Termination Event under this Paragraph 18, the Debtor shall schedule a status conference within five business days after the occurrence of such Termination Event to discuss the outstanding issues related to the proceedings with the Court. Notwithstanding the foregoing provision regarding relief from the stay under section 362 of the Bankruptcy Code, the Trustee shall take no action with respect to the enforcement of its prepetition and postpetition liens and security interests in the Collateral or to collect the amounts due from the Debtor until such status conference has been held.

19. Claims and Causes of Action. On behalf of itself and the estate, the Debtor

reaffirms, and hereby waives, releases, and discharges the Trustee, all Bondholders in their capacity as such, and their respective affiliates, agents, attorneys, professionals, officers, directors, and employees (collectively, the “Released Parties”), from any and all claims and causes of action arising out of, based upon, or related to, in whole or in part, the Bonds and the Bond Documents; any aspect of the prepetition relationship between the Trustee and/or the Bondholders, and the Debtor; and any other acts or omissions by the Trustee and/or the Bondholders in connection with either the Bond Documents or the Trustee’s and/or Bondholders’ prepetition relationship with the Debtor. Further, the Debtor reaffirms its waiver and hereby waives any and all rights to object to or contest the amount of the Bond Claim or the Trustee’s security interest in the Prepetition Collateral and agrees not to challenge that all such claims and security interests have been duly perfected and are in all respects valid and enforceable first priority security interests and liens.

20. Failure of Adequate Protection. Nothing herein shall constitute a waiver, release or modification of the rights of the Trustee to assert a claim under sections 364(c) and 507(b) of the Bankruptcy Code.

21. Deemed Request for Stay Relief. This Interim Order shall be deemed to constitute a request as of the Petition Date by the Trustee for relief from the automatic stay with respect to the Prepetition Collateral for purposes of any request for adequate protection granted hereunder.

22. No Charge on Collateral; Carve Out. In partial consideration of the Debtor’s continuing acknowledgement of the debt due and owing and the waiver of any claims under section 506(c) (following entry of the Final Order) and section 552(b) of the Bankruptcy Code, the Trustee consents to certain expenses and professional fees incurred during the pendency of this Chapter 11 Case that shall be superior in all instances to the liens and claims of the Trustee

and all other parties (the “Carve Out”). For purposes hereof, the “Carve Out” means (a) the statutory fees of the United States Trustee pursuant to 28 U.S.C. § 1930 and the fees of the Clerk of this Court; and (b) for professionals retained by the Debtor or its estate and any statutory committee appointed in the Chapter 11 Case pursuant to section 1103 of the Bankruptcy Code, the fees and expenses of such professionals solely to the extent such fees and expenses (i) have actually been incurred by the corresponding professional between the Petition Date and the Termination Date, and (ii) have been allowed by the Court; provided, however, the amount of the “Carve Out” in (b) above shall be subject to a cap in the amount of \$75,000 per week (with such amounts to be treated on a pro-rated basis for any partial weeks) for the period between the Petition Date and a Termination Date, minus the aggregate of (x) the amount of any retainer, deposit, or other identified funds that is available to pay such fees and expenses (including any amounts paid into any professional fee escrow), and (y) any additional amounts actually paid to such professionals (solely to the extent such payments are in addition to amounts included in the foregoing subsection (x)). The Debtor is authorized to use Cash Collateral to pay the fees, costs and expenses that constitute the Carve-Out, as the same may be due and payable, either during the period this Interim Order remains in effect or thereafter, provided that no portion of the Prepetition Collateral or the Cash Collateral may be used by the Debtor, any committee or any of their professionals or any other person or entity to commence or prosecute (as opposed to analyze and investigate) any action, contest, challenge or objection with respect to the Trustee, the Bonds, the Bond Documents, or the Prepetition Collateral. Nothing herein shall constitute a waiver of any right of the Trustee to object to fees and expenses of any professionals or to challenge any assertion that any amount of the fees and expenses are not unpaid. The entry of this Interim Order shall continue to be a conclusive and binding determination on all parties that, except for the Carve Out, no costs or expenses of administration shall be imposed against the

Trustee or the Prepetition Collateral or the Collateral under sections 105 , 506(c) (following entry of the Final Order) or 552(b) of the Bankruptcy Code, or otherwise.

23. Escrowed Entrance Fees. To the extent the Debtor is holding entrance fees received following the Petition Date (the “Entrance Fees”) in an escrow account pursuant to that *Order (I) Authorizing the Debtor to (A) Escrow Postpetition Entrance Fees In Its Existing Entrance Fee Escrow Account and (B) Refund Postpetition Entrance Fees Under Certain Circumstances During the Chapter 11 Case; and (II) Granting Related Relief* (the “Escrow Order”), such Entrance Fees shall not be subject to the liens of the Trustee until all conditions under that escrow are satisfied and the Debtor is authorized to release the funds from escrow pursuant to the Escrow Order or other order of the Court, at which time the Trustee’s liens will attach to the Debtor’s right to receive any Entrance Fees released from the escrow account. The Debtor is authorized to make refund payments in accordance with the Escrow Order. For the avoidance of doubt, any entrance fees paid into an escrow account (“Pre-Petition Escrow”) during the period after May 10, 2019 and prior to the Petition Date (“Pre-Petition Entrance Fees”) shall not be deemed property of the Debtor’s estate or subject to the liens or priority claims of the Trustee until all conditions under the applicable Pre-Petition Escrow are satisfied or the Debtor is authorized to release the funds from escrow pursuant to the an order of the Court, at which time the Trustee’s liens will attach to the Debtor’s right to receive any Pre-Petition Entrance Fees released from such Pre-Petition Escrow.

24. Modification of Stay. The automatic stay imposed by section 362 of the Bankruptcy Code is hereby vacated and modified insofar as necessary to permit the Trustee to: (i) receive any payments or distributions made by the Debtor to the Trustee for and on behalf of the Bondholders, (ii) apply, allocate, or make payments from any of the funds or accounts maintained by the Trustee (including, without limitation, the Trustee-Held Funds) in

accordance with the terms of the Bond Documents, and (iii) take any action authorized by this Interim Order.

25. Preservation of Rights. If any or all of the provisions of this Interim Order are, at any time, modified, vacated or stayed, such stay, modification, or vacation shall not affect the validity, extent, priority, and enforceability of any lien, priority, or other benefit conferred under this Interim Order prior to such stay, modification, or vacation.

26. Binding Effect. This Interim Order shall be binding on all creditors and parties in interest in this Chapter 11 Case, including, but not limited to, the Debtor and any successors thereto, any Chapter 11 or Chapter 7 trustee that is appointed or elected in this Chapter 11 Case provided, however, that this Interim Order is without prejudice to the rights of an official committee of unsecured creditors (a "Committee") to, on behalf of the Debtor's estate, challenge the validity, amount, perfection, priority, extent or enforceability of the Bond Claim or the prepetition security interests of the Trustee (a "Committee Challenge"), so long as any such challenge is made on or before the date that is the earlier of (i) five (5) business days prior to the date that the Court sets as the deadline for any objections to the Plan of Reorganization, or (ii) December 5, 2019, after which time all such challenges shall be deemed finally and conclusively barred; provided further that if one or more claims are timely made under this paragraph 26 and properly filed, then except for such claims, all potential claims and causes of actions are hereby deemed forever waived and relinquished.

27. No Competing Liens. Except as set forth herein, the Debtor shall not grant liens on, or security interests in, the Prepetition Collateral or the Collateral to any other party, pursuant to section 364 of the Bankruptcy Code or otherwise, without the consent of the Trustee.

28. Reservation of Rights. Except as provided in this Interim Order or as otherwise provided in the PSA, neither the Debtor nor the Trustee waives any of its rights under the

Bankruptcy Code, any applicable law, or the Bond Documents, including, without limitation, the right of the Debtor or the Trustee at any time to seek any relief (or to oppose any such relief) under the Bankruptcy Code, or the right of the Debtor or the Trustee to exercise any of its rights and remedies under the Bankruptcy Code at any time.

29. Further Relief. Subject to the terms of the PSA, nothing herein shall (i) preclude the Trustee from seeking any other relief that it may deem appropriate, including relief from the automatic stay; or (ii) prevent the Trustee from asserting at some later time that its liens and security interests in the Prepetition Collateral are not being adequately protected.

30. No Third Party Beneficiaries. Except as expressly provided herein, no rights are created hereunder for the benefit of any third party, any creditor, or any direct, indirect or incidental beneficiary except for the Bondholders, as set forth herein.

31. Effectiveness. The rights and obligations of the parties under this Interim Order shall be effective and enforceable as of the date of the Petition Date, and, for the avoidance of doubt, Bankruptcy Rule 6004(h) shall not apply hereto. If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed, such reversal, modification, vacatur, or stay shall not affect (i) the validity, extent, priority, or enforceability of any obligations incurred prior to the actual receipt of written notice by the Trustee of the effective date of such reversal, modification, vacatur, or stay, or (ii) the validity, extent, or enforceability of the liens and claims granted hereunder.

32. Notices. All notices, requests, demands, waivers, and other communications required or permitted to be given under this Interim Order shall be in writing and shall be deemed to have been duly given if (a) delivered personally, or (b) sent by email with a next-day or overnight mail or delivery:

(a) If to the Debtor to:

Ankura Consulting Group, LLC  
Attn: Louis E. Robichaux IV  
15950 Dallas Parkway, Suite 750  
Dallas, TX 75248  
Telephone: (214) 200-3689  
E-mail: Louis.robichaux@ankura.com

with a copy sent contemporaneously by email to:

DLA Piper LLP (US)  
Attn: Thomas R. Califano, Esq.  
1251 Avenue of the Americas  
New York, NY 10020-1104  
Telephone: (212) 335-4500  
E-mail: thomas.califano@dlapiper.com

(b) If to the Trustee to:

UMB Bank, N.A.  
Attn: Virginia A. Housum  
Senior Vice President  
120 Sixth Street South, Suite 1400  
Minneapolis, MN 55403  
E-mail: Virginia.housum@umb.com

with a copy sent contemporaneously by email to:

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.  
Attn: Daniel S. Bleck, Esq.  
One Financial Center  
Boston, MA 02111  
Telephone: (617) 348-4498  
E-mail: dsbleck@mintz.com

33. Final Hearing. The final hearing (the “Final Hearing”) on the Motion shall be held on November [ ], 2019 at \_\_\_\_:\_\_\_\_.m. (Central Standard Time). Any objections or responses to entry of a final order (a “Final Order”) on the Motion (each, an “Objection”) shall be filed on or before 4:00 p.m. (Central Standard Time) on November [ ], 2019, and served on the following parties: (a) The Honorable Stacey G.C. Jernigan, Bankruptcy Judge for the United States Bankruptcy Court for the Northern District of Texas, Earle Cabell Federal Building, 1100 Commerce St., Fourteenth Floor, Courtroom 1, Dallas, TX 75242-1496; (b) proposed counsel for

the Debtor, DLA Piper LLP (US), 1251 Avenue of the Americas, New York, NY 10020 (Attn: Thomas R. Califano, Esq.), 200 South Biscayne Boulevard, Suite 2500, Miami, Florida 33131 (Attn: Rachel Nanes, Esq.), 1900 North Pearl Street, Suite 2200, Dallas, TX 75201 (Attn: Andrew B. Zollinger, Esq.); (c) the Office of the United States Trustee for the Northern District of Texas, Earle Cabell Federal Building, 1100 Commerce Street, Room 976, Dallas, TX 75242 (Attn: Lisa Lambert, Esq.); and (d) counsel to UMB Bank N.A., Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, MA 02111 (Attn: Daniel Bleck, Esq. and Charles Azano, Esq.). In the event that no Objections to entry of a Final Order on the Motion are timely received, this Court may enter such final order without the need for the Final Hearing.

**###END OF ORDER###**

Order submitted by:

**DLA PIPER LLP (US)**

By: /s/ Andrew B. Zollinger  
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- and -

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- and -

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*Proposed Counsel for the Debtor*

**EXHIBIT A**

**CASH COLLATERAL BUDGET**



TARRANT COUNTY SENIOR LIVING CENTER, INC. - THE STAYTON  
A: DRAFT Weekly Cash Flow Projection  
Report Date: May 8, 2019

	Petition																				Exit		Total		
	9/27 Fcst	10/4 Fcst	10/11 Fcst	10/18 Fcst	10/25 Fcst	11/1 Fcst	11/8 Fcst	11/15 Fcst	11/22 Fcst	11/29 Fcst	12/6 Fcst	12/13 Fcst	12/20 Fcst	12/27 Fcst	1/3 Fcst	1/10 Fcst	1/17 Fcst	1/24 Fcst	1/31 Fcst	2/7 Fcst	2/14 Fcst	2/21 Fcst		2/28 Fcst	
<b>Occupancy</b>																									
Beginning Balance	179	179	179	179	179	179	179	179	179	178	178	178	178	177	177	177	177	177	177	177	177	177	177	177	179
IL Move-ins	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	1	-	-	9
IL Move-outs / Transfers	-	-	-	-	(1)	-	-	-	(1)	-	-	-	(1)	-	-	-	-	(1)	-	-	-	-	(1)	-	(11)
IL Census (Occupancy)	179	179	179	179	179	179	179	179	178	178	178	178	177	177	177	177	177	177	177	177	177	177	177	177	177
AL Census (Occupancy)	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56	56
SNF Census (Occupancy)	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43
<b>Cash Flow Summary</b>																									
<b>Operating Cash Receipts</b>																									
Medicare Receipts	99	195	154	799	374	3	250	319	854	99	250	319	854	99	3	250	319	854	99	250	319	854	99	17,850	
Other Receipts & Float Impact	169	-	-	-	169	-	-	-	30	169	-	-	-	30	169	-	-	30	169	-	-	30	169	-	2,378
Total Operating Receipts	268	195	154	799	404	172	250	319	884	268	250	319	854	129	172	250	319	884	268	250	319	884	268	20,229	
<b>Operating Cash Disbursements</b>																									
Payroll, Payroll Taxes, & Benefits	(324)	(68)	(324)	(15)	(324)	(68)	(324)	(15)	(324)	-	(392)	-	(339)	-	(392)	-	(339)	-	(324)	(68)	(324)	(15)	(663)	(9,558)	
Dining Services	(29)	(29)	(29)	(29)	(29)	(29)	-	(7)	(58)	(49)	(29)	(49)	(29)	(29)	(29)	(29)	(29)	(29)	(29)	(29)	(29)	(29)	(29)	(51)	(1,494)
Administrative & Marketing	(16)	(86)	(16)	(74)	(16)	(86)	-	(19)	(32)	(16)	(311)	(16)	(74)	(16)	(156)	(16)	(74)	(16)	(86)	(16)	(74)	(16)	(72)	(2,637)	
Buildings, Grounds, & Utilities	(15)	(22)	(5)	(62)	(5)	(22)	-	(16)	(11)	(5)	(22)	(5)	(62)	(5)	(22)	(5)	(62)	(5)	(22)	(5)	(62)	(5)	(62)	(5)	(1,204)
Ancillary & Therapy Services	(3)	(68)	(3)	(3)	(3)	(68)	-	(3)	(6)	(3)	(68)	(3)	(3)	(3)	(68)	(3)	(3)	(3)	(68)	(3)	(3)	(3)	(3)	(5)	(917)
Other Disbursements	(38)	(38)	(38)	(55)	(58)	(38)	-	(14)	(95)	(38)	(38)	(38)	(75)	(38)	(38)	(38)	(55)	(58)	(38)	(38)	(38)	(38)	(75)	(78)	(2,301)
Total Operating Disbursements	(415)	(311)	(415)	(238)	(435)	(311)	(324)	(71)	(526)	(111)	(860)	(91)	(602)	(91)	(705)	(91)	(562)	(111)	(415)	(311)	(415)	(258)	(921)	(18,110)	
<b>Net Cash Before Cap Ex / Mgmt Fees / EF / Debt Service</b>	<b>(147)</b>	<b>(116)</b>	<b>(261)</b>	<b>561</b>	<b>(31)</b>	<b>(138)</b>	<b>(74)</b>	<b>248</b>	<b>358</b>	<b>157</b>	<b>(610)</b>	<b>228</b>	<b>252</b>	<b>38</b>	<b>(532)</b>	<b>159</b>	<b>(243)</b>	<b>773</b>	<b>(147)</b>	<b>(61)</b>	<b>(96)</b>	<b>626</b>	<b>(653)</b>	<b>2,118</b>	
<b>Management &amp; Admin Fees</b>																									
Management Fees	-	(153)	-	-	-	(153)	-	-	-	-	-	-	-	-	(153)	-	-	-	-	-	(153)	-	-	-	(1,683)
<b>Net Cash After Cap Ex / Mgmt Fees</b>	<b>(157)</b>	<b>(279)</b>	<b>(272)</b>	<b>551</b>	<b>(42)</b>	<b>(302)</b>	<b>(74)</b>	<b>248</b>	<b>337</b>	<b>147</b>	<b>(773)</b>	<b>218</b>	<b>242</b>	<b>27</b>	<b>(696)</b>	<b>149</b>	<b>(254)</b>	<b>762</b>	<b>(157)</b>	<b>(224)</b>	<b>(107)</b>	<b>615</b>	<b>(664)</b>	<b>(51)</b>	
<b>Entrance Fees</b>																									
Cash Transfer from Escrow to Pay Refund Obligation	-	-	-	-	470	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,904	6,548
Entrance Fee Refund Obligation Payment	-	-	-	-	(470)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(1,904)	(6,256)
<b>Net Cash Flow from Escrow Account</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>291</b>	
<b>Net Cash After Cap Ex / Mgmt Fees / Entrance Fees</b>	<b>(157)</b>	<b>(279)</b>	<b>(272)</b>	<b>551</b>	<b>(42)</b>	<b>(302)</b>	<b>(74)</b>	<b>248</b>	<b>337</b>	<b>147</b>	<b>(773)</b>	<b>218</b>	<b>242</b>	<b>27</b>	<b>(696)</b>	<b>149</b>	<b>(254)</b>	<b>762</b>	<b>(157)</b>	<b>(224)</b>	<b>(107)</b>	<b>615</b>	<b>(664)</b>	<b>240</b>	
<b>Restructuring Costs</b>																									
Legal Counsel - DIA	(32)	(47)	(47)	(47)	(47)	(47)	(27)	(42)	(42)	(32)	(17)	(17)	(17)	(17)	(17)	(17)	(17)	(17)	(17)	(17)	(22)	(22)	(22)	(949)	
Financial Advisor - Ankura	(22)	(22)	(27)	(32)	(32)	(37)	(8)	(8)	(8)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(8)	(8)	(8)	(8)	(8)	(8)	(576)
Chief Restructuring Officer	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(180)	
Accounting Advisor - Lark	(26)	(26)	(31)	(31)	(26)	(26)	(16)	(16)	(11)	(11)	(8)	(8)	(13)	(13)	(8)	(8)	(13)	(13)	(11)	(8)	(8)	(13)	(13)	(377)	
Independent Board Member	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(23)
Claims Agent	(1)	(11)	(11)	(16)	(26)	(26)	(21)	(21)	(21)	(21)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(307)	
Ombudsman	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bond Counsel & Issuer Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(165)	(165)
Chapter 11 Filing Fee	-	-	-	-	-	-	(2)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(2)	(2)
US Trustee Fee	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(71)	(103)
Cash Settlement	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(317)	(317)
Adequate Assurance Deposit	-	-	-	-	-	-	-	-	(50)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	50	50
Restructuring Costs	(84)	(109)	(119)	(129)	(134)	(139)	(77)	(140)	(85)	(74)	(47)	(47)	(52)	(47)	(47)	(52)	(47)	(52)	(47)	(52)	(48)	(53)	(58)	(560)	(2,998)
<b>Net Cash Flow</b>	<b>(241)</b>	<b>(388)</b>	<b>(391)</b>	<b>422</b>	<b>(176)</b>	<b>(441)</b>	<b>(151)</b>	<b>108</b>	<b>252</b>	<b>73</b>	<b>(820)</b>	<b>171</b>	<b>190</b>	<b>(24)</b>	<b>(742)</b>	<b>102</b>	<b>(305)</b>	<b>711</b>	<b>(240)</b>	<b>(272)</b>	<b>(159)</b>	<b>558</b>	<b>(1,224)</b>	<b>(2,758)</b>	
<b>Cash Flow Reconciliation / Liquidity Roll Forwards (Book 8)</b>																									
Beginning Book Balance - Operating	6,593	6,352	5,964	5,573	5,995	5,819	5,919	5,768	5,877	6,129	6,201	5,382	5,553	5,743	5,718	4,976	5,078	4,773	5,484	5,244	4,972	4,813	5,371	6,365	
Net Cash Before Cap Ex / Mgmt Fees / EF / Debt Service	(147)	(116)	(261)	561	(31)	(138)	(74)	248	358	157	(610)	228	252	38	(532)	159	(243)	773	(147)	(61)	(96)	626	(653)	2,118	
Routine Capital Expenditure	(11)	(11)	(11)	(11)	(11)	(11)	-	-	(21)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(486)
Management & Admin Fees	-	(153)	-	-	-	(153)	-	-	-	-	-	-	-	-	(153)	-	-	-	-	-	(153)	-	-	-	(1,683)
Net Cash Flow from Escrow Account	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Debt Service Disbursements	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Restructuring Costs	(84)	(109)	(119)	(129)	(134)	(139)	(77)	(140)	(85)	(74)	(47)	(47)	(52)	(47)	(47)	(52)	(47)	(52)	(47)	(52)	(48)	(53)	(58)	(560)	(2,998)
Account Transfers	-	-	-	-	-	541	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	300	841	841
<b>Ending Book Balance - Operating</b>	<b>6,352</b>	<b>5,964</b>	<b>5,573</b>	<b>5,995</b>	<b>5,819</b>	<b>5,919</b>	<b>5,768</b>	<b>5,877</b>	<b>6,129</b>	<b>6,201</b>	<b>5,382</b>	<b>5,553</b>	<b>5,743</b>	<b>5,718</b>	<b>4,976</b>	<b>5,078</b>	<b>4,773</b>	<b>5,484</b>	<b>5,244</b>	<b>4,972</b>	<b>4,813</b>	<b>5,371</b>	<b>4,448</b>	<b>4,448</b>	
Days Cash on Hand - Operating Cash	86	80	76	83	82	77	74	74	80	82	70	73	76	75	65	66	66	73	70	66	63	72	69	69	69

**EXHIBIT B**

**BOND COVENANTS**

**BOND COVENANTS**

**Relating to the Master Indenture**

Section 4.06 (relating to maintenance of properties)

Section 4.07 (relating to corporate existence)

Section 4.08 (relating to preservation of qualifications)

Section 4.10 (relating to insurance)

Section 4.12 (relating to damage or destruction)

Section 4.13 (relating to condemnation)

**EXHIBIT B**

**ATTORNEY CHECKLIST CONCERNING MOTION AND ORDER PERTAINING TO  
USE OF CASH COLLATERAL AND POST-PETITION FINANCING**

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

**In re:** §  
§ **CHAPTER 11**  
**TARRANT COUNTY SENIOR LIVING** §  
**CENTER, INC.<sup>1</sup>** § **CASE NO. 19-33756 (SGJ)**  
§  
**Debtor.** §

**ATTORNEY CHECKLIST CONCERNING MOTION AND ORDER PERTAINING TO  
USE OF CASH COLLATERAL AND POST-PETITION FINANCING**

The above-referenced debtor and debtor-in-possession, by and through its undersigned counsel, hereby files this *Attorney Checklist Concerning Motion and Order Pertaining to Use of Cash Collateral and Post-Petition Financing*.

**PLEASE NOTE:**

- \* Means generally not favored by Bankruptcy Courts in this District
- \*\* Means generally not favored by Bankruptcy Courts in this District without a reason and a time period for objections.

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<sup>1</sup> The last four digits of the Debtor's federal tax identification number are 8602.

**CERTIFICATE BY COUNSEL**

This is to certify that the checklist below fully responds to the Court's inquiry concerning material terms of the motion and/or proposed order.

Y means yes; N means no  
N/A means not applicable

1. Identification of Proceedings:
  - (a) Preliminary or final motion/order (circle one)..... Preliminary
  - (b) Continuing use of cash collateral (§ 363).....
  - (c) New financing (§ 364).....
  - (d) Combination of §§ 363 and 364 financing .....
  - (e) Emergency hearing (immediate and irreparable harm).....
  
2. Stipulations:
  - (a) Brief history of debtor's businesses and status of debtor's prior relationships with lender.....
  - (b) Brief statement of purpose and necessity of financing .....
  - (c) Brief statement of type of financing (i.e., accounts receivable, inventory).....
  - \*\* (d) Are lender's pre-petition security interest(s) and liens deemed valid, fully perfected and non-avoidable .....
  - (i) Are there provisions to allow for objections to above? .....
  - (e) Is there a post-petition financing agreement between lender and debtor? .....
  - (i) If so, is agreement attached? .....
  - \*\* (f) If there is an agreement are lender's post-petition security interests and liens deemed valid, fully perfected and non-avoidable?.....
  - (g) Is lender undersecured or oversecured? (circle one).....
  - (h) Has lender's non-cash collateral been appraised? .....
  - (i) Insert date of latest appraisal .....
  - (i) Is debtor's proposed budget attached?.....
  - (j) Are all pre-petition loan documents identified?.....
  - (k) Are pre-petition liens on single or multiple assets? (circle one).....
  - (l) Are there pre-petition guaranties of debt? .....
  - (i) Limited or unlimited? (circle one).....
  
3. Grant of Liens:
  - \* (a) Do post-petition liens secure pre-petition debts?.....
  - \* (b) Is there cross-collateralization?.....
  - \*\* (c) Is the priority of post-petition liens equal to or higher than existing liens?.....
  - \*\* (d) Do post-petition liens have retroactive effect? .....
  - (e) Are there restrictions on granting further liens or liens of equal or higher priority?.....
  - \* (f) Is lender given liens on claims under §§ 506(c), 544-50 and §§ 522? .....
  - \*\* (i) Are lender's attorneys fees to be paid? .....
  - (ii) Are debtor's attorneys fees excepted from § 506(c)? .....
  - \* (g) Is lender given liens upon proceeds of causes of action under §§ 544, 547 and 548? .....

- 4. Administrative Priority Claims:
  - (a) Is lender given an administrative priority? ..... \_\_\_
  - (b) Is administrative priority higher than § 507(a)? ..... \_\_\_
  - (c) Is there a conversion of pre-petition secured claim to post-petition administrative claim by virtue of use of existing collateral? ..... \_\_\_
  
- 5. Adequate Protection (§ 361):
  - (a) Is there post-petition debt service? ..... \_\_\_
  - (b) Is mere a replacement/addition 361(I) lien? (circle one or both) ..... \_\_\_
  - \*\* (c) Is the lender's claim given super-priority? (§ 364(c) or (d)) [designate] ..... \_\_\_
  - (d) Are there guaranties? ..... \_\_\_
  - (e) Is there adequate Insurance coverage? ..... \_\_\_
  - (f) Other? ..... \_\_\_
  
- 6. Waiver/Release Claims v. Lender:
  - \*\* (a) Debtor waives or release claims against lender, including, but not limited to, claims under §§ 506(c), 544-550, 552, and 553 of the Code? ..... \_\_\_
  - \*\* (b) Does the debtor waive defenses to claim or liens of lender? ..... \_\_\_
  
- 7. Source of Post-Petition Financing (§ 364 Financing):
  - (a) Is the proposed lender also the pre-petition lender? ..... \_\_\_
  - (b) New post-petition lender? ..... \_\_\_
  - (c) Is the lender an insider? ..... \_\_\_
  
- 8. Modification of Stay:
  - \*\* (a) Is any modified lift of stay allowed? ..... \_\_\_
  - \*\* (b) Will the automatic stay be lifted to permit lender to exercise self-help upon default without further order? ..... \_\_\_
  - (c) Are there any other remedies exercisable without further order of court? ..... \_\_\_
  - (d) Is there a provision that any future modification of order shall not affect status of debtor's post-petition obligations to lender? ..... \_\_\_
  
- 9. Creditors' Committee:
  - (a) Has creditors' committee been appointed? ..... \_\_\_
  - (b) Does creditors' committee approve of proposed financing? ..... \_\_\_
  
- 10. Restrictions on Parties in Interest:
  - \*\* (a) Is a plan proponent restricted in any manner, concerning modification of lender's rights, liens and/or causes? ..... \_\_\_
  - \*\* (b) Is the debtor prohibited from seeking to enjoin the lender in pursuant of rights? ..... \_\_\_
  - \*\* (c) Is any party in interest prohibited from seeking to modify this order? ..... \_\_\_

- (d) Is the entry of any order conditioned upon payment of debt to lender? ..... \_\_\_\_\_
  - (e) Is the order binding on subsequent trustee on conversion? ..... \_\_\_\_\_
11. Nunc Pro Tunc:
- (a) Does any provision have retroactive effect?..... \_\_\_\_\_
12. Notice and Other Procedures:
- (a) Is shortened notice requested? ..... \_\_\_\_\_
  - (b) Is notice requested to shortened list?..... \_\_\_\_\_
  - (c) Is time to respond to be shortened?..... \_\_\_\_\_
  - (d) If final order sought, have 15 days elapsed since service of motion pursuant to Rule 4001(b)(2)?..... \_\_\_\_\_
  - (e) If preliminary order sought, is cash collateral necessary to avoid immediate and irreparable harm to the estate pending a final hearing? ..... \_\_\_\_\_
  - (f) Is a Certificate of Conference included? ..... \_\_\_\_\_
  - (g) Is a Certificate of Service included? ..... \_\_\_\_\_
  - (h) Is there verification of transmittal to U.S. trustee included pursuant to Rule 9034?..... \_\_\_\_\_
  - (i) Has an agreement been reached subsequent to filing motion? ..... \_\_\_\_\_
    - (i) If so, has notice of the agreement been served pursuant to Rule 4001(d)(4)? ..... \_\_\_\_\_
    - (ii) Is the agreement in settlement of motion pursuant to Rule 4001(d)(4)?..... \_\_\_\_\_
    - (iii) Does the motion afford reasonable notice of material provisions of agreement pursuant to Rule 4001(d)(4)? ..... \_\_\_\_\_
    - (iv) Does the motion provide for opportunity for hearing pursuant to Rule 9014? ..... \_\_\_\_\_

Dated: November 5, 2019  
Dallas, Texas

**DLA PIPER LLP (US)**

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