

So Ordered.

Docket #1201 Date Filed: 04/15/2020



Whitman L. Holt
Bankruptcy Judge

Dated: April 15th, 2020

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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON**

<p>IN RE:</p> <p>ASTRIA HEALTH, et al.</p> <p>Debtors.¹</p>	<p>Lead Case No. 19-01189-11</p> <p>Jointly Administered</p> <p>FINAL ORDER (I) AUTHORIZING THE DEBTORS TO OBTAIN REPLACEMENT POSTPETITION FINANCING; (II) GRANTING SECURITY INTERESTS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS; (III) GRANTING ADEQUATE PROTECTION TO CERTAIN PREPETITION SECURED CREDIT PARTIES; (IV) MODIFYING THE AUTOMATIC STAY; (V) AUTHORIZING THE DEBTORS</p>
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¹ The Debtors, along with their case numbers, are as follows: Astria Health (19-01189-11), Glacier Canyon, LLC (19-01193-11), Kitchen and Bath Furnishings, LLC (19-01194-11), Oxbow Summit, LLC (19-01195-11), SHC Holdco, LLC (19-01196-11), SHC Medical Center-Toppenish (19-01190-11), SHC Medical Center-Yakima (19-01192-11), Sunnyside Community Hospital Association (19-01191-11), Sunnyside Community Hospital Home Medical Supply, LLC (19-01197-11), Sunnyside Home Health (19-01198-11), Sunnyside Professional Services, LLC (19-01199-11), Yakima Home Care Holdings, LLC (19-01201-11), and Yakima HMA Home Health, LLC (19-19-01200-11).

Final DIP/Cash Collateral Order

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1 **TO ENTER INTO AGREEMENTS**
2 **WITH LAPIS ADVISERS, L.P.;**
3 **(VI) AUTHORIZING USE OF CASH**
4 **COLLATERAL; AND (VII)**
5 **GRANTING RELATED RELIEF**

6 THIS MATTER having come before the Court upon the motion (the
7 **“Motion”**)² of the above-captioned debtors (the **“Debtors”** or the **“Borrowers”**) in
8 the above-captioned chapter 11 cases (the **“Chapter 11 Cases”**), pursuant to sections
9 105, 361, 362, 363, 364 and 507 of title 11 of the United States Code, (11 U.S.C.
10 §§ 101 *et seq.*, as amended, the **“Bankruptcy Code”**), Rules 2002 and 4001 of the
11 Federal Rules of Bankruptcy Procedure (the **“Bankruptcy Rules”**), and Rules 2002-
12 1 and 4001-3 of the Local Bankruptcy Rules of the United States Bankruptcy Court
13 for the Eastern District of Washington (**“LBR”**), seeking entry of a first interim order
14 (the **“First Interim Order”**), a second interim order (the **“Second Interim Order”**),
15 a third interim order (the **“Third Interim Order”**) and this final order (the **“Final**
16 **Order”**) granting, *inter alia*:

17 i. authority, pursuant to sections 105, 363, and 364(c) and 364(d) of the
18 Bankruptcy Code, for each of the Debtors, jointly and severally, to obtain senior
19 secured post-petition replacement financing (**“DIP Facility”**) in an aggregate

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21 ² Unless stated otherwise, capitalized terms used but not otherwise defined herein
shall have the meanings ascribed to them in the Motion or the DIP Loan Agreement
(as defined below), as applicable.

1 principal amount of up to \$43,100,000, of which (x) the Initial Funding (as defined
2 below) plus \$700,000 of Committed Advances (as defined below) was made
3 available to the Debtors upon entry of the First Interim Order upon satisfaction or
4 waiver of the borrowing conditions set forth in the DIP Loan Documents (as defined
5 below) and (y) upon the entry of this Final Order, the following shall be made
6 available to the Debtors as set forth in the DIP Loan Agreement (as defined below)
7 and in accordance with the Budget (as defined below): (i) the balance of the
8 Committed Advances; and (ii) subject to the Committee's objection rights set forth
9 below, in the sole discretion of the DIP Lenders (as defined below) and with no
10 commitment or other obligation to do so, the Additional Funding Advances;

11 ii. authority for the Debtors to enter into that certain Senior Secured, Super-
12 Priority Debtor-in-Possession Loan and Security Agreement, among the Debtors as
13 Borrowers, the non-filing affiliates of the Debtors party thereto as guarantors, and
14 Lapis Advisers, L.P., as agent for the lenders party thereto (collectively, the "**DIP**
15 **Lenders**") in substantially the same form as attached as **Exhibit 1** (as amended,
16 restated, supplemented or otherwise modified from time to time in accordance with
17 the terms thereof, the "**DIP Loan Agreement**" and, together with any ancillary,
18 collateral or related documents and agreements, the "**DIP Loan Documents**") to the
19 First Interim Order;

20 iii. authority for the Debtors to use the DIP Facility and the proceeds thereof
21 in accordance with the DIP Loan Documents to (a) replace the existing post-petition

1 financing facility with JMB Capital Partners Lending, LLC (“**JMB Capital**”)
2 approved in these Chapter 11 Cases, which was repaid in full prior to December 31,
3 2019, (b) fund the post-petition working capital needs of the remaining operating
4 Debtors (the “**Operating Debtors**”) and the costs associated with the liquidation of
5 SHC Medical Center - Yakima (“**ARMC**”) during the pendency of these Chapter 11
6 Cases, (c) pay fees, costs and expenses of the DIP Facility on the terms and conditions
7 described in the DIP Loan Documents, and (d) pay the allowed administrative costs
8 and expenses of the Chapter 11 Cases, in each case, solely in accordance with the
9 DIP Loan Documents (including the amended budget attached hereto as **Exhibit A**
10 (the “**Budget**”)), the First Interim Order, the Second Interim Order, the Third Interim
11 Order and this Final Order;

12 iv. authority for the Debtors to grant to the DIP Lenders valid, enforceable,
13 non-avoidable, automatically and fully perfected security interests, liens and
14 superpriority claims, including allowed superpriority administrative expense claims
15 pursuant to sections 364(c)(1) and 507(b) of the Bankruptcy Code, subject only to
16 the Carve-Out and liens pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of
17 the Bankruptcy Code in the DIP Collateral (as defined below) (and all proceeds
18 thereof), including, without limitation, all property constituting “Cash Collateral,” as
19 defined in section 363(a) of the Bankruptcy Code (“**Cash Collateral**”), to secure all
20 DIP Obligations (as defined below), as more fully set forth in the First Interim Order,
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1 the Second Interim Order, the Third Interim Order and this Final Order, subject only
2 to the Carve-Out (as defined below);

3 v. waiver by the Debtors of all rights to surcharge against the collateral of
4 the DIP Lenders pursuant to section 506(c) of the Bankruptcy Code;

5 vi. waiver of the equitable doctrine of marshaling or any other similar
6 doctrine with respect to any collateral of the DIP Lenders;

7 vii. providing adequate protection to the Lapis Secured Parties to the extent
8 set forth herein;

9 viii. modification of the automatic stay to the extent hereinafter set forth and
10 waiving the 14-day stay provisions of Bankruptcy Rules 4001(a)(3) and 6004(h); and

11 ix. related relief.

12 The Court having considered the Motion and the exhibits attached thereto, the
13 evidence submitted or adduced and the arguments of counsel made at the first interim
14 hearing held on December 18, 2019 (the “**First Interim Hearing**”), the second
15 interim hearing held on February 5, 2020 (the “**Second Interim Hearing**”), the third
16 interim hearing held on March 18, 2020 (the “**Third Interim Hearing**”) and the final
17 hearing held on April 15, 2020 (the “**Final Hearing**”). The Court having found that
18 due and proper notice (the “**Notice**”) of the Motion, the First Interim Hearing, the
19 Second Interim Hearing, the Third Interim Hearing and the Final Hearing having
20 been served by the Debtors in accordance with Bankruptcy Rules 4001 and 9006 and
21 LBR 2002-1 on (i) the Office of the United States Trustee for the Eastern District of

Final DIP/Cash Collateral Order

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1 Washington, (ii) counsel to the Lapis Secured Creditors, (iii) counsel to JMB Capital,
2 (iv) counsel to the DIP Lenders, (v) all alleged secured creditors, (vi) counsel to the
3 Committee (defined below), (vii) the thirty largest general unsecured creditors
4 appearing on the list filed in accordance with Bankruptcy Rule 1007(d), and (viii)
5 any parties requesting special notice; and the First Interim Hearing to consider the
6 interim relief requested in the Motion having been held and concluded; and this Court
7 having entered the First Interim Order on December 20, 2019, which set the original
8 date and time of the Second Interim Hearing; and this Court having held and
9 concluded the Second Interim Hearing and having entered the Second Interim Order
10 on February 5, 2020, which set the original date and time of the Third Interim
11 Hearing; and this Court having held and concluded the Third Interim Hearing and
12 having entered the Third Interim Order on April 7, 2020, which set the original date
13 and time of the Final Hearing; and this Court having held and concluded the Final
14 Hearing to consider the relief requested in the Motion; and all objections, if any, to
15 the interim relief requested in the Motion having been withdrawn, resolved or
16 overruled by the Court; and it appearing to the Court that granting the final relief
17 requested is necessary to avoid potential immediate and irreparable harm to the
18 Debtors and their estates and otherwise is fair and reasonable and in the best interests
19 of the Debtors, their estates, and their creditors and equity holders, and is essential
20 for the continued operation of the Operating Debtors' businesses and the liquidation
21 of ARMC and represents a sound exercise of the Debtors' business judgment; and

1 after due deliberation and consideration, and for good and sufficient cause appearing
2 therefor;

3 **THIS COURT HEREBY MAKES THE FOLLOWING FINDINGS OF**
4 **FACT AND CONCLUSIONS OF LAW BASED UPON THE MOTION, THE**
5 **REPRESENTATIONS OF COUNSEL AND EVIDENCE SUBMITTED**
6 **PRIOR TO AND DURING THE FIRST, SECOND, AND THIRD INTERIM**
7 **HEARINGS AND THE FINAL HEARING:**³

8 A. Petition Date. On May 6, 2019 (the “**Petition Date**”), the Debtors filed
9 voluntary petitions under chapter 11 of the Bankruptcy Code in the United States
10 Bankruptcy Court for the Eastern District of Washington (the “**Court**”) commencing
11 these Chapter 11 Cases.

12 B. Debtors in Possession. The Operating Debtors are continuing in the
13 management and operation of their businesses and properties as debtors in possession
14 pursuant to sections 1107 and 1108 of the Bankruptcy Code. On January 8, 2020,
15 the Court authorized the Debtors to close ARMC (the “**Closure Order**”) [Docket
16 No. 874]. The Debtors have since closed ARMC and, upon entry of the Closure
17 Order, began the process of liquidating ARMC’s assets. Absent further order of the
18 Court, the use of Cash Collateral and amounts received under the DIP Facility by

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20 ³ To the extent, any findings of fact constitute conclusions of law, they are adopted
21 as such, and vice versa, pursuant to Fed. R. Bankr. P. 7052.

1 ARMC shall be used by ARMC solely as it relates to the closure (as approved under
2 the Closure Order) and actions taken in connection with and in furtherance thereof.
3 No trustee or examiner has been appointed in these Chapter 11 Cases.

4 C. Consent to Closure and Liquidation of ARMC. The DIP Lenders have
5 consented to the Debtors' closure of ARMC as well as the use of the DIP Facility and
6 the proceeds thereof to fund the liquidation of ARMC. Accordingly, the closure and
7 liquidation of ARMC in accordance with the attached budget is no longer considered
8 a default under the terms of the DIP Loan Agreement.

9 D. Notice. Notice of the Final Hearing and the relief requested in the
10 Motion has been provided by the Debtors to certain parties in interest, including on
11 (i) the Office of the United States Trustee for the Eastern District of Washington, (ii)
12 counsel for the Lapis Secured Creditors, (iii) counsel for JMB Capital, (iv) counsel
13 for the DIP Lenders, (v) all alleged secured creditors, (vi) counsel for the Committee,
14 (vii) the thirty largest general unsecured creditors appearing on the list filed in
15 accordance with Rule 1007(d), and (viii) any parties requesting special notice.

16 E. Jurisdiction and Venue. This Court has core jurisdiction over the
17 persons and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334.
18 Consideration of the Motion constitutes a core proceeding under 28 U.S.C.
19 § 157(b)(2). Venue for the Chapter 11 Cases and proceedings on the Motion is proper
20 in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

1 F. Committee Formation. On May 23, 2019, the United States Trustee for
2 the Eastern District of Washington (the “U.S. Trustee”) appointed an official
3 committee of unsecured creditors in these Chapter 11 Cases pursuant to section 1102
4 of the Bankruptcy Code (the “Committee”).

5 G. No Credit Available on More Favorable Terms. The Debtors are unable
6 to procure financing in the form of unsecured credit allowable as an administrative
7 expense under sections 364(a), 364(b), or 503(b)(1) of the Bankruptcy Code and have
8 been unable to procure the necessary financing on terms more favorable, taken as a
9 whole, than the financing offered by the DIP Lenders pursuant to the DIP Loan
10 Documents.

11 H. Best Interests of Estates. It is in the best interests of the Debtors’ estates
12 and creditors that the Debtors be allowed to enter into the DIP Facility to obtain post-
13 petition secured financing from the DIP Lenders under the terms and conditions set
14 forth herein and in the DIP Loan Documents, as such financing is necessary to avoid
15 immediate and irreparable harm to the Debtors’ estates and for the continued
16 operation of the Debtors’ businesses.

17 I. Good Faith. The extension of credit and financial accommodations
18 under the DIP Loan Documents are fair, reasonable, in good faith, negotiated at arm’s
19 length, reflect the Debtors’ exercise of prudent business judgment, and are supported
20 by reasonably equivalent value and fair consideration. Accordingly, the DIP Lenders
21 are entitled to the protections of section 364(e) of the Bankruptcy Code.

1 J. Good Cause. The relief requested in the Motion is necessary, essential
2 and appropriate, and is in the best interest of and will benefit the Debtors, their
3 creditors and their estates, as its implementation will, among other things, provide
4 the Debtors with the necessary liquidity, whether through operations of the Operating
5 Debtors or liquidation of ARMC, so as to (1) preserve and otherwise maximize the
6 value of the Debtors' estates for the benefit of all the Debtors' creditors, and (2) avoid
7 potential immediate and irreparable harm to the Debtors, their creditors, their
8 businesses, their employees, and their assets.

9 K. Necessity of DIP Facility Terms. The terms of the DIP Loan
10 Documents, the First Interim Order, the Second Interim Order, the Third Interim
11 Order and this Final Order assuring that the liens and the various claims, superpriority
12 claims, and other protections granted in the First Interim Order, the Second Interim
13 Order, the Third Interim Order and this Final Order will not be affected by any
14 subsequent reversal or modification of the First Interim Order, the Second Interim
15 Order, the Third Interim Order or this Final Order or any other order, as provided in
16 section 364(e) of the Bankruptcy Code, which is applicable to the post-petition
17 financing arrangement contemplated in the DIP Loan Documents, are necessary in
18 order to induce the DIP Lenders to provide post-petition financing to the Debtors.

19 L. Need for Post-Petition Financing. The Debtors do not have sufficient
20 and reliable sources of working capital, including cash collateral, to continue to
21 operate their businesses in the ordinary course of business without the financing

1 requested in the Motion. In addition, the Debtors have required the DIP Facility to
2 pay off the existing DIP financing with JMB Capital, which matured on December
3 31, 2019, and which was paid in full prior to that date. Absent payment of the DIP
4 financing with JMB Capital before December 31, 2019, the Debtors would have been
5 forced to incur a significant eight percent (8%) fee during a time when the Debtors'
6 liquidity was strained. That fee will now be deferred to the Maturity Date of the DIP
7 Facility. The ability of the Debtors to obtain sufficient and stable working capital
8 and liquidity through the proposed post-petition financing arrangements with the DIP
9 Lenders as set forth in the First Interim Order, the Second Interim Order, the Third
10 Interim Order, this Final Order and the DIP Loan Documents is vital to the
11 preservation and maintenance of the going concern value of each Operating Debtor
12 and the liquidation of ARMC. Accordingly, the Debtors have an immediate need to
13 obtain the postpetition financing in order to preserve and maximize the value of the
14 assets of the Debtors' bankruptcy estates in order to maximize the recovery to all
15 creditors of the estates.

16 M. Need to Use Cash Collateral. The Debtors need to use Cash Collateral
17 in order to, among other things, preserve, maintain and maximize the value of their
18 assets and businesses. The ability of the Operating Debtors to maintain liquidity
19 through the use of Cash Collateral is vital to their operations and to maximize the
20 value of their assets. Similarly, Cash Collateral is necessary to aid in the liquidation
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1 of ARMC. Accordingly, the Debtors have demonstrated good and sufficient cause
2 for the relief granted herein.

3 N. Sections 506(c) and 552(b). As a material inducement to the DIP
4 Lenders to agree to provide the DIP Facility, and in exchange for the DIP Lenders'
5 agreement to subordinate their superpriority claims to the Carve-Out, this Court
6 approves (i) the waiver by the Debtors of any equities of the case exceptions under
7 section 552(b) of the Bankruptcy Code, and (ii) the waiver by the Debtors of the
8 provisions of section 506(c) of the Bankruptcy Code.

9 O. Priming of Prepetition Liens. The priming of the Lapis Subordinated
10 Sunnyside Liens and Lapis Subordinated A/R Liens by the DIP Lenders under
11 section 364(d)(1) of the Bankruptcy Code, solely to the extent set forth in the DIP
12 Loan Documents and as further described below, will enable the Debtors to obtain
13 the DIP Facility and, among other benefits, continue to operate their businesses for
14 the benefit of their estates and stakeholders.

15 P. Pre-Petition Debt. The Debtors were, prior to the Petition Date, party
16 to the following agreements, with the following parties (collectively, the
17 **“Prepetition Secured Parties”**):

18 (a) Banner Bank Prepetition Debt.

19 a. Prior to the commencement of the Chapter 11 Cases, Sunnyside Community Hospital Association
20 (**“Sunnyside”**) entered into various Business Loan Agreements, dated December 30, 2010, May 19, 2015,
21 March 21, 2016, August 2, 2016, October 6, 2016, March

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21, 2017, and May 4, 2018, each between Banner Bank and Sunnyside (as each such agreement has been amended, modified, or supplemented to date, the “**Banner Bank Loan Documents**”), providing Sunnyside with financing in the aggregate principal amount of \$27,006,225. The advances made pursuant to the Banner Bank Loan Documents were secured by a first priority lien (the “**Banner Senior Sunnyside Liens**”) on all personal property and certain real property of Sunnyside as set forth in the Banner Bank Loan Documents and associated documents (such assets the “**Banner Bank Collateral**”). As of the Petition Date, Sunnyside was indebted to Banner Bank in the approximate principal amount of \$10.6 million. The proceeds of the DIP facility with JMB Capital (the “**JMB DIP Facility**”) was partially used to pay off and satisfy the Debtors’ obligations to Banner Bank.

(b) *MidCap Financial Prepetition Debt.*

a. Prior to the commencement of the Chapter 11 Cases, SHC Holdco, LLC (“**Holdco**”), SHC Medical Center – Yakima (“**Yakima**”), SHC Medical Center – Toppenish (“**Toppenish**”), Yakima Home Care Holdings, LLC, and Yakima HMA Home Health, LLC, as co-borrowers (collectively, the “**MidCap Borrowers**”), entered into that certain Credit and Security Agreement dated September 18, 2017 (the “**MidCap Credit Agreement**”) and those related loan documents (all as amended, modified, or supplemented to date, collectively with the MidCap Credit Agreement, the “**MidCap Loan Documents**”), with the lenders party thereto (the “**MidCap Lenders**”) and MidCap Financial Trust as agent for the MidCap Lenders (the “**MidCap Agent**”), providing the MidCap Borrowers with a revolving loan facility in the maximum principal amount of \$15 million. The advances made pursuant to the MidCap Credit Agreement were secured by a properly perfected first priority lien and security interest (the “**MidCap Senior A/R Liens**”) on the assets of the MidCap Borrowers set forth in Schedule 9.1 to the MidCap Credit Agreement (such assets, the “**MidCap A/R Collateral**”). As of the Petition Date, the MidCap Borrowers were

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indebted to the MidCap Lenders in the approximate principal amount of \$10.7 million. The proceeds of the JMB DIP Facility was partially used to pay off and satisfy the Debtors' obligations to the MidCap Lenders. The MidCap Lenders have otherwise been paid in full.

(c) *Lapis Prepetition Debt.*

a. Pursuant to that certain Bond Indenture, dated as of November 1, 2017, between Washington Health Care Facilities Authority (the "**Authority**"), as issuer and UMB Bank, N.A. as the bond trustee (the "**Bond Trustee**") for the bondholders, certain entities affiliated with Lapis Advisers, L.P., the Authority issued \$27 million of tax-exempt Washington Health Care Facilities Authority Revenue Bonds, Series 2017A (the "**Series 2017A Bonds**") and \$8.4 million of tax-exempt Washington Health Care Facilities Authority Revenue Bonds, Series 2017B (the "**Series 2017B Bonds**" and, together with the Series 2017A Bonds, collectively the "**2017 Bonds**").

b. Also on November 1, 2017, Yakima, Toppenish, Holdco, and Astria, as co-borrowers (the "**Lapis 2017 Loan Borrowers**"), entered into a Loan and Security Agreement (the "**Lapis 2017 Loan Agreement**") with the Authority, wherein the Authority loaned the proceeds of the sale of the 2017 Bonds (\$35.4 million) (the "**Lapis 2017 Loan**") to the Lapis 2017 Loan Borrowers. Each of the other Debtors, as well as certain other non-filing affiliates, as guarantors (the "**Lapis 2017 Loan Guarantors**"), entered into a Continuing Guaranty (the "**Lapis 2017 Loan Guaranty**") and together with the Lapis 2017 Loan Agreement and all other documents evidencing or securing the Lapis 2017 Loan, the "**Lapis 2017 Loan Documents**"), dated November 1, 2017, wherein the Lapis 2017 Loan Guarantors agreed to guaranty the obligations of the Lapis 2017 Loan Borrowers under the Lapis 2017 Loan. The advances made pursuant to the Lapis 2017 Loan were secured by (i) a first priority lien (the "**Lapis 2017 SHC Holdco Liens**") on the non-accounts receivable assets of the Lapis 2017 Loan Borrowers at Yakima and Toppenish,

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(ii) a junior lien (the “**Lapis 2017 A/R Liens**”) on the accounts receivable assets of the Lapis 2017 Loan Borrowers at Yakima and Toppenish subordinate and subject to the liens and security interests granted to JMB Capital as part of the existing JMB DIP Facility (the “**JMB DIP Liens**”), and (iii) a junior lien (the “**Lapis 2017 Sunnyside Liens**”) on the assets of the Lapis 2017 Loan Guarantors at Sunnyside subordinate and subject to the JMB DIP Liens (collectively, the “**Lapis 2017 Loan Collateral**”). As of the Petition Date, the amount of approximately \$35.4 million of principal was outstanding under the Lapis 2017 Loan.

c. Prior to the commencement of the Chapter 11 Cases, Astria, Sunnyside, Sunnyside Professional Services, LLC, Sunnyside Community Hospital Home Medical Supply, LLC, Sunnyside Home Health, Kitchen and Bath Furnishings, LLC, Oxbow Summit, LLC and certain non-filing affiliates as co-borrowers (the “**Lapis 2019 Loan Borrowers**”), entered into a Credit Agreement dated January 18, 2019 (the “**Lapis 2019 Loan Agreement**”) with Lapis Advisers LP (“**Lapis Prepetition Agent**”), as agent for lenders party thereto (the “**Lapis 2019 Loan Lenders**”), whereby the Lapis 2019 Loan Lenders agreed to make advances to the Lapis 2019 Loan Borrowers in the principal amount of up to \$10 million (the “**Lapis 2019 Loan**”). The remaining Debtors, as well as certain other non-filing affiliates, as guarantors (the “**Lapis 2019 Loan Guarantors**”), entered into a Continuing Guaranty (the “**Lapis 2019 Loan Guaranty**”) and together with the Lapis 2019 Loan Agreement, and all other documents evidencing or securing the Lapis 2019 Loan the “**Lapis 2019 Loan Documents**”) dated January 18, 2019, wherein the Lapis 2019 Loan Guarantors agreed to guaranty the obligations of the Lapis 2019 Loan Borrowers under the Lapis 2019 Loan. The advances made pursuant to the Lapis 2019 Loan were secured by (i) a junior lien (the “**Lapis 2019 Sunnyside Liens**”) and together with the Lapis 2017 Sunnyside Liens, the “**Lapis Subordinated Sunnyside Liens**”) on the assets of the Lapis 2019 Borrowers subordinate and subject to the JMB DIP Liens, (ii) a junior

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lien (the “**Lapis 2019 SHC Holdco Liens**” and together with the Lapis 2017 SHC Holdco Liens, the “**Lapis Senior Holdco Liens**”) on the assets of the Lapis 2019 Loan Guarantors not subject to the JMB DIP Liens as set forth in the Lapis 2019 Loan Documents, and (iii) a junior lien (the “**Lapis 2019 A/R Liens**” and together with the Lapis 2017 Priority A/R Liens, the “**Lapis Subordinated A/R Liens**”) on the MidCap Priority Collateral (such assets, the “**Lapis 2019 Collateral**” and together with the Lapis 2017 Loan Collateral, the “**Lapis Prepetition Collateral**”). As of the Petition Date, the amount of approximately \$10 million of principal was outstanding under the Lapis 2019 Loan.

d. As used herein “**Prepetition Credit Liens**” shall mean the Lapis Senior Holdco Liens, Lapis Subordinated A/R Liens, and Lapis Subordinated Sunnyside Liens. As used herein “**Prepetition Collateral**” shall mean the Lapis Prepetition Collateral.

Q. Adequate Protection. The Bond Trustee, on behalf of itself and the holders of the 2017 Bonds (the “**Bondholders**”) and the Lapis Prepetition Agent, on behalf of itself and the Lapis 2019 Loan Lenders (collectively, the “**Lapis Secured Parties**”) are entitled to receive adequate protection on account of their interests in the Prepetition Collateral pursuant to sections 361, 362, and 363 of the Bankruptcy Code solely to the extent of any diminution in the value of their interests in the Prepetition Collateral (including Cash Collateral). As part of the adequate protection provided by the First Interim Order, the Second Interim Order, the Third Interim Order and this Final Order, the Lapis Secured Parties shall receive, among other things, replacement liens, superpriority claims (to the extent that the Lapis Secured Parties had valid and perfected liens on and security interests in the Prepetition

1 Collateral) and reporting information, subject and subordinate to the Carve-Out. For
2 the avoidance of doubt, the Lapis Secured Parties shall not receive replacement liens
3 on any of the Excluded Avoidance Actions (defined below) or Commercial Tort
4 Claims (defined below, provided no determination is made in this order concerning
5 the legal character of any claims related to accounts receivable collections). The
6 terms of the Adequate Protection Obligations (defined herein) are fair and
7 reasonable, reflect the Debtors' prudent exercise of business judgment and are
8 sufficient to allow the Debtors' use of the Prepetition Collateral (including the Cash
9 Collateral) and to permit the relief granted in the First Interim Order, the Second
10 Interim Order, the Third Interim Order and this Final Order. For the avoidance of
11 doubt, the Committee's challenge rights shall be governed by and subject to that
12 certain *Stipulation Regarding Committee's Challenge Rights* [Docket No. 979] (the
13 "**Challenge Stipulation**"), which in the case of any inconsistency concerning
14 challenge rights, the Challenge Stipulation shall control.

15 R. *Immediate Entry*. Sufficient cause exists for immediate entry of this
16 Final Order pursuant to Bankruptcy Rule 4001(c)(2).

17 Based upon the foregoing findings and conclusions, the Motion and the record
18 before the Court with respect to the Motion, and good and sufficient cause appearing
19 therefor,
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1 **IT IS HEREBY ORDERED** that:

2 1. DIP Facility Approval. The Motion is granted on a final basis and the
3 DIP Facility is hereby approved. Any objections to the final relief requested in the
4 Motion that have not been withdrawn, waived or settled, and all reservations of rights
5 included therein, are hereby denied and overruled, except as reserved on the record
6 at the hearing on April 15, 2020. The Debtors are authorized, pursuant to section 364
7 of the Bankruptcy Code, to enter into and be a party to the DIP Facility pursuant to
8 the DIP Loan Documents (with such changes, if any, as were authorized to be made
9 as amendments to the DIP Loan Documents in accordance with the First Interim
10 Order, the Second Interim Order, the Third Interim Order and this Final Order), to
11 perform under the DIP Loan Documents and such other and additional documents
12 necessary or desired to implement the DIP Facility or the DIP Loan Documents, and
13 to obtain postpetition secured financing from the DIP Lenders, to avoid immediate
14 and irreparable harm to the Debtors' estates.

15 2. DIP Obligations. The DIP Loan Documents shall constitute and
16 evidence the valid and binding effect of the Debtors' obligations under the DIP
17 Facility, which DIP Obligations shall be legal, valid, and binding obligations of the
18 Debtors party thereto and enforceable against the Debtors, their estates, any
19 successors thereto, including, without limitation, any trustee appointed in any of the
20 Debtors' cases, or in any case under chapter 7 of the Bankruptcy Code upon the
21 conversion of any such cases, or in any other proceedings superseding or related to

1 any of the foregoing, any successors thereto, and any party determined to be the
2 beneficial owner of the DIP Collateral by this Court. The Debtors and their
3 successors shall be jointly and severally liable for repayment of any funds advanced
4 pursuant to the DIP Loan Documents, together with interest thereon, at the times and
5 in the amounts set forth in the DIP Loan Documents and all Obligations as defined
6 and provided for in the DIP Loan Agreement (collectively, the “**DIP Obligations**”).
7 No obligation, payment, transfer or grant of security under the DIP Loan Documents,
8 the First Interim Order, the Second Interim Order, the Third Interim Order or this
9 Final Order, with respect to the DIP Facility shall be stayed, restrained, voided,
10 voidable or recoverable under the Bankruptcy Code or under any applicable non-
11 bankruptcy law, or subject to any defense, reduction, setoff, recoupment or
12 counterclaim.

13 3. Authorization to Borrow. This Final Order ratifies the authority granted
14 the Debtors in the First Interim Order that permitted the Debtors to borrow from the
15 DIP Lenders under the DIP Facility, the amount sufficient to pay off and replace the
16 existing JMB DIP Facility (the “**Initial Funding**,” as further defined in the DIP Loan
17 Agreement) plus \$700,000 of Committed Advances (as defined in the DIP Loan
18 Agreement) to fund working capital needs of the Debtors, subject to the terms and
19 conditions set forth in the DIP Loan Documents, the First Interim Order, the Second
20 Interim Order, the Third Interim Order and this Final Order. The Debtors are also
21 permitted to borrow from the DIP Lenders under the DIP Facility the remaining

1 Committed Advances consistent with and pursuant to the Budget, as set forth in the
2 DIP Loan Documents and this Final Order. The DIP Lenders shall fund further
3 Committed Advances consistent with and pursuant to the Budget. To the extent the
4 Debtors determine to borrow and the DIP Lenders agree to fund any Additional
5 Funding Advances (the funding of which is in the DIP Lenders' sole and absolute
6 discretion), the Debtors will provide at least five (5) days' advance notice of same to
7 the Committee and the opportunity to object within such notice period. If the
8 Committee objects and the objection is not resolved consensually, the Debtors may
9 seek approval of Additional Funding Advances by the Court on an expedited basis.
10 Subject to the terms and conditions of the First Interim Order, the Second Interim
11 Order, the Third Interim Order, this Final Order and the DIP Loan Documents, the
12 Debtors are authorized to use Cash Collateral until the earlier of (a) the Maturity
13 Date, and (b) the date upon which the Debtors' right to use Cash Collateral is
14 terminated hereunder as a result of an Event of Default (as defined in the DIP Loan
15 Agreement) which remains continuing and has not been waived by the DIP Lenders.
16 Once repaid, the DIP Facility Loans (as defined below) incurred may not be re-
17 borrowed.

18 4. Use of Proceeds. The Debtors shall use advances of credit under the
19 DIP Facility (the "**DIP Facility Loans**") only for the express purposes specifically
20 set forth in the DIP Loan Documents and as otherwise expressly authorized under the
21 First Interim Order, the Second Interim Order, the Third Interim Order and this Final

1 Order. The Debtors were (pursuant to the First Interim Order, Second Interim Order
2 and Third Interim Order) and otherwise are authorized (under this Final Order) to use
3 the proceeds of the DIP Facility Loans to (a) replace the existing JMB DIP Facility
4 approved in these Chapter 11 Cases, (b) fund the post-petition working capital needs
5 of the Operating Debtors during the pendency of these Chapter 11 Cases and the
6 liquidation of ARMC (and any other Debtors that may need to liquidate), (c) pay
7 fees, costs and expenses of the DIP Facility on the terms and conditions described in
8 the DIP Loan Documents, and (d) pay the allowed administrative costs and expenses
9 of the Chapter 11 Cases, in each case, solely in accordance with the DIP Loan
10 Documents (including, but not limited to, the Budget), the First Interim Order, the
11 Second Interim Order, the Third Interim Order and this Final Order. Notwithstanding
12 anything herein, the extensions of credit under the DIP Facility shall not constitute
13 cash collateral of the Prepetition Secured Parties.

14 5. Reservation of Rights and Committee Standing. Nothing in the First
15 Interim Order, the Second Interim Order, the Third Interim Order, this Final Order
16 or any of the DIP Loan Documents shall constitute an acknowledgement or
17 admission by the Committee of the validity, extent and/or priority of any of the
18 Prepetition Credit Liens and/or any other liens, claims, encumbrances, or obligations
19 of the Lapis Secured Parties. Except as otherwise expressly set forth in the First
20 Interim Order, the Second Interim Order, the Third Interim Order and this Final
21 Order, nothing in the First Interim Order, the Second Interim Order, the Third Interim

1 Order, this Final Order or any of the DIP Loan Documents shall limit the rights of
2 the Committee to assert any challenges, rights, claims, defenses and/or objections the
3 Debtors' estates or the Committee may hold against the Lapis Secured Parties
4 provided that in all such cases such challenges, rights, claims, defenses and/or
5 objections are limited by and subject to the Challenge Stipulation. To the extent such
6 challenges, rights, claims, defenses and/or objections as limited by the Challenge
7 Stipulation belong to the Debtors' estates, the Committee is hereby granted standing
8 to pursue such challenges, rights, claims, defenses and/or objections against the Lapis
9 Secured Parties. Nothing contained herein shall be construed or deemed a waiver of
10 any claims or defenses that the Lapis Secured Parties may have in response to any
11 claims asserted by the Debtors' estates or the Committee.

12 6. Budget and Reporting. Except as otherwise provided herein or
13 approved by the DIP Lenders, the proceeds of the DIP Facility shall be used only in
14 compliance with the terms of the DIP Loan Documents, including the amended
15 Budget. The Debtors shall comply with the reporting requirements and obligations
16 set forth in the DIP Loan Agreement.

17 7. Payment of DIP Fees and Expenses. The (a) Commitment Fee; (b)
18 Funding Fee; (c) Exit Fee; and (d) Stated Maturity Fee are each hereby approved,
19 and the Debtors are hereby authorized and directed to and shall pay such fees in
20 accordance with, and on the terms set forth in the First Interim Order, the Second
21 Interim Order, the Third Interim Order, this Final Order and the DIP Loan

1 Documents. The Debtors are also hereby authorized and directed to pay upon
2 demand, all other reasonable fees, costs, expenses and other amounts payable under
3 the terms of the First Interim Order, the Second Interim Order, the Third Interim
4 Order, this Final Order and the DIP Loan Documents and all other reasonable fees
5 and out-of-pocket costs and expenses of the DIP Lenders in accordance with the
6 terms of the First Interim Order, the Second Interim Order, the Third Interim Order,
7 this Final Order and the DIP Loan Documents (including, without limitation, the
8 reasonable and documented fees and out-of-pocket costs and expenses of Cole Schotz
9 P.C. as counsel and Miller Nash Graham & Dunn LLP as local counsel to the DIP
10 Lenders), subject to receiving a written invoice therefor. None of such reasonable
11 fees, costs, expenses or other amounts shall be subject to Court approval except as
12 otherwise provided herein or required to be submitted in any particular format, and
13 no recipient of any such payment shall be required to file with respect thereto any
14 interim or final fee application with this Court; provided, however, that copies of any
15 such invoices shall be provided contemporaneously to the U.S. Trustee and the
16 Committee; provided, further, however, that such invoices provided to the
17 Committee may be redacted to the extent necessary to delete any information subject
18 to the attorney-client privilege or any information constituting attorney work product
19 (the "**Redactions**"), and the provision of such invoices shall not constitute a waiver
20 of the attorney-client privilege or any benefits of the attorney work product doctrine.
21 If the U.S. Trustee or the Committee objects to the reasonableness of the fees and

1 expenses of the DIP Lenders, and such objection cannot be resolved within ten (10)
2 days of receipt of such invoices, the U.S. Trustee or the Committee may file with the
3 Court and serve on the DIP Lenders an objection to the reasonableness of such fees
4 and expenses (each, a "**Reasonableness Fee Objection**"). Without limiting the
5 foregoing, if the Committee objects to the Redactions and such objection cannot be
6 resolved within ten (10) days of receipt of such invoices, the DIP Lenders shall file
7 with the Court and serve on the Debtors, the Committee and the U.S. Trustee a
8 request for Court resolution of the disputes concerning the propriety of the disputed
9 Redactions (each, a "**Redaction Fee Objection**," and each Reasonableness Fee
10 Objection and Redaction Fee Objection may be referred to herein generally as a "**Fee**
11 **Objection**"). The Debtors shall pay, in accordance with the terms and conditions of
12 the First Interim Order, the Second Interim Order, the Third Interim Order and this
13 Final Order, within ten (10) days after receipt of the applicable invoice (a) the full
14 amount invoiced if no Fee Objection has been timely filed, and (b) the undisputed
15 fees, costs, and expenses reflected on any invoice to which a Fee Objection has been
16 timely filed. All such unpaid reasonable fees, costs, expenses and other amounts
17 owed or payable to the DIP Lenders shall be secured by the DIP Collateral, subject
18 and subordinate to the Carve-Out, and afforded all of the priorities and protections
19 afforded to the DIP Obligations (subject to and subordinate to the Carve-Out) under
20 the First Interim Order, the Second Interim Order, the Third Interim Order, this Final
21 Order and the DIP Loan Documents, until such time as the unpaid reasonable fees,

Final DIP/Cash Collateral Order

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1 costs, expenses and other amounts owed or payable to the DIP Lenders have been
2 paid or disallowed pursuant to an order of the Court resolving any such Fee
3 Objection.

4 8. Indemnification. The Debtors are hereby authorized to and hereby agree
5 to indemnify and hold harmless the DIP Lenders and their affiliates, directors,
6 officers, employees, agents, attorneys, or any other Person affiliated with or
7 representing the DIP Lenders solely relating to the Obligations as defined in the Loan
8 Documents (collectively, an “**Indemnified Party**”) from and against: (a) all
9 obligations, demands, claims, damages, losses and liabilities (including, without
10 limitation, reasonable fees and disbursements of counsel) (collectively, “**Indemnity**
11 **Claims**”) as set forth in the DIP Loan Documents including those asserted by any
12 other party in connection with the transactions contemplated by the DIP Loan
13 Documents; and (b) all losses or expenses incurred, or paid by the DIP Lenders from,
14 following, or arising from the transactions contemplated by the DIP Loan Documents
15 (including reasonable and documented attorneys’ fees and expenses), except, with
16 respect to (a) and (b) above, for (i) any fees, costs, expenses and other amounts
17 disallowed pursuant to an Order of the Court resolving any Fee Objections, and (ii)
18 Indemnity Claims and/or losses directly caused by the DIP Lenders’ gross
19 negligence, willful misconduct or bad faith. In the case of an investigation, litigation
20 or other proceeding to which the indemnity in this paragraph applies, such indemnity
21 shall be effective whether or not such investigation, litigation or proceeding is

1 brought by any of the Debtors or any of their respective directors, security holders or
2 creditors, or any other Person or an Indemnified Party is otherwise a party thereto
3 and whether or not the transactions contemplated hereby are consummated. No
4 Indemnified Party shall have any liability (whether direct or indirect, in contract, tort
5 or otherwise) to any Debtor or any of its subsidiaries or any shareholders or creditors
6 of the foregoing for or in connection with the transactions contemplated hereby,
7 except to the extent such liability is determined by a court of competent jurisdiction
8 in a final non-appealable judgment or order to have resulted solely from such
9 Indemnified Party's gross negligence, willful misconduct or bad faith. All
10 indemnities of the Indemnified Parties shall constitute DIP Obligations secured by
11 the DIP Collateral subject and subordinate to the Carve-Out and afforded all of the
12 priorities and protections afforded to the DIP Obligations (subject to and subordinate
13 to the Carve-Out) under the First Interim Order, the Second Interim Order, the Third
14 Interim Order, this Final Order and the DIP Loan Documents.

15 9. Use of Cash Collateral. The Debtors are authorized to use Cash
16 Collateral in accordance with and pursuant to the First Interim Order, the Second
17 Interim Order, the Third Interim Order, this Final Order and the DIP Loan
18 Documents. Prior to the Maturity Date and until indefeasible payment in full of the
19 DIP Obligations, the Debtors agree that they will not use or seek to use Cash
20 Collateral other than pursuant to the terms of the First Interim Order, the Second
21 Interim Order, the Third Interim Order and this Final Order.

1 10. DIP Superpriority Claims. In accordance with section 364(c)(1) of the
2 Bankruptcy Code, the DIP Obligations shall constitute allowed senior administrative
3 expense claims against each Debtor and their estates (the “DIP Superpriority
4 Claims”) with priority in payment over any and all administrative expenses at any
5 time existing or arising, of any kind or nature whatsoever, including, without
6 limitation, the kinds specified or ordered pursuant to any provision of the Bankruptcy
7 Code, including, but not limited to, sections 105, 326, 328, 330, 331, 503(b), 506(c),
8 507(a), 507(b), 726, 1113 and 1114 of the Bankruptcy Code or otherwise, including
9 those resulting from the conversion of any of the Chapter 11 Cases pursuant to section
10 1112 of the Bankruptcy Code, whether or not such expenses or claims may become
11 secured by a judgment lien or other non-consensual lien, levy or attachment;
12 provided, however, that the DIP Superpriority Claims shall be subject and
13 subordinate to only the Carve-Out; provided, further that, subject and subordinate to
14 the Carve-Out, the DIP Superpriority Claims shall have recourse to and be payable
15 from all prepetition and postpetition property and assets of the Debtors and the estates
16 (except Excluded Avoidance Actions (defined below)) and all DIP Collateral, and all
17 proceeds thereof, including (a) all prepetition and postpetition commercial tort claims
18 and the related proceeds, including but not limited to, all claims and causes of action
19 (i) against the Debtors’ officers and directors, and (ii) related to accounts receivable
20 collections (the “Commercial Tort Claims”), and (b) any deposit in connection with
21 a proposed Sale (whether terminated or otherwise) that becomes property of the

1 Debtors' estates (a "Sale Deposit") subject, however, only to the senior lien rights of
2 a purchaser, if any, and such stalking horse bid protections, if any, as may be
3 approved by this Court; provided, however, that the DIP Lenders shall use their best
4 efforts to satisfy the DIP Superpriority Claims from the assets constituting DIP
5 Collateral other than the Commercial Tort Claims before seeking payment of the DIP
6 Superpriority Claim from the Commercial Tort Claims.

7 11. DIP Liens.

8 (a) Effective immediately as of the entry of the First Interim Order,
9 as security for the DIP Obligations, the DIP Lenders are granted, continuing, valid,
10 binding, enforceable, non-avoidable, and automatically and properly perfected
11 security interests in and liens (collectively, the "DIP Liens") on all DIP Collateral as
12 collateral security for the prompt and complete performance and payment when due
13 (whether at the Stated Maturity Date, by acceleration, or otherwise) of the DIP
14 Obligations, subject and subordinate to the Carve-Out. The term "DIP Collateral"
15 means collectively all pre-petition and post-petition real property and all pre-petition
16 and post-petition tangible and intangible personal property of each Borrower, in each
17 case wherever located and whether now owned or hereafter acquired, including, but
18 not limited to all accounts, contracts rights, chattel paper, cash, general intangibles,
19 investment property, machinery, equipment, goods, inventory, furniture, fixtures,
20 letter of credit rights, books and records, deposit accounts, documents, instruments,
21 Commercial Tort Claims, leases and leaseholds and rents, together with all proceeds

1 of each of the forgoing, including insurance proceeds (as each such term above is
2 defined in the UCC, to the extent applicable); provided, however, that to the extent
3 that assets constituting DIP Collateral other than the Commercial Tort Claims are
4 available to satisfy the DIP Obligations in full, the DIP Lenders shall use their best
5 efforts to satisfy the DIP Obligations from the assets constituting DIP Collateral other
6 than the Commercial Tort Claims before seeking payment of the DIP Obligations
7 from the Commercial Tort Claims. Notwithstanding the foregoing, nothing herein
8 shall prevent the DIP Lenders from immediately and indefeasibly satisfying the DIP
9 Obligations from the Commercial Tort Claims. The DIP Collateral shall not include
10 any and all causes of action and the proceeds thereof arising under chapter 5 of the
11 Bankruptcy Code or applicable state law equivalents (the “**Excluded Avoidance**
12 **Actions**”). For the avoidance of doubt, the Excluded Avoidance Actions shall not
13 include any claims or causes of action and the proceeds thereof related to accounts
14 receivable collections regardless of whether certain claims arise under chapter 5 of
15 the Bankruptcy Code or applicable state law equivalents.

16 (b) To the fullest extent permitted by the Bankruptcy Code or
17 applicable law, and except as otherwise set forth herein, any provision of any lease
18 other than a real property lease, loan document, easement, use agreement, proffer,
19 covenant, license, contract, organizational document, or other instrument or
20 agreement that requires the consent or the payment of any fees or obligations to any
21 entity in order for any of the Debtors to pledge, grant, mortgage, sell, assign, or

1 otherwise transfer any fee or leasehold interest or the proceeds thereof or other DIP
2 Collateral, shall have no force or effect with respect to the DIP Liens on such
3 leasehold interests or other applicable DIP Collateral or the proceeds of any
4 assignment and/or sale thereof by any Debtor, in favor of the DIP Lenders in
5 accordance with the terms of the DIP Loan Documents, the First Interim Order, the
6 Second Interim Order, the Third Interim -Order or this Final Order, subject and
7 subordinate to the Carve-Out.

8 12. Priority of DIP Liens.

9 (a) To secure the DIP Obligations, immediately upon and effective
10 as of the entry of the First Interim Order, the DIP Lenders were granted on a final
11 basis, continuing, valid, binding, enforceable, non-avoidable, and automatically and
12 properly perfected DIP Liens in and on the DIP Collateral as follows, in each case
13 subject and subordinate to the Carve-Out:

14 (i) *Liens Priming the Prepetition Credit Liens.* Pursuant to 364(d)(1)
15 of the Bankruptcy Code, valid, binding, continuing, enforceable, non-
16 avoidable automatically and fully perfected first priority senior priming
17 liens and security interests in all DIP Collateral, regardless of where
18 located, which senior priming liens and security interests in favor of the
19 DIP Lenders shall be senior to all Prepetition Credit Liens other than the
20 Lapis Senior Holdco Liens. For the avoidance of doubt, as a result of
21 the priming of the Prepetition Credit Liens (other than the Lapis Senior
Holdco Liens) pursuant to the First Interim Order, the Second Interim
Order, the Third Interim Order and this Final Order, the DIP Lenders
shall have a first priority senior priming lien and security interest in the
Debtors' assets including, but not limited to, the Debtors' prepetition
and post-petition commercial tort claims, including but not limited to all
claims and causes of action (i) against the Debtors' officers and
directors, and (ii) related to accounts receivable collections, and the

1 proceeds thereof (regardless of whether such proceeds arise from
2 damages to the Prepetition Collateral).

3 (ii) *Liens on Unencumbered Property.* Pursuant to section 364(c)(2)
4 of the Bankruptcy Code, valid, binding, continuing, enforceable, non-
5 avoidable automatically and fully perfected first priority liens on and
6 security interests in all DIP Collateral that is not otherwise subject to
7 any Permitted Prior Lien. As used herein, the term “**Permitted Prior**
8 **Lien**” shall mean any valid, enforceable, and non-avoidable liens on and
9 security interests in the DIP Collateral that (A) were perfected prior to
10 the Petition Date (or perfected on or after the Petition Date to the extent
11 permitted by section 546(b) of the Bankruptcy Code), (B) are not subject
12 to avoidance, disallowance, or subordination pursuant to the Bankruptcy
13 Code or applicable non-bankruptcy law, and (C) are senior in priority to
14 the DIP Liens under applicable law and after giving effect to any lien
15 release, subordination or inter-creditor agreements; provided, however,
16 that the DIP Liens shall have priority over all Prepetition Credit Liens
17 other than the Lapis Senior Holdco Liens; provided further, that any
18 properly perfected liens on the Debtors’ assets held by (i) TIAA
19 Commercial Finance, Inc., (ii) Lower Valley Credit Union, and (iii) Med
20 One Capital Funding, LLC are Permitted Prior Liens and shall not be
21 primed by the DIP Liens; and

(iii) *Liens Junior to Certain Other Liens.* Pursuant to section 364(c)(3)
of the Bankruptcy Code, valid, enforceable, non-avoidable
automatically and fully perfected junior liens on and security interests
in all DIP Collateral (other than as set forth in clauses (i) and (ii))
subordinate only to the Lapis Senior Holdco Liens, the Permitted Prior
Liens and the Carve-Out.

(b) Except as expressly set forth herein, and subject and subordinate to
the Carve-Out, the DIP Liens and the DIP Superpriority Claims shall not be made
junior to or *pari passu* with (1) any lien, security interest or claim heretofore or
hereinafter granted in any of the Chapter 11 Cases or any successor cases, and shall
be valid and enforceable against the Debtors, their estates, any trustee or any other
estate representative appointed or elected in the Chapter 11 Cases or any successor

1 cases and/or upon the dismissal or conversion of any of the Chapter 11 Cases or any
2 successor cases, (2) any lien that is avoided and preserved for the benefit of the
3 Debtors and their estates under section 551 of the Bankruptcy Code or otherwise; (3)
4 any intercompany or affiliate lien or claim; and (4) any liens arising after the Petition
5 Date excluding any liens or security interests granted in favor of any federal, state,
6 municipal or other governmental unit, commission, or board for any liability of the
7 Debtors.

8 (c) *Existing Liens.* TIAA Commercial Finance, Inc., Lower Valley Credit
9 Union and Med One Capital Funding, LLC have asserted secured claims against
10 property of the Debtors. Notwithstanding any statement herein that is contrary to the
11 existence or priority of such secured claims, any grant of a security interest to the
12 DIP Lenders is junior and subordinate in priority to any properly perfected liens on
13 the DIP Collateral held by TIAA Commercial Finance, Inc., Lower Valley Credit
14 Union and Med One Capital Funding, LLC. Notwithstanding anything to the
15 contrary contained herein, all rights, claims, defenses and/or objections of the
16 Committee and any third party with respect to any asserted liens on and security
17 interests in the Debtors' property, including without limitation those asserted by
18 TIAA Commercial Finance, Inc., Lower Valley Credit Union, and Med One Capital
19 Funding, LLC, are expressly reserved and preserved and all such asserted liens and
20 security interests (except those asserted by TIAA Commercial Finance, Inc., Lower
21

1 Valley Credit Union, and Med One Capital Funding, LLC) are subject and
2 subordinate to the Carve-Out.

3 13. Adequate Protection of Lapis Secured Parties. The Lapis Secured
4 Parties are entitled, pursuant to sections 361, 362, 363(e), 364(d)(1) and 507 of the
5 Bankruptcy Code, to adequate protection of their interests in all the Prepetition
6 Collateral (to the extent that the Lapis Secured Parties had valid and perfected liens
7 on and security interests in the Prepetition Collateral provided that any challenge to
8 the Lapis Secured Parties' liens and security interests is limited as set forth in the
9 Challenge Stipulation), including Cash Collateral, in an amount equal to the
10 aggregate diminution in value of the Lapis Secured Parties' interests in the
11 Prepetition Collateral (including Cash Collateral) from and after the Petition Date, if
12 any, for the reasons provided under the Bankruptcy Code, subject and subordinate to
13 the Carve-Out. In consideration for the foregoing, the Lapis Secured Parties are
14 hereby granted the following in the amount of such diminution (collectively, the
15 "Adequate Protection Obligations"), subject to the Carve-Out:

16 (a) *Lapis 2017 Loan Adequate Protection Liens.* The Bond Trustee,
17 on behalf of itself and the Bondholders, was granted (effective and perfected upon
18 the date of the First Interim Order and without the necessity of any mortgages,
19 security agreements, pledge agreements, financing statement or other agreements) in
20 the amount equal to the aggregate diminution in value of the interests in the Lapis
21 2017 Loan Collateral (including Cash Collateral) from and after the Petition Date, if

1 any, for any reasons provided under the Bankruptcy Code (the “**Lapis 2017 Loan**
2 **Adequate Protection Claim**”), a valid, perfected replacement security interest in
3 and lien upon any and all assets subject (i) to the Lapis 2017 SHC Holdco Liens,
4 subordinate to the Carve-Out, and (ii) to the Lapis 2017 Sunnyside Liens and Lapis
5 2017 A/R Liens, subordinate to (A) the DIP Liens and (B) the Carve-Out (the “**Lapis**
6 **2017 Loan Replacement Liens**”). The 2017 Lapis Loan Replacement Liens granted
7 pursuant to this paragraph shall be senior to the 2019 Lapis Loan Replacement Liens,
8 provided nothing herein shall affect the terms of any intercreditor arrangements
9 between the Lapis Secured Parties.

10 (b) *Lapis 2019 Loan Adequate Protection Liens.* The Lapis
11 Prepetition Agent, on behalf of itself and the Lapis 2019 Loan Lenders, was granted
12 (effective and perfected upon the date of the First Interim Order and without the
13 necessity of any mortgages, security agreements, pledge agreements, financing
14 statement or other agreements), in the amount equal to the aggregate diminution in
15 value of the interests in the Lapis 2019 Loan Collateral (including Cash Collateral)
16 from and after the Petition Date, if any, for any reasons provided under the
17 Bankruptcy Code (the “**Lapis 2019 Loan Adequate Protection Claim**”), a valid,
18 perfected replacement security interest in and lien upon any and all assets subject (i)
19 to the Lapis 2019 SHC Holdco Liens, subordinate to the Carve-Out, and (ii) to the
20 Lapis 2019 Sunnyside Liens and Lapis 2019 A/R Liens, subordinate to (A) the DIP
21 Liens and (B) the Carve-Out (the “**Lapis 2019 Loan Replacement Liens**” and

1 together with the Lapis 2017 Loan Replacement Liens, the “**Adequate Protection**
2 **Liens**”).

3 (c) *Lapis 2017 Loan 507(b) Claims*. The Bond Trustee, on behalf of
4 itself and the Bondholders, was granted, an allowed superpriority administrative
5 expense claim as provided in section 507(b) of the Bankruptcy Code in the amount
6 of Lapis 2017 Loan Adequate Protection Claim with, except as set forth in the First
7 Interim Order, the Second Interim Order, the Third Interim Order and this Final
8 Order, priority in payment over any and all administrative expenses of the kind
9 specified or ordered pursuant to any provision of the Bankruptcy Code (the “**Lapis**
10 **2017 Loan 507(b) Claims**”). The Lapis 2017 Loan 507(b) Claims shall be subject
11 and subordinate only to the Carve-Out and the DIP Superpriority Claims. The Lapis
12 Secured Parties shall not receive or retain any payments, property or other amounts
13 in respect of the Lapis 2017 Loan 507(b) Claims unless and until the DIP Obligations
14 (other than contingent indemnification obligations as to which no claim has been
15 asserted) have indefeasibly been paid in cash in full and all DIP Commitments
16 terminated. The 2017 Lapis Loan 507(b) Claims shall be senior to the Lapis 2019
17 Loan 507(b) Claims, provided nothing herein shall affect the terms of any
18 intercreditor arrangements between and among the Lapis Secured Parties.

19 (d) *Lapis 2019 Loan 507(b) Claims*. The Lapis Agent, on behalf of
20 itself and the Lapis 2019 Loan Lenders, was granted, an allowed superpriority
21 administrative expense claim as provided in section 507(b) of the Bankruptcy Code

1 in the amount of Lapis 2019 Loan Adequate Protection Claim with, except as set
2 forth in the First Interim Order, the Second Interim Order, the Third Interim Order
3 and this Final Order, priority in payment over any and all administrative expenses of
4 the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the
5 **“Lapis 2019 Loan 507(b) Claims”**). The Lapis 2019 Loan 507(b) Claims shall be
6 subject and subordinate only to the Carve-Out, the DIP Superpriority Claims and the
7 Lapis 2017 Loan 507(b) Claims. The Lapis Secured Parties shall not receive or retain
8 any payments, property or other amounts in respect of the Lapis 2019 Loan 507(b)
9 Claims unless and until the DIP Obligations (other than contingent indemnification
10 obligations as to which no claim has been asserted) have indefeasibly been paid in
11 cash in full and all DIP Commitments terminated.

12 (e) *Lapis Secured Parties Information.* As additional adequate
13 protection of the Lapis Secured Parties’ security interests in the Lapis Prepetition
14 Collateral, the Debtors shall contemporaneously provide the Lapis Secured Parties
15 with any reporting provided to the DIP Lenders under the DIP Loan Agreement. The
16 Lapis Secured Parties and the Committee shall each be deemed to be an additional
17 notice party for purposes of the DIP Facility and all parties thereto shall provide the
18 Lapis Secured Parties and the Committee contemporaneous copies of all notices
19 pursuant thereto. The Debtors shall additionally provide the Lapis Secured Parties
20 and the Committee any reports and information as the Lapis Secured Parties and the
21 Committee may reasonably request from time to time.

1 (f) For the avoidance of doubt, the Excluded Avoidance Actions and
2 the Commercial Tort Claims shall not be used as collateral for any Adequate
3 Protection Obligations.

4 14. Carve-Out.

5 (a) *Carve-Out.* As used in the First Interim Order, the Second
6 Interim Order, the Third Interim Order and this Final Order, the term “**Carve-Out**”
7 means, collectively, the sum of: (i) all fees required to be paid to the Clerk of the
8 Court and to the U.S. Trustee pursuant to 28 U.S.C. §1930(a) and 31 U.S.C. § 3717;
9 (ii) the reasonable fees and expenses up to \$15,000 incurred by a trustee under section
10 726(b) of the Bankruptcy Code; (iii) up to \$1,000,000 for the Debtors’ accrued and
11 unpaid payroll obligations to employees (excluding management and consultants and
12 not including paid time off, severance, vacation or any other claims based upon state
13 or federal law) (the “**Employee Carve-Out**”); and (iv) the aggregate amount of
14 unpaid fees and expenses of the Debtors’, the Committee and the Patient Care
15 Ombudsman under sections 327(a), 328 or 1103(a) of the Bankruptcy Code (the
16 “**Case Professionals**”), to the extent such fees and expenses are allowed and payable
17 pursuant to an order of the Court (which order has not been reversed, vacated or
18 stayed) (“**Allowed Professional Fees**”), and the reimbursement of out-of-pocket
19 expenses allowed by the Court and incurred by the members of the Committee in the
20 performance of their duties (but excluding fees and expenses of third party
21 professionals employed by such members) (“**Committee Expenses**”), which amount

1 under this clause (iv) shall not exceed the sum of: (x) an aggregate amount per week
2 limited to the amount set forth in the Budget for Allowed Professional Fees and
3 Committee Expenses incurred prior to the delivery of a Carve-Out Trigger Notice
4 (and if such amount exceeds the amount set forth in the Budget, each Case
5 Professional and/or Committee member shall receive the portion of its Allowed
6 Professional Fees and/or Committee Expenses, as appropriate, on a pro rata basis in
7 an amount not to exceed the Budget for Case Professionals) provided (i) the Maturity
8 Date has not occurred or (ii) Event of Default has not occurred or continuing (the
9 **“Pre Carve-Out Notice Trigger Cap”**) plus (y) \$120,000 for Allowed Professional
10 Fees and Committee Expenses incurred from and after the delivery of the Carve-Out
11 Trigger Notice (defined below) (the **“Post Carve-Out Notice Cap”** together, with
12 the Pre Carve-Out Notice Trigger Cap, the **“Carve-Out Cap”**). No portion of the
13 Carve-Out or any Cash Collateral may be used in violation of the First Interim Order,
14 the Second Interim Order, the Third Interim Order or this Final Order. Nothing in
15 the First Interim Order, the Second Interim Order, the Third Interim Order or this
16 Final Order or otherwise shall be construed to increase the Carve-Out if actual (i)
17 Allowed Professional Fees of any Case Professional or (ii) Committee Expenses are
18 higher in fact than Carve-Out Cap amount. Any funds held by the Debtors upon the
19 delivery of a Carve-Out Trigger Notice shall be applied dollar for dollar, against the
20 Carve-Out. Nothing in the First Interim Order, the Second Interim Order, the Third
21 Interim Order or this Final Order shall be construed to increase the Employee Carve-

Final DIP/Cash Collateral Order

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1 Out if accrued and unpaid payroll obligations of the Debtors exceed the Employee
2 Carve-Out.

3 (b) *Carve-Out Trigger Notice.* As used herein, the term “**Carve-Out**
4 **Trigger Notice**” means a written notice provided by the DIP Lenders to the Debtors,
5 the Committee, and the U.S. Trustee that the Post Carve-Out Notice Trigger Cap is
6 invoked, which notice may be delivered following the occurrence and during the
7 continuance of an Event of Default and/or acceleration of the DIP Obligations under
8 the DIP Loan Documents. Upon delivery of the Carve-Out Trigger Notice to the
9 Debtors (the “**Termination Declaration Date**”), the Debtors shall provide notice by
10 email and facsimile to all Case Professionals, at the email addresses and facsimile
11 numbers set forth in each Professional’s notice of appearance filed with the
12 Bankruptcy Court (or, if there is no such notice of appearance, at such Professional’s
13 last known email address and facsimile number) within one (1) day after the Debtors’
14 receipt of a Carve-Out Trigger Notice informing them that such Carve-Out Trigger
15 Notice has been received and further advising them that the Debtors’ ability to pay
16 such Case Professionals and Committee Expenses is subject to and limited by the
17 Post Carve-Out Notice Trigger Cap.

18 (c) *Payment of Allowed Professional Fees Prior to Termination*
19 *Declaration Date.* Any payment or reimbursement made prior to the occurrence of
20 the Termination Declaration Date in respect of any Allowed Professional Fees and
21 Committee Expenses shall not reduce the Carve-Out.

1 (d) *Payment of Carve-Out on or After the Termination Declaration*
2 *Date.* Any payment or reimbursement made on or after the occurrence of the
3 Termination Declaration Date in respect of any Allowed Professional Fees and
4 Committee Expenses shall permanently reduce the Carve-Out on a dollar-for-dollar
5 basis. Any funding of the Carve-Out shall be added to, and made a part of, the DIP
6 Obligations secured by the DIP Collateral and shall be otherwise entitled to the
7 protections granted under the First Interim Order, the Second Interim Order, the Third
8 Interim Order, this Final Order, the DIP Loan Documents, the Bankruptcy Code and
9 applicable law.

10 (e) *Objection Rights.* Nothing contained herein or in the DIP Loan
11 Documents, including the inclusion of line items in the Budget for Professional Fees,
12 is intended to constitute, nor shall be construed as consent to the allowance of any
13 Case Professional's fees, costs and expenses by any party and shall not affect the
14 rights of the Debtors, the DIP Lenders, the Committee, the Lapis Secured Parties or
15 any other party in interest to object to the allowance and/or payment of any such
16 amounts incurred or requested.

17 (f) *Payment of Compensation.* Nothing contained herein or in the
18 DIP Loan Documents shall affect the rights of the Case Professionals to seek
19 allowance and payment of fees and expenses in excess of the amounts set forth in the
20 Carve-Out and Budget. Upon the indefeasible payment in full in cash and discharge
21

1 of the DIP Obligations, nothing contained herein shall affect the rights of the Debtors
2 to pay such amounts as approved by the Court.

3 (g) *Carve-Out Priority*. The Carve-Out shall be senior in all respects
4 to the DIP Liens, the DIP Superpriority Claims, the Prepetition Credit Liens, the liens
5 and/or claims of the Lapis Secured Parties, and any and all other forms of adequate
6 protection, liens or claims securing the DIP Obligations, the Adequate Protection
7 Obligations and/or the obligations of any Prepetition Secured Parties or Lapis
8 Secured Parties.

9 15. *Bankruptcy Code Sections 506(c) and 552(b) Waivers*. Without limiting
10 the Carve-Out, the Debtors irrevocably waive and shall be prohibited from asserting
11 (i) any surcharge claim, under section 506(c) of the Bankruptcy Code or otherwise,
12 for any costs and expenses incurred in connection with the preservation, protection
13 or enhancement of, or realization by the DIP Lenders upon the DIP Collateral and
14 the Lapis Secured Parties upon the Prepetition Collateral and no costs or expenses of
15 administration that have been or may be incurred in any of the Chapter 11 Cases at
16 any time shall be charged against the DIP Lenders or the Lapis Secured Parties or
17 their respective claims or liens (including any claims or liens granted pursuant to the
18 First Interim Order, the Second Interim Order, the Third Interim Order and this Final
19 Order), and (ii) the “equities of the case” exception under section 552(b) of the
20 Bankruptcy Code in connection with the DIP Facility, the Lapis 2017 Loan or the
21 Lapis 2019 Loan.

1 16. Application of Proceeds. In no event shall the DIP Lenders be subject
2 to the equitable doctrine of “marshaling” or any other similar doctrine with respect
3 to the DIP Collateral, and all proceeds thereof shall be received and used in
4 accordance with the First Interim Order, the Second Interim Order, the Third Interim
5 Order and this Final Order.

6 17. Disposition of Collateral. The Debtors shall not sell, transfer, lease,
7 encumber or otherwise dispose of any portion of the DIP Collateral, other than in the
8 ordinary course of business or in connection with the payments contemplated under
9 the First Interim Order, the Second Interim Order, the Third Interim Order and this
10 Final Order, including the Carve-Out, without the prior written consent of the DIP
11 Lenders (and no such consent shall be implied from any other action, inaction or
12 acquiescence by the DIP Lenders) or Order of this Court; provided that for the
13 avoidance of doubt, the Debtors shall comply with section 6.4 of the DIP Loan
14 Agreement. Notwithstanding anything otherwise provided herein, 100% of any net
15 cash proceeds of any sale of DIP Collateral outside of the ordinary course of business
16 shall, subject to the satisfaction of the Carve-Out and the lien priorities outlined in
17 paragraph 13 herein, be used to immediately satisfy the DIP Obligations.

18 18. Restrictions on Granting Postpetition Liens. Other than the Carve-Out
19 or as otherwise provided in the First Interim Order, the Second Interim Order, the
20 Third Interim Order, this Final Order or the DIP Loan Documents, no claim or lien
21 having a priority superior or *pari passu* with those granted by the First Interim Order,

Final DIP/Cash Collateral Order

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1 the Second Interim Order, the Third Interim Order, this Final Order and the DIP Loan
2 Documents to the DIP Lenders shall be granted or permitted by any order of this
3 Court heretofore or hereafter entered in the Chapter 11 Cases, and the Debtors will
4 not grant any such mortgages, security interests or liens in the DIP Collateral (or any
5 portion thereof) or to any other parties pursuant to section 364(d) of the Bankruptcy
6 Code or otherwise, while (i) any portion of the DIP Facility, any DIP Facility Loans
7 or any other DIP Obligations, are outstanding, or (ii) the DIP Lenders has any
8 Commitment under the DIP Loan Documents. For the avoidance of doubt, there shall
9 be no restriction and this paragraph shall not apply and excludes any liens or security
10 interests granted in favor of any federal, state, municipal or other governmental unit,
11 commission, board or court for any liability of the Debtors.

12 19. Automatic Effectiveness of Liens. The DIP Liens shall not be subject to
13 a challenge and shall attach and become valid, perfected, binding, enforceable, non-
14 avoidable and effective by operation of law as of the date of the entry of the First
15 Interim Order, the Second Interim Order, the Third Interim Order, and this Final
16 Order on a final basis, without any further action by the Debtors and the DIP Lenders,
17 respectively, and without the necessity of execution by the Debtors or the filing or
18 recordation, of any financing statements, security agreements, deposit control
19 agreements, vehicle lien applications, mortgages, filings with a governmental unit
20 (including, without limitation, the U.S. Patent and Trademark Office or the Library
21 of Congress), or other documents or the taking of any other actions. All DIP

1 Collateral shall be free and clear of other liens, claims and encumbrances, except as
2 provided in the DIP Loan Documents, the First Interim Order, the Second Interim
3 Order, the Third Interim Order and this Final Order. If the DIP Lenders hereafter
4 request that the Debtors execute and/or deliver to the DIP Lenders financing
5 statements, control agreements, mortgages, or other documents considered by the
6 DIP Lenders to be reasonably necessary or desirable to further evidence the
7 perfection of the DIP Liens, the Debtors are hereby authorized and directed to execute
8 and/or deliver such financing statements, control agreements, mortgages, and
9 documents, and the DIP Lenders are hereby authorized to file or record such
10 documents in their discretion without seeking modification of the automatic stay
11 under section 362 of the Bankruptcy Code, in which event all such documents shall
12 be deemed to have been filed or recorded at the time and on the date of the entry of
13 the First Interim Order; provided, however, no such filing or recordation shall be
14 necessary or required in order to create or perfect the DIP Liens. The DIP Lenders,
15 in their sole discretion, may file a photocopy of the First Interim Order, the Second
16 Interim Order, the Third Interim Order or this Final Order as a financing statement
17 with any filing or recording office or with any registry of deeds or similar office, in
18 addition to, or in lieu of, such financing statements, notices of liens or similar
19 statements.⁴

21 ⁴ The provisions of section 1146(a) of the Bankruptcy Code do not apply herein.

1 20. Protection Under Section 364(e) of the Bankruptcy Code. The DIP
2 Lenders have acted in good faith in connection with the First Interim Order, the
3 Second Interim Order, the Third Interim Order and this Final Order and its reliance
4 on the First Interim Order, the Second Interim Order, the Third Interim Order or this
5 Final Order is in good faith. The reversal or modification on appeal of the
6 authorizations under section 364 of the Bankruptcy Code contained in the First
7 Interim Order, the Second Interim Order, the Third Interim Order or this Final Order
8 does not affect the validity of any DIP Obligation or the DIP Liens, whether or not
9 the DIP Lenders knew of the pendency of the appeal, unless such authorization and
10 incurrence of the DIP Obligations and the DIP Liens and advance of the DIP Facility
11 under 364 of the Bankruptcy Code in the First Interim Order, the Second Interim
12 Order, the Third Interim Order and this Final Order, were stayed pending appeal.

13 21. Reservation of Rights of the DIP Lender. Notwithstanding any other
14 provision of the First Interim Order, the Second Interim Order, the Third Interim
15 Order or this Final Order to the contrary, the entry of this Final Order is without
16 prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise
17 impair: (i) any of the rights of the DIP Lenders under the Bankruptcy Code or under
18 non-bankruptcy law, including, without limitation, the right of any of such parties to
19 (a) request modification of the automatic stay of section 362 of the Bankruptcy Code,
20 (b) request dismissal of any of these Chapter 11 Cases, conversion of any of these
21 Chapter 11 Cases to cases under chapter 7, or appointment of a chapter 11 trustee or

1 examiner with expanded powers in any of these Chapter 11 Cases, (c) seek to
2 propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter
3 11 plan or plans; or (ii) any other rights, claims, or privileges (whether legal or
4 equitable or otherwise) of the DIP Lenders. The delay in or failure of the DIP Lenders
5 to seek relief or otherwise exercise their respective rights and remedies shall not
6 constitute a waiver of any of the DIP Lenders' rights and remedies.

7 22. Right to Credit Bid.

8 (a) *DIP Lender.* Pursuant to section 363(k) of the Bankruptcy Code,
9 unless the Court orders otherwise for cause as provided under section 363(k) of the
10 Bankruptcy Code, the DIP Lenders shall have the right to credit bid the total of the
11 DIP Obligations for any or all of the DIP Collateral at a sale, lease or other disposition
12 of such DIP Collateral outside the ordinary course of business (including any auction
13 or similar sales), whether pursuant to a plan of reorganization or a motion pursuant
14 to section 363 of the Bankruptcy Code or otherwise (which credit bid rights under
15 section 363(k) of the Bankruptcy Code or otherwise shall not be impaired in any
16 manner).

17 (b) A credit bid may be applied only to reduce the cash consideration
18 with respect to those assets in which the party submitting such credit bid holds a
19 perfected security interest. The DIP Lenders shall be considered a "Qualified
20 Bidder" with respect to their rights to acquire all or any of the assets by credit bid as
21 set forth in the Bidding Procedures Order.

1 23. Remedies and Notice Upon the Occurrence of Maturity Date or Event
2 of Default. Upon prior written notice by the DIP Lenders to counsel for the Debtors,
3 counsel for the Committee, and the U.S. Trustee of the occurrence of an Event of
4 Default (each as defined in the DIP Loan Documents and incorporated herein by
5 reference) and without further order of the Court, the DIP Lenders may (i) declare
6 the DIP Obligations to be immediately due and payable; (ii) terminate the DIP
7 Lenders' commitment under the DIP Facility (other than the Carve-Out) or use of
8 Cash Collateral; (iii) charge default rate interest; and/or (iv) upon five (5) business
9 days' notice to counsel to the Debtors, counsel to the Committee and the U.S. Trustee,
10 exercise all default-related rights and remedies against the DIP Collateral, without
11 further order of or application or motion to the Bankruptcy Court, and without
12 restriction or restraint by any stay under sections 362 and 105 of the Bankruptcy Code
13 or otherwise, provided however, that during the five (5) business day notice period,
14 any party in interest shall have the right to file a pleading in opposition to the DIP
15 Lenders' exercise of rights and remedies including the delivery of the Carve-Out
16 Trigger Notice; provided further that, unless otherwise ordered by the Court, the only
17 issue that may be raised by any party in such pleading shall be whether in fact, an
18 Event of Default has occurred and is continuing; but provided further that, if an Event
19 of Default occurs as a result of the Debtors' failure to indefeasibly satisfy the DIP
20 Obligations by the Stated Maturity Date (as defined in the DIP Loan Documents),
21 the above referenced five (5) day notice period shall not apply and the Debtors and

1 all other interested parties shall not have any challenge rights, except as may be
2 otherwise ordered by the Court.

3 24. Modification of Stay. Subject to the terms set forth herein, the automatic
4 stay imposed under section 362(a) of the Bankruptcy Code is hereby modified as
5 necessary to effectuate all of the terms, rights, benefits, privileges, remedies and
6 provisions of the First Interim Order, the Second Interim Order, the Third Interim
7 Order, this Final Order and the DIP Loan Documents, including, without limitation,
8 to permit the DIP Lenders to exercise all rights and remedies provided for in the DIP
9 Loan Documents and take any and all actions provided therein, in each case, in
10 accordance with paragraph 23 of this Final Order.

11 25. Survival of DIP Liens, DIP Superpriority Claims, and Other Rights. If,
12 in accordance with section 364(e) of the Bankruptcy Code, this Final Order does not
13 become a final non-appealable order, if a trustee terminates this Final Order, or if any
14 of the provisions of the First Interim Order, the Second Interim Order, the Third
15 Interim Order or this Final Order are hereafter modified, amended, vacated or stayed
16 by subsequent order of this Court or any other court, such termination or subsequent
17 order shall not affect the priority, validity, enforceability or effectiveness of (or
18 subordination to the Carve-Out of) any lien, security interests or any other benefit or
19 claim authorized hereby with respect to any DIP Obligations or Adequate Protection
20 Obligations incurred prior to the effective date of such termination or subsequent
21 order. All such liens, security interests, claims and other benefits shall be governed

1 in all respects by the original provisions of the First Interim Order, the Second Interim
2 Order, the Third Interim Order and this Final Order, and the DIP Lenders and the
3 Lapis Secured Parties shall be entitled to all the rights, remedies, privileges and
4 benefits granted herein, including the liens and priorities granted herein, with respect
5 to any DIP Facility Loan and Adequate Protection Obligations, subject to the Carve-
6 Out and any and all challenges, rights, claims, defenses and/or objections of the
7 Committee and any third parties as set forth herein.

8 26. Survival of the First Interim Order, the Second Interim Order, the Third
9 Interim Order and this Final Order. The provisions of the First Interim Order, the
10 Second Interim Order, the Third Interim Order and this Final Order and any actions
11 taken pursuant hereto shall survive the entry of any order: (i) confirming any plan of
12 reorganization in any of the Chapter 11 Cases; (ii) converting any of the Chapter 11
13 Cases to a chapter 7 case; or (iii) dismissing any of the Chapter 11 Cases, and the
14 terms and provisions of the First Interim Order, the Second Interim Order, the Third
15 Interim Order and this Final Order as well as the DIP Superpriority Claims and the
16 DIP Liens in the DIP Collateral granted pursuant to the First Interim Order, the
17 Second Interim Order, the Third Interim Order and this Final Order and the DIP Loan
18 Documents shall continue in full force and effect notwithstanding the entry of any
19 such order. Such claims and liens shall maintain their priority as provided by the
20 First Interim Order, the Second Interim Order, the Third Interim Order, this Final
21 Order and the DIP Loan Documents, and to the maximum extent permitted by law,

1 until all of the DIP Obligations are indefeasibly paid in full in cash and discharged
2 or otherwise treated under a plan of reorganization, which is reasonably acceptable
3 to the DIP Lenders. In no event shall any plan of reorganization be allowed to alter
4 the terms of repayment of any of the DIP Obligations from those set forth in the DIP
5 Loan Documents unless agreed to by and among the Debtors and the DIP Lenders.

6 27. Modifications of DIP Loan Documents. The Debtors and the DIP
7 Lenders are hereby authorized to implement, in accordance with the terms of the DIP
8 Loan Documents, any non-material modifications to the DIP Loan Documents
9 without further notice, motion or application to, order of or hearing before, this Court,
10 upon notice to counsel for the Committee. Any material modification or amendment
11 to the DIP Loan Documents shall only be permitted pursuant to an order of this Court,
12 after being submitted to this Court upon five (5) days' notice to the U.S. Trustee and
13 counsel to the Committee, each of whom reserves all rights and objections with
14 respect to any such material modification or amendment; provided, that any
15 forbearance from, or waiver of, (i) a breach by the Debtors of a covenant,
16 representation or any other agreement, or (ii) a default or an Event of Default, in each
17 case under the DIP Loan Documents shall not require an order of this Court;
18 provided, that the Debtors or the DIP Lenders provide notice of such forbearance or
19 waiver to counsel to the Committee. In the event of any inconsistency between this
20 Final Order and the DIP Loan Agreement, this Final Order shall control.

1 28. Insurance Policies. Upon entry of the First Interim Order, on each
2 insurance policy maintained by the Debtors which in any way relates to the DIP
3 Collateral: (i) the DIP Lenders shall be, and shall be deemed to be, without any
4 further action by or notice to any person, named as additional insureds; and (ii) the
5 DIP Lenders shall be and shall be deemed to be, without any further action by or
6 notice to any person, named as loss payee for DIP Collateral on which the DIP
7 Lenders hold a first priority lien. The Debtors are hereby authorized on a final basis
8 to and shall take any actions necessary to have the DIP Lenders be added as an
9 additional insured and loss payee on each insurance policy maintained by the Debtors
10 consistent with the First Interim Order, the Second Interim Order, the Third Interim
11 Order, this Final Order and the DIP Loan Agreement, which in any way relates to the
12 DIP Collateral.

13 29. Financial Information. The Debtors shall deliver to the DIP Lenders
14 and the Committee such financial and other information concerning the business and
15 affairs of the Debtors and any of the DIP Collateral as may be required pursuant to
16 the DIP Loan Documents and/or as the DIP Lenders or the Committee shall
17 reasonably request from time to time. The Debtors shall allow the DIP Lenders
18 access to the premises in accordance with the terms of the DIP Loan Documents for
19 the purpose of enabling the DIP Lenders to inspect and audit the DIP Collateral and
20 the Debtors' books and records.

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EXHIBIT A
BUDGET

Astria Health
Weekly Cash Flow Budget

(\$ in thousands)

Week	51 (P)	52 (P)	53 (P)	54 (P)	55 (P)	56 (P)	57 (P)	58 (P)	59 (P)	60 (P)	61 (P)	62 (P)	63 (P)
Week-ending date	4/24	5/1	5/8	5/15	5/22	5/29	6/5	6/12	6/19	6/26	7/3	7/10	7/17
Beginning operating cash balance	7,875	7,231	6,531	6,329	7,206	7,673	6,438	6,693	6,253	8,048	8,553	9,063	8,981
Collections													
Yakima / Toppenish	775	935	775	775	775	935	775	775	775	775	925	775	775
Topp Behavioral Adjustment													
Sunnyside	2,500	2,500	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350
Elective Procedures Change	(1,341)	(1,156)	(1,191)	(1,191)	(485)	(325)	(485)	(485)	168	168	328	168	523
Provider Tax									100	90	70		
ARMC Rent				1,500					532				
ARMC Pass Through				250					89				
COVID Grant													
DIP Loan Borrowing													
Total Collections	1,934	2,279	1,934	3,684	2,640	2,960	2,640	2,640	4,014	3,383	3,673	3,293	3,648
Disbursements													
Payroll, taxes, and other -Y/T	474	237	474	237	507	404	540	270	540	270	540	270	540
Payroll & Other ASH	447	730	262	730	324	1,380	387	980	387	980	387	980	387
Other Op Ex	29	94	35	29	29	100	29	29	29	29	100	29	29
Purchased services	632	302	332	439	302	632	332	439	302	632	332	439	302
Contract labor	255	255	255	125	125	125	125	125	125	125	125	125	125
Rent	40	60	60	40	70	200	60	40	70	200	60	40	70
Medical professionals	125	-	-	-	125	-	-	-	125	-	-	-	125
Utilities	82	82	82	82	82	82	82	82	82	82	82	82	82
Prop Tax and Ins	-	-	31	70	-	-	246	100	-	-	86	100	-
Supplies, pharma., and dietary	320	325	455	455	460	460	460	465	460	460	465	460	460
Corporate Overhead		214	-	-	-	157	-	-	-	-	157	-	-
Provider Tax	-	-	-	-	-	-	-	-	-	-	200	200	900
CRO Fees		145				145					145		
UMR Payments	175	150	150	150	150	125	125	100	100	100	100	100	100
Medicaid Repayment ASH													
Professional Fees	-	-	-	450	-	-	-	450	-	-	-	550	-
Cash Out for Loan Payoff													
DIP Fees and Expenses													
DIP Interest	-	385	-	-	-	385	-	-	-	-	385	-	-
UST Fees		-											
Total Disbursements	2,578	2,979	2,135	2,807	2,174	4,195	2,386	3,080	2,220	2,878	3,164	3,375	3,120
WEEKLY NET CASH FLOW	(644)	(700)	(201)	877	466	(1,235)	255	(440)	1,795	505	510	(82)	529
ENDING CASH (ACTUAL)	7,231	6,531	6,329	7,206	7,673	6,438	6,693	6,253	8,048	8,553	9,063	8,981	9,510