

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

SC HEALTHCARE HOLDING, LLC *et al.*,
Debtors.¹

Chapter 11

Case No. 24-10443 (TMH)

Jointly Administered

Ref. Docket No. 38

**AMENDED INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO OBTAIN
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 TO ENTER INTO AGREEMENTS WITH JMB CAPITAL
PARTNERS LENDING, LLC, (VI) AUTHORIZING NON-CONSENSUAL USE
OF CASH COLLATERAL, (VII) SCHEDULING A FINAL HEARING,
AND (VIII) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above captioned debtors (collectively, the “Debtors” or the “Borrowers”) in the above-captioned chapter 11 cases (collectively, the “Chapter 11 Cases”), pursuant to sections 105, 361, 362, 363, 364, 503 and 507 of title 11 of the United States Code, (11 U.S.C. §§ 101 *et seq.*, as amended, the “Bankruptcy Code”), Rules 2002, 4001, 6003, 6004 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1 and 4001-2 and 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), seeking entry of an interim order (this “Interim Order”) granting *inter alia*:

¹ The last four digits of SC Healthcare Holding, LLC’s tax identification number are 2584. The mailing address for SC Healthcare Holding, LLC is c/o Petersen Health Care Management, LLC 830 West Trailcreek Dr., Peoria, IL 61614. Due to the large number of debtors in these Chapter 11 Cases, for which the Debtors have requested joint administration, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information will be made available on a website of the Debtors’ proposed claims and noticing agent at www.kccllc.net/Petersen.

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 Term Sheet (as defined below), as applicable.



i. authority, pursuant to sections 105, 363, and 364(c) and 364(d) of the Bankruptcy Code, for each of the Debtors, jointly and severally, to obtain a non-amortizing priming super-priority senior secured postpetition financing (“DIP Facility”) in an aggregate principal amount of up to \$45,000,000 (the “DIP Commitment”) of which, upon entry of this Interim Order and satisfaction or waiver of the borrowing conditions set forth in the DIP Term Sheet (as defined below), \$15,000,000 (the “Interim Advance”) shall be made available to the Debtors and may be drawn in a single draw, and the remainder of the DIP Commitment will, subject to and upon the date of entry of the Final Order (as defined below), be available through additional draws, in each case subject to the terms and conditions set forth in the DIP Term Sheet and/or a Debtor-in-Possession Loan and Security Agreement (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the “DIP Credit Agreement” and, together with any ancillary, collateral or related documents and agreements, the “DIP Loan Documents”), among the Debtors, as Borrowers, and JMB Capital Partners Lending, LLC, as Lender (the “DIP Lender”), which DIP Facility Agreement shall be consistent with the terms set forth in the attached Debtor-in-Possession Term Loan Facility Summary of Terms and Conditions attached hereto as Exhibit 1 (the “DIP Term Sheet”);

ii. authority for the Debtors, on an interim basis, to execute, deliver, and perform under the DIP Term Sheet, the DIP Loan Documents, and all other credit documentation relating to the DIP Facility, including, without limitation, as applicable, security agreements, pledge agreements, debentures, mortgages, control agreements, deeds, charges, guarantees, promissory notes, intercompany notes, certificates, instruments, intellectual property security agreements, notes, fee letters, and such other documents that are ancillary or incidental thereto or that may be reasonably requested by the DIP Lender in connection with the DIP Facility, in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof;

iii. authority for the Debtors, on an interim basis, to issue, incur and guarantee all loans, notes, advances, extensions of credit, financial accommodations, reimbursement obligations, fees

and premiums (including, without limitation, the Commitment Fee, upfront fees, the Exit Fee, backstop fees or premiums, administrative agency fees, and any other fees payable pursuant to the DIP Term Sheet and/or DIP Loan Documents), costs, expenses and other liabilities and all other obligations (including indemnities and similar obligations, whether contingent or absolute) due or payable to or for the benefit of the DIP Lender under the DIP Term Sheet and/or the DIP Loan Documents (collectively, the “DIP Obligations”), and to perform such other and further acts as may be required, necessary, desirable, or appropriate in connection therewith;

iv. authority for the Debtors, on an interim basis, to use the DIP Facility and the proceeds thereof in accordance with this Interim Order, the DIP Term Sheet and/or the DIP Loan Documents to (a) fund the necessary postpetition working capital needs of the Debtors pending the Final Hearing (as defined below), (b) pay fees, costs and expenses of the DIP Facility on the terms and conditions described in the DIP Term Sheet and/or the DIP Loan Documents, and (c) pay the allowed administrative costs and expenses of the Chapter 11 Cases, in each case, solely in accordance with the DIP Term Sheet, the DIP Budget (as defined below), and this Interim Order;

v. authority for the Debtors to grant to the DIP Lender valid, enforceable, non-avoidable, automatically and fully perfected priming security interests, liens and superpriority claims, including allowed superpriority administrative expense claims pursuant to sections 364(c)(1) and 507(b) of the Bankruptcy Code, subject only to the Carve Out and the Permitted Prior Liens (as defined in Schedule 2 to the DIP Term Sheet), and liens pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code in the Collateral (as defined below) (and all proceeds thereof), including, without limitation, all property constituting “Cash Collateral,” as defined in section 363(a) of the Bankruptcy Code, (“Cash Collateral”), to secure all DIP Obligations, subject only to the Carve Out and the Permitted Prior Liens;

vi. authority for the Debtors to grant the Prepetition Secured Parties (as defined below) valid, enforceable, non-avoidable, automatically and fully perfected security interests, liens and superpriority claims, including allowed superpriority administrative expense claims pursuant to section 507(b) of the Bankruptcy Code, subject only to the Carve Out, the Permitted Prior Liens

and the superpriority claims and liens of the DIP Lender, to secure any diminution in value of the Prepetition Collateral;

vii. authority for the DIP Lender to take all commercially reasonable actions to implement and effectuate the terms of this Interim Order and the DIP Term Sheet;

viii. subject to entry of the Final Order, waiver by the Debtors of all rights to surcharge against the collateral of the DIP Lender and the Prepetition Secured Parties pursuant to section 506(c) of the Bankruptcy Code;

ix. subject to entry of the Final Order, determination that the equitable doctrine of marshaling or any other similar doctrine shall not apply with respect to any collateral of the DIP Lender and the Prepetition Secured Parties for the benefit of any party other than the DIP Lender;

x. modification of the automatic stay provided by section 362(a) of the Bankruptcy Code to the extent set forth herein and as necessary to permit the Debtors and the DIP Lender to implement and effectuate the terms and provisions of the DIP Term Sheet and/or the DIP Loan Documents, including, upon entry, the Interim Order, and, subject to the terms of the DIP Term Sheet and DIP Loan Documents (including this Interim Order), to deliver any Carve Out Notice (as defined herein) or other notices in relation thereto and the exercise of certain rights and remedies, as contemplated hereby and by the DIP Term Sheet and other DIP Loan Documents;

xi. waiver of any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Interim Order; and

xii. scheduling a final hearing (the "Final Hearing") to consider final approval of the DIP Facility pursuant to a proposed final order (the "Final Order"), as set forth in the Motion and the DIP Term Sheet and approval of the siloing mechanism and other terms related thereto and in connection therewith, as set forth in paragraphs 33-36 of this Interim Order.

This Court having considered the interim relief requested in the Motion (including the DIP Term Sheet and the other exhibits attached thereto), the evidence submitted or adduced, pursuant to the *Declaration of David R. Campbell in Support of Chapter 11 Petitions and First Day Motions* (the "First Day Declaration"), the declaration of Luke Andrews in support of the Motion (the "DIP

Marketing Declaration”) and the declaration of David R. Campbell in support of the Motion (the “Valuation Declaration”) and the arguments of counsel made at the hearing held on March 22, 2024 (the “Interim Hearing”) and having found that due and proper notice of the Motion and the Interim Hearing having been given in accordance with Bankruptcy Rule 2002 and 4001(b), (c) and (d) and all applicable Local Rules; and the Interim Hearing to consider the relief requested in the Motion having been held and concluded; and all objections, if any, to the interim relief requested in the Motion having been withdrawn, resolved or overruled; and it appearing to this Court that granting the interim relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing, otherwise is fair and reasonable and in the best interests of the Debtors, their estates, creditors, and other parties in interest, and is essential for the continued operation of the Debtors’ businesses and the preservation of the value of the Debtors’ assets and represents a sound exercise of the Debtors’ business judgment; and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

THIS COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED UPON THE MOTION, THE REPRESENTATIONS OF COUNSEL AND EVIDENCE SUBMITTED DURING THE INTERIM HEARING.³

A. Petition Date. On March 20, 2024 (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Court”) commencing these Chapter 11 Cases.

B. Debtors in Possession. The Debtors, with the exception of some inactive entities, are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. To date, the Office of the United States

³ The findings and conclusions set forth herein constitute this Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014, and shall take effect and be fully enforceable effective as of the Petition Date immediately upon entry hereof. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

Trustee for the District of Delaware (the “U.S. Trustee”) has not appointed an official committee in the Chapter 11 Cases.

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

D. Notice. Under the circumstances, the notice given by the Debtors of, and as described in, the Motion, the relief requested therein, and the Interim Hearing constitutes proper notice thereof and complies with Bankruptcy Rules 2002, 4001(b), (c) and (d), and 9014 and the Local Rules, and no further notice of the relief sought at the Interim Hearing and the relief granted herein is necessary or required. The interim relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates, creditors, and other parties in interest, pending the Final Hearing.

E. Committee Formation. As of the date hereof, the U.S. Trustee has not appointed an official committee of unsecured creditors in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code (a “Creditors’ Committee”).

F. No Credit Available on More Favorable Terms. The Debtors are unable to procure financing in the form of unsecured credit allowable as an administrative expense under sections 364(a), 364(b), or 503(b)(1) of the Bankruptcy Code. The Debtors are also unable to obtain secured credit without (i) granting to the DIP Lender the DIP Liens and the DIP Superpriority Claims (each as defined herein) and (ii) incurring the Adequate Protection Obligations (as defined herein), to the extent set forth herein and under the terms and conditions set forth in this Interim Order, the DIP Term Sheet and/or the DIP Loan Documents, in each case of (i) and (ii) subject and subordinate to the Carve Out and the Permitted Prior Liens, and have been unable to procure the necessary financing on terms more favorable, taken as a whole, than the financing offered by DIP Lender pursuant to the DIP Term Sheet and/or the DIP Loan Documents, as modified by this Interim Order.

G. Best Interests of Estates. It is in the best interests of the Debtors' estates and creditors that the Debtors be allowed to obtain postpetition secured financing from the DIP Lender under the terms and conditions set forth herein and in the DIP Term Sheet and/or the DIP Loan Documents, as such financing is necessary to avoid immediate and irreparable harm to the Debtors' estates and for the continued operation of the Debtors' businesses.

H. Good Faith. The extension of credit and financial accommodations under the DIP Term Sheet and/or the DIP Loan Documents are fair, reasonable, in good faith, negotiated at arm's length, reflect the Debtors' exercise of prudent business judgment, and are supported by reasonably equivalent value and fair consideration. The liens, claims and other covenants and payments as set forth in this Interim Order and the DIP Term Sheet, as well as the protections afforded parties acting in "good faith" under section 364(e) of the Bankruptcy Code are integral, critical and essential components of the DIP Facility provided by the DIP Lender to the Debtors. Accordingly, the DIP Lender is entitled to the protections of Bankruptcy Code section 364(e).

I. Good Cause. The interim relief requested in the Motion is necessary, essential and appropriate, and is in the best interest of and will benefit the Debtors, their creditors and their estates, as its implementation will, among other things, provide the Debtors with the necessary liquidity to (1) minimize disruption to the Debtors' businesses and ongoing operations, (2) preserve and maximize the value of the Debtors' estates for the benefit of all the Debtors' creditors, and (3) avoid potential immediate and irreparable harm to the Debtors, their creditors, their businesses, their employees, and their assets.

J. Necessity of DIP Facility Terms. The terms of this Interim Order, the DIP Term Sheet, and/or the DIP Loan Documents assuring that the liens and the various claims, superpriority claims, and other protections granted in this Interim Order will not be affected by any subsequent reversal or modification, as provided in section 364(e) of the Bankruptcy Code, which is applicable to the postpetition financing arrangement contemplated in the DIP Term Sheet and/or the DIP Loan Documents, are necessary in order to induce the DIP Lender to provide postpetition financing to the Debtors.

K. Need for Postpetition Financing. The Debtors do not have sufficient and reliable sources of working capital to continue to operate their businesses in the ordinary course without the financing requested in the Motion. The Debtors' ability to care for their residents, maintain business relationships with their vendors, suppliers and customers, to pay their employees, and to otherwise fund their operations is essential to the Debtors' continued viability as the Debtors seek to maximize the value of the assets of their estates for the benefit of all creditors of the Debtors. The ability of the Debtors to obtain sufficient and stable working capital and liquidity through the proposed postpetition financing arrangements with the DIP Lender as set forth in this Interim Order and the DIP Term Sheet (and/or the DIP Loan Documents) is vital to the preservation and maintenance of the going concern value of each Debtor. Accordingly, the Debtors have an immediate need to obtain the postpetition financing in order to, among other things, permit the orderly continuation of the operation of their businesses, minimize the disruption of their business operations, and preserve and maximize the value of the assets of the Debtors' bankruptcy estates in order to maximize the recovery to all creditors of the estates.

L. Need to Use Cash Collateral. The Debtors need to use Cash Collateral in order to, among other things, preserve, maintain and maximize the value of their assets and businesses. The ability of the Debtors to maintain liquidity through the use of Cash Collateral is vital to the Debtors and their efforts to maximize the value of their assets. Accordingly, the Debtors have demonstrated good and sufficient cause for the relief granted herein.

M. Sections 506(c) and 552(b). As material inducement to the DIP Lender to agree to provide the DIP Facility and in exchange for agreement by the DIP Lender and the Prepetition Secured Parties to subordinate their superpriority claims to the Carve Out, upon the entry of the Final Order (as defined in the Motion), the DIP Lender and the Prepetition Secured Parties are entitled to a waiver of any "equities of the case" exception under section 552(b) of the Bankruptcy Code, and (b) the DIP Lender and the Prepetition Secured Parties are entitled to a waiver of the provisions of section 506(c) of the Bankruptcy Code.

N. Priming of Prepetition Liens. The priming of the Prepetition Liens by the DIP Lender under section 364(d)(1) of the Bankruptcy Code, to the extent set forth in this Interim Order and the DIP Term Sheet (and/or the DIP Loan Documents) and as further described below, will enable the Debtors to obtain the DIP Facility and, among other benefits, continue to operate their business for the benefit of their estates and stakeholders.

O. DIP Budget. The Debtors have prepared and delivered to the Notice Parties (as defined below) an initial budget attached hereto as Schedule 1 (together with any additional line-item or other detail and supplements as may be provided pursuant to the terms of the DIP Term Sheet, the “Initial DIP Budget”). The Initial DIP Budget reflects, among other things, for the 13-week period commencing on or about the Petition Date, the Debtors’ projected operating receipts, operating disbursements, non-operating disbursements, net operating cash flow and liquidity for each one-week period covered thereby. The Initial DIP Budget may be modified, amended, extended, and updated from time to time in accordance with this Interim Order, the DIP Term Sheet and/or DIP Loan Documents, and such modified, amended, extended and/or updated budget, once approved (or deemed approved) by the Debtors and the DIP Lender, shall modify, replace, supplement or supersede, as applicable, the Initial DIP Budget for the periods covered thereby (the Initial DIP Budget and each subsequent approved budget (including any additional line-item or other detail and supplements as may be provided pursuant to the terms of this Interim Order, the DIP Term Sheet and/or DIP Loan Documents) shall constitute, without duplication, an “Approved Budget”). Each subsequent Approved Budget (as approved in accordance with the DIP Term Sheet and this Interim Order) shall be provided to the U.S. Trustee, counsel for the Sector Lenders (as defined below), and counsel to the Creditors’ Committee in summary form. The Initial DIP Budget has been reviewed by the Debtors, their management and their advisors, and the Debtors believe that the Initial DIP Budget is reasonable under the circumstances. The DIP Lender is relying, in part, upon the Debtors’ agreement to comply with the Approved Budget (subject only to permitted variances) and the terms of the Term Sheet in determining to enter into the DIP Facility and to consent to the use of Cash Collateral provided for in this Interim Order.

P. Debtors' Acknowledgments and Agreements. Without prejudice to the rights of the Creditors' Committee or other parties-in-interest as and to the extent set forth in paragraph 18 of this Interim Order, the Debtors admit, stipulate, acknowledge and agree that:

(a) Prepetition Loan Documents. Prior to the Petition Date, the applicable Debtors entered into the following loan documents and credit facilities:

- Amended and Restated Loan Agreement dated February 24, 2021 with XCAL 2019-IL-1 Mortgage Trust, as lender, pursuant to which not less than \$33,038,340 is presently outstanding.
- Amended and Restated Loan Agreement dated August 5, 2020 with Column Financial, Inc. (as successor in interest to Sector Financial Inc.), as the administrative agent and collateral agent and the other lenders party thereto (the "Sector Lenders") pursuant to which not less than \$ 64,605,074 is presently outstanding.
- Amended and Restated Loan Agreement dated August 5, 2020 with GMF Petersen Note LLC, as the lender pursuant to which not less than \$26,400,302.55 is presently outstanding.
- Credit and Security Agreement (the "eCapital Credit Agreement") dated October 4, 2023 with eCapital Healthcare Corp. ("eCapital" and such obligations of the Debtor under the eCapital Credit Agreement, the "eCapital Obligations") as the lender pursuant to which not less than \$3,833,089.27 is presently outstanding.
- HUD Facilities:
 - Multiple FHA insured loans with Berkadia Commercial Mortgage LLC as lender and the applicable Debtor party thereto with not less than \$2,936,067 in the aggregate (net of escrows) is presently outstanding.
 - Multiple FHA insured loans with Grandbridge Real Estate Capital, LLC as lender and the applicable Debtor party thereto with not less than \$7,369,000 in the aggregate (net of escrows) presently outstanding.
 - Multiple FHA insured loans with Lument Real Estate Capital, LLC as lender and the applicable Debtor party thereto with not less than \$8,267,261 in the aggregate (net of escrows) presently outstanding.

- Wells Fargo Mortgage. Debtor SJL Health Systems, Inc. is part to a loan agreement with Wells Fargo Bank, N.A. as servicer related to the Prairie Rose Health Care Facility (the “Wells Fargo Mortgage”). In the relevant default notice, it was alleged that approximately \$1,455,631 is outstanding under the Wells Fargo Mortgage.
- Solutions Bank Loan. Debtor Petersen Healthcare, Inc. is party to various loan documents in favor of Solutions Bank (the “Solutions Bank Facility”), pursuant to which Petersen Healthcare Inc. granted to Solution Bank a security interest in certain assets related to an assisted living facility located at 160 E. Walton Street, Canton, Illinois known as “Courtyard Estates of Canton.” In the relevant default notice, it was alleged that approximately \$3,408,171 is outstanding under the Solutions Bank Facility.
- Community State Bank. Debtor Petersen Health Systems, Inc. is party to various loan documents in favor of Community State Bank (the “CSB Facility”), pursuant to which Petersen Health Systems, Inc. granted to Community State Bank a security interest in certain assets related to real property located at 13516 Townline Road, Green Valley Illinois known as “Courtyard Estates of Green Valley.” As of the Petition Date, approximately \$2,494,108 is outstanding under the CSB Facility.
- Bank of Farmington. Debtor Petersen Health Systems, Inc. is party to various loan documents in favor of Bank of Farmington (the “Farmington Facility”), pursuant to which Petersen Health Systems, Inc. granted to Bank of Farmington a security interest in certain assets related to an assisted living located at 1000 E. Fort Street, Farmington, IL known as “Courtyard Estates of Farmington.” As of the Petition Date, approximately \$2,845,278 is outstanding under the Farmington Facility.
- Hickory State Bank. Debtor CYE Girard HCO, LLC is party to various loan documents in favor of Hickory Point Bank & Trust (the “Hickory Point Facility”), pursuant to which CYE Girard HCO, LLC granted to Hickory Point Bank & Trust a security interest in certain assets related to an assisted living facility located at 1016 W North St, Girard, IL known as “Courtyard Estates of Girard.” As of the Petition Date, approximately \$1,839,599 is outstanding under the Farmington Facility.
- Bank of Rantoul. Debtor Petersen Health Systems, Inc. is the borrower under a certain loan facility with Bank of Rantoul, as lender (“Rantoul Facility”) secured by a mortgage and assignment of rents pertaining to the Courtyard Estates of Herscher healthcare facility located at 100 Harvest View Lane, Herscher, IL. As of the

Petition Date, approximately \$2,352,907 in principal amount is outstanding under the Rantoul Facility.

(all of the foregoing, together with the Prepetition Credit Agreement, as all of the same have heretofore been amended, supplemented, modified, extended, renewed, restated and/or replaced at any time prior to the Petition Date, collectively, the “Prepetition Loan Documents”).

- (b) Prepetition Secured Obligations. As of the Petition Date, the Debtors were indebted to the Prepetition Secured Parties under the Prepetition Loan Documents in an aggregate outstanding principal amount of not less than \$179,103,915 plus interest accrued and accruing thereon, together with all costs, fees, expenses (including attorneys’ fees and legal expenses) and other charges accrued, accruing or chargeable with respect thereto (the “Prepetition Secured Obligations”). The Prepetition Secured Obligations constitute allowed, legal, valid, binding, enforceable and non-avoidable obligations of Debtors, and are not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law, and Debtors do not possess, shall not assert, hereby forever release, and are forever barred from bringing any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the Prepetition Secured Obligations.
- (c) Prepetition Collateral. As of the Petition Date, the Prepetition Secured Obligations were secured pursuant to the applicable Prepetition Loan Documents by valid, perfected, enforceable and non-avoidable first-priority security interests and liens (the “Prepetition Liens”) granted by the Debtors party thereto to the applicable Prepetition Secured Parties under the applicable Prepetition Loan Documents, in certain real estate of the applicable Debtors as more fully set forth in the Prepetition Loan Documents as listed on Schedule 3 of the DIP Term Sheet and in accounts receivable of the applicable Debtors (the “Prepetition Collateral”), and such security interests are perfected and have priority over all other security interests. The Debtors do not possess and will not assert any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the Prepetition Secured Party’s liens, claims or security in the Prepetition Collateral.
- (d) Proof of Claim. The acknowledgment by Debtors of the Prepetition Secured Obligations and the liens, rights, priorities and protections granted to or in favor of the Prepetition Secured Parties in respect of the Prepetition Collateral as set forth herein and in the Prepetition Loan Documents shall be deemed a timely filed proof of claim on behalf of the Prepetition Secured Parties in these Chapter 11 Cases.

- (e) No Control. Subject to Paragraph 18 of this Interim Order, the Debtors stipulate and this Court finds that in making decisions to advance loans to the Debtors, in administering any loans, in accepting the Initial DIP Budget or any future Approved Budget or in taking any other actions permitted by the Interim Order, or the DIP Loan Documents in their capacity as DIP Lender, the DIP Lender shall not be deemed to be in control of the operations of the Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors.

Q. Adequate Protection. The Prepetition Secured Parties consent, only as it relates to the Interim Advance, to the senior priming liens and security interests in favor of the DIP Lender or are otherwise 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. As part of the adequate protection provided by this Interim Order, the Prepetition Secured Parties shall receive, among other things, replacement liens, superpriority claims and reporting information and (subject to any applicable intercreditor agreement) Prepetition Secured Parties who affirmatively consent to being primed prior to the first day hearing (all such parties, the “Consenting Secured Lenders”) shall receive reimbursement of their reasonable professional fees including those of their attorneys and financial advisors to the extent provided for in an Approved Budget; *provided* that any fees, costs and expenses paid as adequate protection for the Prepetition Secured Parties shall be recharacterized as payments of principal if the Prepetition Secured Parties are later determined to be undersecured. The terms of the Adequate Protection Obligations (as defined in paragraph 13 below) are fair and reasonable, reflect the Debtors’ prudent exercise of business judgment and are sufficient to allow the Debtors’ use of the Prepetition Collateral and to permit the relief granted in this Interim Order.

R. Requisite Authority. Each Debtor has all requisite corporate or entity power and authority to execute and deliver the DIP Loan Documents to which it is a party and to perform its obligations thereunder.

S. Immediate Entry. Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(c)(2). Absent granting the relief set forth in this Interim Order, the Debtors' estates will be immediately and irreparably harmed. Consummation of the DIP Facility and the permitted use of Prepetition Collateral in accordance with this Interim Order and the DIP Term Sheet, are therefore in the best interests of the Debtors' estates and consistent with the Debtors' exercise of their fiduciary duties.

Based upon the foregoing findings and conclusions, the Motion and the record before this Court with respect to the Motion, and after due consideration and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED that:

1. DIP Facility Approval. The interim relief sought in the Motion is granted, the interim financing described herein is authorized and approved, and the Debtors' use of Cash Collateral on an interim basis is authorized, in each case subject to the terms and conditions set forth herein and in the DIP Term Sheet and/or the DIP Loan Documents. All objections to the Motion to the extent not withdrawn, waived, settled, or resolved are hereby denied and overruled on the merits; however, notwithstanding the foregoing, the objections to the Motion [D.I. 57 and 73] (collectively, the "HUD Objections") filed by Grandbridge Real Estate Capital LLC, Berkadia Commercial Mortgage LLC, and Lument Real Estate Capital, LLC (collectively, the "Objecting HUD Lenders") shall be preserved for resolution by the Court at the Final Hearing. The Debtors are authorized, pursuant to section 364 of the Bankruptcy Code, to execute, deliver, enter into and, as applicable, comply with and perform all of their obligations under the DIP Term Sheet and/or the DIP Loan Documents and such other and additional documents necessary or desired to implement the DIP Facility, and to obtain postpetition secured financing from the DIP Lender, to avoid immediate and irreparable harm to the Debtors' estates. Except as modified by this Interim Order, including, for the avoidance of doubt, paragraphs 33-36 below, all provisions of the DIP Term Sheet are incorporated herein and approved in their entirety, whether explicitly referenced or not. For the avoidance of doubt, if there are any inconsistencies between the terms of this Interim

Order and the DIP Term Sheet and/or the DIP Loan Documents, the terms of this Interim Order shall control, and all references herein to the DIP Term Sheet and/or the DIP Loan Documents shall mean as modified by this Interim Order.

2. DIP Obligations. The DIP Term Sheet (and/or the DIP Loan Documents) shall constitute and evidence the valid and binding effect of the Debtors' obligations under the DIP Facility, which DIP Obligations shall be legal, valid, and binding obligations of the Debtors and enforceable against the Debtors, their estates, any successors thereto, including, without limitation, any trustee appointed in any of the Debtors' cases, or in any case under chapter 7 of the Bankruptcy Code upon the conversion of any such cases, or in any other proceedings superseding or related to any of the foregoing, any successors thereto, and any party determined to be the beneficial owner of the DIP Collateral by this Court. The Debtors and their successors shall be jointly and severally liable for repayment of any funds advanced pursuant to the DIP Term Sheet (and/or the DIP Loan Documents) and the DIP Obligations. No obligation, payment, transfer or grant of security under the DIP Loan Documents or this Interim Order, with respect to the DIP Facility shall be stayed, restrained, voided, voidable or recoverable under the Bankruptcy Code or under any applicable non-bankruptcy law, or subject to any defense, reduction, setoff, recoupment or counterclaim.

3. Authorization to Borrow. The Debtors are hereby authorized to execute, deliver, enter into and, as applicable, comply with and perform all of their obligations, and to pay all fees, costs, expenses, indemnities, and other amounts contemplated, under the DIP Term Sheet (and/or the DIP Loan Documents) and to take such other and further acts as may be necessary, appropriate or desirable in connection therewith. Upon entry of this Interim Order, the Debtors are authorized to borrow up to aggregate amount of the Interim Advance, and the Debtors are hereby authorized to provide a guaranty of payment and performance in respect of the DIP Obligations, in each case, in accordance with the DIP Term Sheet (and/or the DIP Loan Documents), and the DIP Obligations up to the amount of the Interim Advance are hereby approved (as and when such amounts become earned, due, and payable in accordance with this Interim Order, the DIP Term Sheet (and/or the

DIP Loan Documents)) without the need to seek further Court approval. Once repaid, the Interim Advance may not be re-borrowed.

4. Use of DIP Facility Proceeds. The Debtors shall use the Interim Advance only for the express purposes specifically set forth in the DIP Term Sheet (and/or the DIP Loan Documents), the Initial DIP Budget and this Interim Order. The Debtors are authorized to use the proceeds of the Interim Advance to (a) fund the postpetition working capital needs of the Debtors during the pendency of the Chapter 11 Cases, (b) pay fees, costs, and expenses of the DIP Facility on the terms and conditions described in this Interim Order, the Interim DIP Budget and the DIP Term Sheet (and/or the DIP Loan Documents), and (c) pay the allowed administrative costs and expenses of the Chapter 11 Cases, in each case, solely in accordance with the DIP Term Sheet (and/or the DIP Loan Documents) (including, but not limited to, the DIP Budget) and this Interim Order.

5. DIP Budget and DIP Facility Reporting. Except as otherwise provided herein or approved by the DIP Lender, the proceeds from the Interim Advance shall be used only in compliance with the terms of this Interim Order, the DIP Term Sheet (and/or the DIP Loan Documents), and the Initial DIP Budget. The Debtors shall comply with the reporting requirements and obligations set forth in this Interim Order and the DIP Term Sheet (and/or the DIP Loan Documents).

6. Payment of DIP Facility Fees and Expenses.

(a) The (i) Commitment Fee (as defined in the DIP Term Sheet) and (ii) Exit Fee (as defined in the DIP Term Sheet) are each hereby approved and the Debtors are hereby authorized and directed to and shall pay such fees in accordance with, and on the terms set forth in the DIP Term Sheet (and/or the DIP Loan Documents), this Interim Order and the Initial DIP Budget. The Debtors are also hereby authorized and directed to pay upon demand, all other reasonable and documented fees, costs, expenses and other amounts payable under the terms of the DIP Term Sheet (and/or the DIP Loan Documents) and this Interim Order and all other reasonable and documented fees and out-of-pocket costs and expenses of the DIP Lender in

accordance with the terms of the DIP Term Sheet (and/or the DIP Loan Documents) and this Interim Order, including, without limitation, all reasonable and documented fees and out-of-pocket costs and expenses of Norton Rose Fulbright US LLP and Morris James LLP as counsel to the DIP Lender (the “DIP Professional Fees and Expenses”), subject to receiving a written invoice therefor. None of such fees, costs, expenses or other amounts shall be subject to further application to or approval of this Court, and shall not be subject to allowance or review by this Court or subject to the U.S. Trustee’s fee guidelines, and no attorney or advisor to the DIP Lender shall be required to file an application seeking compensation for services or reimbursement of expenses with this Court; provided, however, that copies of any such invoices shall be provided contemporaneously to the U.S. Trustee, counsel to the Consenting Secured Parties and counsel to any Creditors Committee; if any (together with the Debtors, the “Review Parties”), provided further, however, that such invoices may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of such invoices shall not constitute a waiver of the attorney-client privilege or any benefits of the attorney work product doctrine. Any objections raised by any Review Party with respect to such invoices must be in writing and state with particularity the grounds therefor and must be submitted to the affected professional within ten (10) calendar days after delivery of such invoices to the Review Parties (such ten (10) day calendar period, the “Review Period”). If no written objection is received prior to the expiration of the Review Period from the Review Parties, the Debtors shall pay such invoices within five (5) business days following the expiration of the Review Period. If an objection is received within the Review Period, the Debtors shall promptly pay the undisputed amount of the invoice within five (5) business days, and the disputed portion of such invoice shall not be paid until such dispute is resolved by agreement between the affected professional and the objecting party or by order of this Court. Any hearing to consider such an objection to the payment of any fees, costs or expenses set forth in a professional fee invoice hereunder shall be limited to the reasonableness of the fees, costs and expenses that are the subject of such objection. All such unpaid fees, costs, expenses

and other amounts owed or payable to the DIP Lender shall be secured by the DIP Collateral and afforded all of the priorities and protections afforded to the DIP Obligations under the DIP Term Sheet (and/or the DIP Loan Documents) and this Interim Order.

(b) Notwithstanding anything to the contrary, the Debtors are authorized and directed to pay the following: upon the Interim Advance, the Debtors shall pay in full in cash all unpaid DIP Professional Fees and Expenses arising through and including the Interim Advance, without the need for any professional engaged by or on behalf of the DIP Lender to first deliver a copy of its invoice to any of the Review Parties (other than Debtors).

(c) Notwithstanding anything contained in this Interim Order to the contrary, any and all payments, premiums, fees, costs, expenses, and other amounts paid at any time by any of the Debtors to the DIP Lender pursuant to the requirements of this Interim Order or the DIP Term Sheet (and/or the DIP Loan Documents) shall be non-refundable and irrevocable, are hereby approved, and shall not be subject to any challenge, objection, defense, claim or cause of action of any kind or nature whatsoever, including, without limitation, avoidance (whether under chapter 5 of the Bankruptcy Code or under applicable law (including any applicable state law Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law)), reduction, setoff, offset, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), reclassification, disgorgement, disallowance, impairment, marshaling, surcharge, or recovery or any other cause of action, whether arising under the Bankruptcy Code, applicable non- bankruptcy law or otherwise, by any person or entity (subject, solely in the case of the DIP Professional Fees and Expenses, to paragraph 6(a) of this Interim Order).

7. Cash Management. Until such time as all DIP Obligations are Paid in Full, the Debtors shall maintain the cash management system in accordance with the applicable “first day” order and such deposit accounts shall, upon the request of the DIP Lender, be subject to a control agreement in favor of the DIP Lender as required by the DIP Term Sheet (excluding for the avoidance of doubt, the Carve Out Account, and subject to any mandatory prepayment obligations

owed to the DIP Lender, any account into which proceeds of any asset sales are escrowed and any account into which a government payor deposits accounts receivable).

8. Indemnification. The Debtors are hereby authorized to and hereby agree to indemnify and hold harmless the DIP Lender and its affiliates, directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing the DIP Lender (collectively, an “Indemnified Party”) from and against: (a) all obligations, demands, claims, damages, losses and liabilities (including, without limitation, reasonable fees and disbursements of counsel) (collectively, “Indemnity Claims”) as set forth in the DIP Term Sheet (and/or the DIP Loan Documents) including those asserted by any other party in connection with the transactions contemplated by the DIP Term Sheet (and/or the DIP Loan Documents); and (b) all losses or expenses incurred, or paid by the DIP Lender from, following, or arising from the transactions contemplated by the DIP Term Sheet (and/or the DIP Loan Documents), including reasonable and documented attorneys’ fees and expenses, except for Indemnity Claims and/or losses directly caused by the DIP Lender’s fraud, gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any of the Debtors or any of their respective directors, security holders or creditors, an Indemnified Party, or if any other Person or Indemnified Party is otherwise a party thereto, and whether or not the transactions contemplated hereby are consummated. No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any Debtor or any of its subsidiaries or any shareholders or creditors of the foregoing for or in connection with the transactions contemplated hereby, except to the extent such liability is determined by a court of competent jurisdiction in a final non-appealable judgment or order to have resulted solely from such Indemnified Party’s gross negligence, willful misconduct or material breach of the DIP Term Sheet (and/or the DIP Loan Documents). All indemnities of the Indemnified Parties shall constitute DIP Obligations secured by the DIP Collateral and afforded all of the priorities and

protections afforded to the DIP Obligations under the DIP Term Sheet (and/or the DIP Loan Documents) and this Interim Order.

9. DIP Superpriority Claims. In accordance with section 364(c)(1) of the Bankruptcy Code, the DIP Obligations shall constitute allowed senior administrative expense claims against each Debtor and their estates (the “DIP Superpriority Claims”) with priority in payment over any and all administrative expenses at any time existing or arising, of any kind or nature whatsoever, including, without limitation, the kinds specified or ordered pursuant to any provision of the Bankruptcy Code, including, but not limited to, sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 and 1114 of the Bankruptcy Code or otherwise, including those resulting from the conversion of any of the Chapter 11 Cases pursuant to section 1112 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment; provided, however, that the DIP Superpriority Claims shall be subject to and subordinate to only the Carve Out and the eCapital Obligations until such time as the eCapital Obligations are paid in full in cash; provided, further that the DIP Superpriority Claims shall have recourse to and be payable from all prepetition and postpetition property and assets of the Debtors and the estates and all DIP Collateral and all proceeds thereof, and (a) any and all avoidance power claims or causes of action under sections 544, 545, 547, 548 through 551 and 553(b) of the Bankruptcy Code (the “Avoidance Actions”), (b) the proceeds thereof (the “Avoidance Action Proceeds”), and (c) prepetition tort claims, including claims against the Debtors’ current and former directors and officers (if any) and the proceeds thereof. The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

10. DIP Liens.

(a) Effective immediately and automatically as of the entry of this Interim Order, as security for the DIP Obligations, the DIP Lender is granted continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected priming first lien security

interests in and liens (collectively, the “DIP Liens”) on the DIP Collateral as collateral security for the prompt and complete performance and payment when due (whether at the Maturity Date (as defined in the DIP Term Sheet), by acceleration, or otherwise) of the DIP Obligations under the terms of the DIP Term Sheet (and/or the DIP Loan Documents) and this Interim Order. The term “DIP Collateral” means collectively all of the Debtors’ right, title and interest in, to and under all of the Debtors’ assets, including, but not limited to the following, in each case, whether now owned or existing or hereafter acquired, created or arising and wherever located: all assets and property of such Debtor and its estate, real or personal, tangible or intangible, now owned or hereafter acquired, whether arising before or after the Petition Date, including, without limitation, all fee-owned real properties listed on Schedule 3 of the DIP Term Sheet, contracts, contract rights, licenses, general intangibles, instruments, equipment, accounts, documents, goods, inventory, fixtures, documents, cash, cash equivalents, accounts receivables, chattel paper, letters of credit and letter of credit rights, investment property (including, without limitation, all equity interests owned by any Loan Party in its current and future subsidiaries), commercial tort claims, arbitration awards, money, insurance, receivables, receivables records, deposit accounts, collateral support, supporting obligations and instruments, fixtures, all interests in leaseholds and real properties, all patents, copyrights, trademarks, all trade names and other intellectual property (whether such intellectual property is registered in the United States or in any foreign jurisdiction), together with all books and records relating to the foregoing, all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing (as such terms are defined in the Uniform Commercial Code as in effect from time to time in the State of New York) and, subject to the entry of a Final Order, (i) proceeds of actions brought under section 549 of the Bankruptcy Code to recover any postpetition transfer of DIP Collateral and (ii) the Avoidance Action Proceeds.

(b) To the fullest extent permitted by the Bankruptcy Code or applicable law, and except as otherwise set forth herein, any provision of any lease other than a real property lease, loan document, easement, use agreement, proffer, covenant, license, contract, organizational document, or other instrument or agreement that requires the consent or the payment of any fees

or obligations to any entity in order for any of the Debtors to pledge, grant, mortgage, sell, assign, or otherwise transfer any fee or leasehold interest or the proceeds thereof or other DIP Collateral, shall have no force or effect with respect to the DIP Liens on such leasehold interests or other applicable DIP Collateral or the proceeds of any assignment and/or sale thereof by any Debtor, in favor of the DIP Lender in accordance with the terms of the DIP Term Sheet (and/or the DIP Loan Documents) or this Interim Order.

11. Priority of DIP Liens.

(a) To secure the DIP Obligations, immediately and automatically upon and effective as of entry of this Interim Order, the DIP Liens granted to the DIP Lender on an interim basis under this Interim Order are continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected first priority priming DIP Liens in the DIP Collateral as follows, in each case subject to the Carve Out, the eCapital Obligations until such time as the eCapital Obligations are paid in full in cash, and the Permitted Prior Liens:

(i) *Liens Priming the Prepetition Liens.* Contemporaneously with the payment in full in cash of the eCapital Obligations, pursuant to section 364(d)(1) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected priming first priority senior liens and security interests in the DIP Collateral, regardless of where located, which senior priming liens and security interests in favor of the DIP Lender shall be senior to the Prepetition Liens. For the avoidance of doubt, as a result of the priming of the Prepetition Liens pursuant to this Interim Order, the DIP Lender shall have a first priority senior priming lien and security interest in, among other things, (A) all of the assets of Debtors (and any entities that become debtors in these Chapter 11 Cases in the future), including, but not limited to, the “Collateral” as defined in any of the Prepetition Loan Documents, and (B) the Debtors’ prepetition and postpetition commercial tort claims, including but not limited to all claims and causes of action (i) against the Debtors’ officers and directors, and (ii) all other prepetition tort claims, and the proceeds thereof (regardless of whether such proceeds arise from damages to the Prepetition Collateral);

(ii) *Liens on Unencumbered Property.* Pursuant to section 364(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected first priority liens on and security interests in all DIP Collateral that is not otherwise subject to any valid, enforceable, and non-avoidable liens on and security interests in the DIP Collateral that (A) were perfected prior to the Petition Date (or perfected on or after the Petition Date to the

extent permitted by Section 546(b) of the Bankruptcy Code), (B) are not subject to avoidance, disallowance, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law, and (C) is a Permitted Prior Lien; provided, however, that the DIP Liens shall have priority over all Prepetition 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)) encumbered by the Permitted Prior Liens.

(b) Except as expressly set forth herein, 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 (collectively, the “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 Cases and/or upon the dismissal or conversion of any of the Chapter 11 Cases or any Successor Cases, (2) any lien that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or otherwise, (3) any intercompany or affiliate lien or claim, and (4) any liens arising after the Petition Date excluding any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, or board for any liability of the Debtors.

(c) Notwithstanding anything herein or in the Term Sheet to the contrary, the priming liens granted pursuant to section 364(d)(1) of the Bankruptcy Code in this Interim Order shall not apply to encumber the real property and any improvements thereon, including any funds in escrow or reserves relating to such real property, and such other property of the relevant Debtors as is required by the National Housing Act or HUD regulations to be subject to the senior liens of the HUD lender, subject to HUD insured mortgage loans owned by the following Debtors: Petersen Health Care – Illini, LLC; Petersen Roseville, LLC; Petersen 23 LLC; Petersen 26 LLC; Petersen 27 LLC; Petersen 29 LLC Petersen 30 LLC; South Elgin, LLC; Jonesboro, LLC; Macomb, LLC ; Petersen Roseville, LLC; Heritage Nursing Center, LLC; and SJL Health Systems, Inc. The rights of the Debtor to seek to have these properties included in the priming liens granted

pursuant to section 364(d)(1) of the Bankruptcy Code pursuant to the Final Order are preserved, as are the rights of the applicable lenders and the United States to object to such relief.

12. Use of Cash Collateral. The Debtors are authorized to use Cash Collateral to fund the postpetition working capital needs of the Debtors during the pendency of the Chapter 11 Cases that are not funded with the DIP Loans and to pay the allowed administrative costs and expenses of the Chapter 11 Cases not funded by the DIP Loans, each solely in accordance with the DIP Term Sheet, the Initial DIP Budget and this Interim DIP Order, provided that the Debtors' performance against the DIP Budget shall be subject to variance permitted in the DIP Term Sheet. The Initial DIP Budget is attached to this Interim Order. Each proposed DIP Budget shall only become an Approved DIP Budget for the use of Cash Collateral and DIP Obligations as set forth in this Interim Order and the Term Sheet when it is agreed upon by the Debtors and DIP Lender. The Debtors' use of Cash Collateral shall automatically terminate upon the occurrence of an Event of Default (as defined below).

13. Adequate Protection of Prepetition Secured Parties. The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363(c)(2), 363(e) and 507 of the Bankruptcy Code, to adequate protection of their interests in all the Prepetition Collateral, in an amount equal to the aggregate diminution in value of the Prepetition Secured Parties' interests in the Prepetition Collateral from and after the Petition Date, if any, for any reasons provided under the Bankruptcy Code. In consideration for the foregoing, the Prepetition Secured Parties, are hereby granted the following in the amount of such diminution (collectively, the "Adequate Protection Obligations"):

(a) *Adequate Protection Liens.* The Prepetition Secured Parties are hereby granted (effective and perfected upon the date of this Interim Order and without the necessity of any mortgages, security agreements, pledge agreements, financing statement or other agreements), in the amount equal to the aggregate diminution in value of the interests in the Prepetition Collateral from and after the Petition Date, if any, for any reasons provided under the Bankruptcy Code (the "Adequate Protection Claim"), a valid, perfected replacement security interest in and lien on all of the assets of Debtors (and any entities that become debtors in these Chapter 11 Cases

in the future), including, but not limited to, the “Collateral” as defined in any of the Prepetition Loan Documents, the Prepetition Collateral (the “Adequate Protection Collateral”), subordinate only to (i) the DIP Liens, (ii) the Permitted Prior Liens, (iii) the eCapital Obligations until such time as the eCapital Obligations are paid in full in cash, and (iv) the Carve Out (the “Adequate Protection Liens”). Notwithstanding the foregoing, the Prepetition Secured Parties’ right to seek and receive additional adequate protection under any subsequent orders entered by this Court, including monthly cash payments, is hereby reserved and nothing herein shall be deemed a waiver of such rights.

(b) *507(b) Claims.* The Prepetition Secured Parties are hereby granted, an allowed superpriority administrative expense claim as provided in section 507(b) of the Bankruptcy Code in the amount of the Adequate Protection Claim with, except as set forth in this Interim Order, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the “507(b) Claims”); which 507(b) Claims shall have recourse to and be payable from the Adequate Protection Collateral. The 507(b) Claims shall, in all instances, be subject and subordinate only to (i) the Carve Out, (ii) the eCapital Obligations, until such time as the eCapital Obligations are paid in full in cash, and (iii) the DIP Superpriority Claims. The Prepetition Secured Parties shall not receive or retain any payments, property or other amounts in respect of the 507(b) Claims unless and until the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated; provided that for the avoidance of doubt, nothing in this paragraph 13(b) shall limit the ability of Consenting Secured Parties to receive payment of professional fees to the extent allowed under this Interim Order and an Approved Budget.

14. DIP Termination Event; Exercise of Remedies.

(a) DIP Termination Events. An “Event of Default” shall exist upon the occurrence of any of the events listed in Section 25 of the DIP Term Sheet that triggers the DIP Termination Date (as defined in the DIP Term Sheet).

(b) Exercise of Remedies. Upon the occurrence of a DIP Termination Event, without further notice to, hearing of, application to, or order from this Court, the automatic stay provisions of section 362 of the Bankruptcy Code shall be vacated and modified to the extent necessary to permit the DIP Lender to take any of the following actions, at the same or different time: (i) deliver a written notice (which may be via electronic mail) to counsel for the Debtors, the U.S. Trustee, and counsel for the Creditors Committee, if any, (the “Remedies Notice”) declaring the occurrence of a DIP Termination Event (such date, the “DIP Termination Declaration Date”) and/or deliver a Carve Out Trigger Notice (as defined and in the manner described below), (ii) declare the termination, reduction or restriction of the commitments under the DIP Facility (to the extent any such commitment remains), (iii) declare all DIP Obligations to be immediately due and payable, without presentment, demand or protest or other notice of any kind, all of which are expressly waived by the Debtors, (iv) declare the termination, restriction or reduction of the DIP Facility and the Term Sheet (and/or the DIP Loan Documents) as to any further liability or obligation thereunder, but without affecting the DIP Liens, the DIP Superpriority Claims, or the DIP Obligations, (v) charge default interest at the default rate set forth in the DIP Term Sheet, and (vi) declare the termination, restriction, or revocation of the ability of the Debtors to use Cash Collateral.

(c) Waiting Period Procedures. The Debtors may seek an emergency hearing during the period beginning on the DIP Termination Date and prior to the expiration of the five (5) days following the DIP Termination Date (such period, the “Waiting Period”). During the Waiting Period, the Debtors shall continue to have the right to use DIP Collateral (including Cash Collateral) in accordance with the terms of this Interim Order, solely to pay any expenses which are necessary to (a) preserve the Debtors’ going-concern value or (b) contest in good faith the occurrence of the Maturity Date or Event of Default; provided, however, that the professional fees and expenses of the Professional Persons (as defined below) shall be governed by Paragraph 16 and subject to the Approved Budget. The DIP Lender shall not (x) object to any motion filed by

the Debtors during the Waiting Period seeking an expedited hearing with respect to the Remedies Notice or (y) seek to reduce such Waiting Period.

(d) Rights and Remedies Following Termination Date. Following a DIP Termination Date and unless this Court has entered an order prior to the expiration of the Waiting Period finding that an Event of Default has not occurred, the DIP Lender shall be entitled to exercise all rights and remedies in accordance with the DIP Term Sheet (and/or the DIP Loan Documents), this Interim Order, and applicable law and the automatic stay of section 362 of the Bankruptcy Code shall automatically, without further order, be lifted, to allow the DIP Lender to pursue all rights and remedies in accordance with the Term Sheet (and/or the DIP Loan Documents), this Interim Order, and applicable law.

(e) Leased Premises. Following a DIP Termination Event (subject to the terms of paragraph 14 herein), the DIP Lender shall be entitled to enter upon any leased premises in accordance with (i) a separate agreement with the landlord by and between the DIP Lender and the applicable landlord, (ii) consent of the landlord, (iii) upon entry of an order of this Court, upon notice to the landlord and a hearing, or (iv) in accordance with the rights of the DIP Lender under applicable non-bankruptcy law.

15. No Waiver by Failure to Seek Relief. The rights and remedies of the DIP Lender specified herein are cumulative and not exclusive of any rights or remedies that the DIP Lender may have under this Interim Order, the DIP Term Sheet (and/or the DIP Loan Documents), applicable law, or otherwise. The failure or delay on the part of the DIP Lender to seek relief or otherwise exercise its rights and remedies under this Interim Order, the DIP Term Sheet (and/or the DIP Loan Documents), or applicable law, as the case may be, shall not constitute a waiver of any of its respective rights hereunder, thereunder, or otherwise. Except as expressly set forth herein, none of the rights or remedies of the DIP Lender under this Interim Order or the DIP Term Sheet (and/or the DIP Loan Documents) shall be deemed to have been amended, modified, suspended, or waived unless such amendment, modification, suspension, or waiver is express, in

writing and signed by the DIP Lender. No consents required hereunder by the DIP Lender shall be implied by any inaction or acquiescence by the DIP Lender.

16. Carve Out.

(a) Priority of Carve Out. The DIP Liens and the DIP Superpriority Claims shall be subject and subordinate to payment of the Carve Out. The Carve Out shall be senior to all claims and liens over all assets of the Debtors, including any DIP Collateral, as set forth in this Interim Order.

(b) *Carve Out.* The term “Carve Out” shall mean the sum of (i) all fees required to be paid to the Clerk of this Court and to the U.S. Trustee under 28 U.S.C. § 1930(a), together with any interest thereon pursuant to 31 U.S.C. § 3717 (“Statutory Fees”), which shall not be subject to the Approved Budget; (ii) Court-allowed fees and expenses of a trustee appointed under section 726(b) of the Bankruptcy Code in an amount not to exceed \$25,000, (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”), or any Committee(s), if any, pursuant to sections 328 or 1103 of the Bankruptcy Code (the “Committee Professionals,” together with the Debtor Professionals, the “Professional Persons”), at any time before or on the first business day following delivery by the DIP Lender of a Carve Out Trigger Notice (as defined below), whether allowed by this Court prior to or after delivery of a Carve Out Trigger Notice (the “Pre-Trigger Date Fees”), subject to and not to exceed the Approved Budget and any limits by this Interim Order, provided that Professional Persons may carry forward budgeted but unused disbursements set forth in the Approved Budget for any week for use in any subsequent week; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$500,000 incurred after the first calendar day following delivery by the DIP Lender of the Carve Out Trigger Notice (the “Trigger Date”), to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve Out Trigger Notice Cap” and together with the Pre-Trigger Date Fees, the

“Carve Out Cap”); provided, however, that nothing herein shall be construed to impair the ability of the DIP Lender to object to the fees, expenses, reimbursement, or compensation described in clauses (iii) or (iv) above, on any grounds.

(c) For purposes of the foregoing, “Carve Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the DIP Lender or its counsel to the Debtors, their counsel, the U.S. Trustee, counsel to Consenting Secured Parties and counsel to any Committee, which notice may be delivered only following the occurrence and during the continuation of an Event of Default and acceleration of the DIP Loans, stating that the Post-Carve Out Trigger Notice Cap has been invoked. On the day on which a Carve Out Trigger Notice is received by the Debtors, the Carve Out Trigger Notice shall constitute a demand to the Debtors to transfer cash to the Carve Out Account in an amount equal to the Carve Out Cap.

(d) Carve Out Account. Immediately upon the delivery of a Carve Out Trigger Notice, and prior to the payment of any DIP Obligations, the Debtors shall be required to deposit cash in the amount of the Carve Out Cap into a segregated account not subject to the control of the DIP Lender (the “Carve Out Account”). The amounts in the Carve Out Account shall be available only to satisfy amounts included in the Carve Out until such amounts are paid in full. The amount in the Carve Out Account shall be reduced on a dollar-for-dollar basis for amounts included in the Carve Out that are paid after the delivery of the Carve Out Trigger Notice, and the Carve Out Account shall not be replenished for such amounts so paid. The failure of the Carve Out Account to satisfy in full the amount set forth in the Carve Out shall not affect the priority of the Carve Out.

(e) Carve Out Draw. Subject to exhaustion of the DIP Commitments, the Debtors shall be permitted to draw on the DIP Facility in the amount of the Carve Out less the amounts contained in the Carve Out Account, notwithstanding any default, Event of Default, or the occurrence of a Trigger Date; provided, however, the DIP Lender shall not have any obligation to fund any Carve Out shortfall beyond what it is obligated to fund under the DIP Commitments. Any Carve Out Trigger Notice shall be deemed a consent by the DIP Lender to the Debtors

depositing Cash Collateral or proceeds of the DIP Facility into the Carve Out Account in an amount equal to the sum of the Carve Out Cap.

(f) Payment of Allowed Professional Fees Prior to the Trigger Date. Any payment or reimbursement made prior to the occurrence of the Trigger Date in respect of any Allowed Professional Fees shall not reduce the Carve Out.

(g) No Direct Obligation to Pay Professional Fees; No Waiver of Right to Object to Fees. The DIP Lender shall not be responsible for the direct payment or reimbursement of any fees or disbursements of any of the Professional Persons incurred in connection with the Chapter 11 Cases or any Successor Cases under any chapter of the Bankruptcy Code. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Lender in any way to pay compensation to, or to reimburse expenses of, any of the Professional Persons, or to guarantee that the Debtors or their estates has sufficient funds to pay such compensation or reimbursement. Notwithstanding any provision in this paragraph to the contrary, no portion of the Carve Out, any Cash Collateral, any DIP Collateral or any proceeds of the DIP Facility (including any disbursements set forth in the Approved Budget or obligations benefitting from the Carve Out) shall be utilized for the payment of professional fees and disbursements to the extent restricted under paragraph 16 herein. Nothing herein shall be construed as consent to the allowance of any fees and/or expenses of any Professional Persons in the Chapter 11 Cases or any Successor Cases, or of any other person or entity, or shall affect the right of the Debtors, the DIP Lender, the Prepetition Secured Parties or any other party in interest to object to the allowance and/or payment of any such fees and expenses or amounts incurred or requested.

17. Limitations on Use of DIP Proceeds, Cash Collateral and Carve Out. The DIP Facility, DIP Collateral, Prepetition Collateral, Adequate Protection Collateral, Cash Collateral and Carve Out may not be used in connection with: (a) preventing, hindering, or delaying any of the DIP Lender's enforcement or realization upon any of the DIP Collateral or Adequate Protection Collateral; (b) using or seeking to use Cash Collateral without the permission of the DIP Lender or selling or otherwise disposing of DIP Collateral without the consent of the DIP Lender or as

permitted by the Term Sheet (and/or the DIP Loan Documents); (c) after payment in full of the DIP Obligations, selling or otherwise disposing of Adequate Protection Collateral without the consent of the Prepetition Secured Parties; (d) using or seeking to use any insurance proceeds constituting DIP Collateral without the consent of the DIP Lender; (e) seeking to amend or modify any of the rights granted to the DIP Lender or the Prepetition Secured Parties under this Interim Order, the Term Sheet (and/or the DIP Loan Documents), or the Prepetition Loan Documents, including seeking to use Cash Collateral, Adequate Protection Collateral and/or DIP Collateral on a contested basis; (f) litigating, objecting to, challenging or contesting in any manner in any way the DIP Liens, DIP Obligations, DIP Superpriority Claims, DIP Collateral (including Cash Collateral) or, as the case may be, Prepetition Collateral, the Adequate Protection Obligations, the Adequate Protection Claims, the 507(b) Claims, the Adequate Protection Collateral, the Adequate Protection Liens or any other claims, held by or on behalf of any of the DIP Lender or the Prepetition Secured Parties, respectively; (g) asserting, commencing or prosecuting any claims or causes of action whatsoever, including, without limitation, Avoidance Actions or applicable state law equivalents or actions to recover or disgorge payments, against the DIP Lender or any of its respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees; (h) litigating, objecting to, challenging, or contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the DIP Obligations, the DIP Liens, the Prepetition Liens, the Adequate Protection Liens or any other liens or interests of any of the DIP Lender or the Prepetition Secured Parties; or (i) seeking to subordinate, recharacterize, disallow or avoid the DIP Obligations, or the Adequate Protection Obligations; provided, however, that the Carve Out and such collateral proceeds and loans under the DIP Loan Documents may be used for allowed fees and expenses, in an amount not to exceed \$25,000 in the aggregate (the "Investigation Budget Amount"), incurred solely by a Committee, in investigating (but not prosecuting or challenging) the validity, enforceability, perfection, priority or extent of the Prepetition Liens within thirty (30) calendar days following appointment of the Creditors Committee. Notwithstanding anything to the contrary, any fees, expenses or costs incurred by the

Creditors Committee or its professionals in excess of the Investigation Budget Amount or in excess of the amount budgeted for Committee's Case Professionals set forth in the DIP Budget shall not constitute an allowable administrative expense claim, including for purposes of section 1129(a)(9)(A) of the Bankruptcy Code.

18. Effect of Stipulation on Third Parties.

(a) *Generally.* The admissions, stipulations, agreements, releases, and waivers set forth in this Interim Order (collectively, the "Prepetition Lien and Claim Matters") are and shall be binding on the Debtors, any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties-in-interest and all of their successors in interest and assigns, including, without limitation, the Committee, unless, and solely to the extent that a part- in-interest that has sought and obtained standing and the requisite authority to commence a Challenge (as defined below) (other than the Debtors, as to which any Challenge is irrevocably waived and relinquished): (i) has timely filed the appropriate pleadings, and timely commenced the appropriate proceeding required under the Bankruptcy Code and Bankruptcy Rules, including, without limitation, as required pursuant to Part VII of the Bankruptcy Rules (in each case subject to the limitations set forth in this paragraph 15 of this Interim Order) challenging the Prepetition Lien and Claim Matters, but in no event the DIP Liens or the Adequate Protection Liens, as set forth in paragraph 23 of this Interim Order (each such proceeding or appropriate pleading commencing a proceeding or other contested matter, a "Challenge"), by no later than seventy-five (75) days following the entry of this Interim Order for any party-in-interest with requisite standing (each the "Challenge Deadline"), as such applicable date may be extended in writing from time to time in the sole discretion of the Prepetition Secured Parties, or by this Court for good cause shown pursuant to an application filed by a party in interest prior to the expiration of the Challenge Deadline, and (ii) this Court enters judgment in favor of the plaintiff or movant in any such timely and properly commenced Challenge proceeding and any such judgment has become a final judgment that is not subject to any further review or appeal. If these Chapter 11 Cases convert to cases under chapter 7, or if a chapter 11 trustee is appointed prior to the Challenge

Deadline, the Challenge Deadline shall be extended for any such chapter 7 or chapter 11 trustee to 14 days after their appointment.

(b) *Binding Effect.* To the extent no Challenge is timely and properly commenced by the Challenge Deadline, or to the extent such proceeding does not result in a final and non-appealable judgment or order of this Court that is inconsistent with the Prepetition Lien and Claim Matters, then, without further notice, motion, or application to, order of, or hearing before, this Court and without the need or requirement to file any proof of claim, the Prepetition Lien and Claim Matters shall, pursuant to this Interim Order, become binding, conclusive, and final on any person, entity, or party-in-interest in the Chapter 11 Cases, and their successors and assigns, and in any Successor Case for all purposes and shall not be subject to challenge or objection by any party-in-interest, including, without limitation, a trustee, responsible individual, examiner with expanded powers, or other representative of the Debtors' estates. Notwithstanding anything to the contrary herein, if any such proceeding is properly and timely commenced, the Prepetition Lien and Claim Matters shall nonetheless remain binding on all other parties-in-interest and preclusive as provided in subparagraph (a) above except to the extent that any of such Prepetition Lien and Claim Matters is expressly the subject of a timely and properly filed Challenge, which Challenge is successful as set forth in a final judgment as provided in subparagraph (a) above, and only as to plaintiffs or movants that have complied with the terms hereof. To the extent any such Challenge proceeding is timely and properly commenced, the Prepetition Secured Parties shall be entitled to payment of the reasonable related costs and expenses, including, but not limited to reasonable attorneys' fees, incurred under the Prepetition Loan Documents in defending themselves in any such proceeding as adequate protection. Upon a successful Challenge brought pursuant to this paragraph 18, this Court may fashion any appropriate remedy.

19. Bankruptcy Code Sections 506(c) and 552(b) Waivers. Subject to entry of the Final Order, without limiting the Carve Out, the Debtors irrevocably waive and shall be prohibited from asserting (i) any surcharge claim, under section 506(c) of the Bankruptcy Code or otherwise, for

any costs and expenses incurred in connection with the preservation, protection or enhancement of, or realization by the DIP Lender upon the DIP Collateral and no costs or expenses of administration that have been or may be incurred in any of the Chapter 11 Cases at any time shall be charged against the DIP Lender or its respective claims or liens (including any claims or liens granted pursuant to this Interim Order), and (ii) the “equities of the case” exception under section 552(b) of the Bankruptcy Code in connection with the DIP Facility and the use of Cash Collateral.

20. Application of Proceeds. Subject to entry of the Final Order, in no event shall the DIP Lender, with respect to the DIP Collateral, or the Prepetition Secured Parties, with respect to the Adequate Protection Collateral, be subject to the equitable doctrine of “marshaling” or any other similar doctrine, and all proceeds of such DIP Collateral and Adequate Protection Collateral shall be received and used in accordance with this Interim Order.

21. Disposition of Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, other than in the ordinary course of business or in connection with the payments contemplated under this Interim Order, without the prior written consent of the DIP Lender (and no such consent shall be implied from any other action, inaction or acquiescence by the DIP Lender or from any order of this Court). 100% of any net cash proceeds of any sale of DIP Collateral outside of the ordinary course of business shall, subject to the satisfaction of the Carve Out and the lien priorities outlined in paragraph 11 herein and subject to paragraphs 33-36, be used to immediately satisfy the DIP Obligations. Following payment in full of the DIP Obligations, the Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the Adequate Protection Collateral, other than in the ordinary course of business or in connection with the payments contemplated under this Interim Order, without the prior written consent of the Prepetition Secured Parties (and no such consent shall be implied from any other action, inaction or acquiescence by the Prepetition Secured Parties or from any order of this Court). Notwithstanding anything otherwise provided herein, following payment in full of the DIP Obligations, 100% of any net cash proceeds of any sale of Adequate Protection Collateral outside of the ordinary course of business shall, subject to the satisfaction of the Carve

Out and the lien priorities outlined in paragraph 11 herein, be used to immediately satisfy the Adequate Protection Obligations and next to satisfy the Prepetition Secured Obligations.

22. Restrictions on Granting Postpetition Liens. Other than the Carve Out or as otherwise provided in this Interim Order, the DIP Term Sheet, or the DIP Loan Documents, no claim or lien having a priority superior or *pari passu* with those granted by this Interim Order to the DIP Lender shall be granted or permitted by any order of this Court in the Chapter 11 Cases heretofore or hereafter, and the Debtors will not grant any such mortgages, security interests or liens in the DIP Collateral (or any portion thereof) or the Adequate Protection Collateral (or any portion thereof) or to any other parties pursuant to section 364(d) of the Bankruptcy Code or otherwise, while (i) any portion of the DIP Facility, any DIP Loans or any other DIP Obligations, are outstanding, or (ii) the DIP Lender has any Commitment under the DIP Loan Documents. For avoidance of doubt, there shall be no restriction and this paragraph shall not apply to and excludes any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Debtors.

23. Automatic Effectiveness of Liens. The DIP Liens and the Adequate Protection Liens shall not be subject to a Challenge and shall attach and become valid, perfected, binding, enforceable, non-avoidable and effective by operation of law as of the date of the entry of this Interim Order, automatically, without any further action by the Debtors, the DIP Lender or the Prepetition Secured Parties, respectively, and without the necessity of execution by the Debtors or the filing or recordation, of any financing statements, security agreements, deposit control agreements, vehicle lien applications, mortgages, filings with a governmental unit, or other documents or the taking of any other actions. All DIP Collateral shall be free and clear of other liens, claims and encumbrances, except as provided in the Term Sheet (and/or the DIP Loan Documents), and this Interim Order. All Adequate Protection Collateral shall be free and clear of other liens, claims and encumbrances, except as provided in this Interim Order. If the DIP Lender hereafter requests that the Debtors execute and deliver to such party financing statements, security agreements, pledge agreements, control agreements, collateral assignments, mortgages, or other

instruments and documents considered by the DIP Lender to be reasonably necessary or desirable to further evidence the perfection of the DIP Liens or the Adequate Protection Liens, as applicable, the Debtors are hereby authorized and directed to execute and deliver such financing statements, security agreements, pledge agreements, control agreements, mortgages, collateral assignments, instruments, and documents, and the DIP Lender is hereby authorized to file or record such documents in its discretion without seeking modification of the automatic stay under section 362 of the Bankruptcy Code, in which event all such documents shall be deemed to have been filed or recorded at the time and on the date of the entry of this Interim Order; provided, however, no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens or the Adequate Protection Liens. The DIP Lender, in its sole discretion, may file a photocopy of this Interim Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to, or in lieu of, such financing statements, notices of liens or similar statements.⁴

24. Protection Under Section 364(e) of the Bankruptcy Code. The DIP Lender has acted in good faith in connection with this Interim Order and its reliance on this Interim Order is in good faith. For the avoidance of doubt, the DIP Lender is entitled to all the protections of section 364(e) of the Bankruptcy Code.

25. Reservation of Rights of the DIP Lender and the Prepetition Secured Parties. Notwithstanding any other provision of this Interim Order to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair: (i) any of the rights of the DIP Lender or the Prepetition Secured Parties under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right of any of such parties to (a) request modification of the automatic stay of section 362 of the Bankruptcy Code, (b) request dismissal of any of these Chapter 11 Cases, conversion of any of these Chapter 11 Cases to cases under chapter 7, or appointment of a chapter 11 trustee or examiner with

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

expanded powers in any of these Chapter 11 Cases, (c) seek to propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans; or (ii) any other rights, claims, or privileges (whether legal or equitable or otherwise) of the DIP Lender or the Prepetition Secured Parties. The delay in or failure of the DIP Lender or the Prepetition Secured Parties to seek relief or otherwise exercise their respective rights and remedies shall not constitute a waiver of any of the DIP Lender's or the Prepetition Secured Parties' rights and remedies.

26. Modification of Stay. Subject to the terms set forth herein, the automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms, rights, benefits, privileges, remedies and provisions of this Interim Order and the DIP Term Sheet (and/or the DIP Loan Documents), including without limitation, to permit the DIP Lender to exercise all rights and remedies provided for in the DIP Term Sheet (and/or the DIP Loan Documents) and this Interim Order and to take any and all actions provided therein, in each case, without further notice, application to, order of or hearing before this Court, including those set forth in paragraph 24 of this Interim Order.

27. Survival of DIP Liens, DIP Superpriority Claims, Adequate Protection Liens, Adequate Protection Obligations and Other Rights. If, in accordance with section 364(e) of the Bankruptcy Code, this Interim Order does not become a final non-appealable order, or if any of the provisions of this Interim Order are hereafter modified, amended, vacated or stayed by subsequent order of this Court or any other court, such termination or subsequent order shall not affect the priority, validity, enforceability or effectiveness of (or subordination to the Carve Out of) any lien, security interests or any other benefit or claim authorized hereby with respect to any DIP Obligations or Adequate Protection Obligations incurred prior to the effective date of such termination or subsequent order. All such liens, security interests, claims and other benefits shall be governed in all respects by the original provisions of this Interim Order, and the DIP Lender and Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted herein, including the liens and priorities granted herein, with respect to any DIP Loan and Adequate Protection Obligations, subject to the Carve Out and the Permitted Prior Liens.

28. Proof of Claim. The DIP Lender and the Prepetition Secured Parties shall not be required to file proofs of claim with respect to any DIP Obligations or other obligations existing under DIP Term Sheet (and/or the DIP Loan Documents) or this Interim Order, and the evidence presented with the Motion and the record established at the Interim Hearing are deemed sufficient to, and do, constitute proofs of claim with respect to their obligations, secured status, and priority.

29. Survival of this Interim Order.

(a) The provisions of this Interim Order and any actions taken pursuant hereto shall survive the entry of any order: (i) confirming any plan of reorganization in any of the Chapter 11 Cases; (ii) converting any of the Chapter 11 Cases to a chapter 7 case; or (iii) dismissing any of the Chapter 11 Cases, and the terms and provisions of this Interim Order as well as the DIP Superpriority Claims, the DIP Liens in DIP Collateral granted pursuant to this Interim Order, the DIP Term Sheet, and/or the DIP Loan Documents, the Adequate Protection Liens, the 507(a) Claims, and the Adequate Protection Obligations shall continue in full force and effect notwithstanding the entry of any such order.

(b) The DIP Liens and the DIP Superpriority Claims shall maintain their priority as provided by this Interim Order, the DIP Term Sheet, and/or the DIP Loan Documents, and to the maximum extent permitted by law, until all of the DIP Obligations are indefeasibly paid in full in cash and discharged or otherwise treated under a plan of reorganization, which is reasonably acceptable to the DIP Lender. In no event shall any plan of reorganization be allowed to alter the terms of repayment of any of the DIP Obligations from those set forth in the DIP Term Sheet, and/or the DIP Loan Documents unless agreed to by and among the Debtors and the DIP Lender.

30. Modifications of DIP Term Sheet. The Debtors and the DIP Lender are hereby authorized to implement, in accordance with the terms of the DIP Term Sheet any non-material modifications of the DIP Term Sheet without further notice, motion or application to, order of or hearing before, this Court. Any material modification or amendment to the DIP Term Sheet shall only be permitted pursuant to an order of this Court, after being submitted to this Court upon five

(5) days' notice to the U.S. Trustee, Prepetition Secured Parties, and counsel to the Committee; provided, that any forbearance from, or waiver of, (i) a breach by the Debtors of a covenant representation or any other agreement or (ii) a default or an Event of Default, in each case under the DIP Term Sheet shall not require an order of this Court. In the event of any inconsistency between this Interim Order and the DIP Term Sheet, and/or the DIP Loan Documents, this Interim Order shall control.

31. Insurance Policies. On each insurance policy maintained by the Debtors which in any way relates to the DIP Collateral: (i) the DIP Lender shall be, and shall be deemed to be, without any further action by or notice to any person, named as additional insureds; and (ii) the DIP Lender shall be and shall be deemed to be, without any further action by or notice to any person, named as loss payee for DIP Collateral on which the DIP Lien holds a first priority lien. The Debtors are hereby authorized on an interim basis, to and shall take any actions necessary to have the DIP Lender be added as an additional insured and loss payee on each insurance policy maintained by the Debtors consistent with this Interim Order and the DIP Term Sheet (and/or the DIP Loan Documents), which in any way relates to the DIP Collateral.

32. Financial Information. The Debtors shall deliver to the DIP Lender and the Prepetition Secured Parties such financial and other information concerning the business and affairs of the Debtors and any of the DIP Collateral and the Adequate Protection Collateral as may be required pursuant to the DIP Term Sheet (and/or the DIP Loan Documents), the Prepetition Loan Documents and/or as the DIP Lender or the Prepetition Secured Parties shall reasonably request from time to time. The Debtors shall allow the DIP Lender and the Prepetition Secured Parties access to the premises in accordance with the terms of the DIP Term Sheet (and/or the DIP Loan Documents) or Prepetition Loan Documents for the purpose of enabling such parties to inspect and audit the DIP Collateral, the Adequate Protection Collateral and the Debtors' books and records.

33. Siloing. The Debtors, the DIP Lender and the Prepetition Secured Parties shall endeavor, in good faith, to agree on an allocation of the Prepetition Collateral in an equitable

manner on or before April 23, 2024. Notwithstanding anything in this Interim Order to the contrary, no proceeds of any DIP Collateral, as applicable, will be paid to the DIP Lender until either (i) a Prepetition Collateral siloing mechanism is approved by further order of the Court or (ii) the Court holds a hearing to determine the equitable allocation of the Prepetition Collateral among the various Prepetition Secured Parties.

34. Prior to the entry of a Final Order, in the event the DIP Lenders seeks to exercise remedies to repay the Interim Advance, the DIP Lender shall use commercially reasonable efforts to collect \$3 million from DIP Collateral constituting accounts receivable prior to seeking recovery from other DIP Collateral.

35. For the avoidance of doubt, the failure of any Prepetition Secured Party to object to the Interim Advance approved by this Interim Order shall not constitute a consent to any future DIP Advances, and all rights and objections of the Prepetition Secured Parties to any requests for approval of additional advances under the DIP Facility are fully preserved and not waived by consenting to the Interim Advance or as a result of the entry of this Interim Order. For the avoidance of doubt the DIP Lender's priming liens are absolute and any proceeds held in escrow either prior to or following the establishment of a Prepetition Collateral siloing mechanism shall be subject to a priming first lien by the DIP Lender at all times until the DIP Obligations as defined in the DIP Term Sheet and this Interim Order or any further DIP Orders are indefeasibly paid in full.

36. To the extent the foregoing paragraphs 33-35 are inconsistent with any other provision contained in this Interim Order or the DIP Term Sheet (other than paragraph 39), the foregoing paragraphs 33-35 shall control.

37. Immediate Effect of Order. The terms and conditions of this Interim Order shall be effective and immediately enforceable upon its entry by the Clerk of the Court notwithstanding any potential application of Bankruptcy Rule 6004(h) or otherwise. Furthermore, to the extent applicable, the notice requirements and/or stays imposed by Bankruptcy Rules 4001(a)(3), 6003(b), and 6004(a) are hereby waived for good and sufficient cause. The requirements of

Bankruptcy Rules 4001 and 6004, in each case to the extent applicable, are satisfied by the contents of the Motion.

38. Refinancing of eCapital Obligations.

(a) *Paydown of eCapital Obligations.* As soon as practicable following entry of this Interim Order, the Debtors shall wire cash in the amount of the eCapital Obligations to eCapital at an account to be designated in writing by eCapital.

(b) *Allowance of eCapital Obligations.* The eCapital Obligations constitute allowed, legal, valid, binding, enforceable and non-avoidable obligations of Debtors, and are not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law, and Debtors do not possess, shall not assert, hereby forever release, and are forever barred from bringing any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the eCapital Obligations.

(c) *eCapital Indemnification.* The Debtors are hereby authorized to and hereby agree to indemnify and hold harmless eCapital and its affiliates, directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing eCapital (collectively, the “eCapital Indemnified Party”) from and against: (a) all obligations, demands, claims, damages, losses and liabilities (including, without limitation, reasonable fees and disbursements of counsel) (collectively, “eCapital Indemnity Claims”) including those asserted by any other party in connection with the paydown contemplated by this Interim DIP Order; and (b) all losses or expenses incurred, or paid by the eCapital from, following, or arising from the paydown contemplated by this Interim DIP Order, including reasonable and documented attorneys’ fees and expenses, except for eCapital Indemnity Claims and/or losses directly caused by the eCapital’s fraud, gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any of the Debtors or any of their respective directors, security holders or creditors, an eCapital Indemnified Party, or if any

other eCapital Indemnified Party is otherwise a party thereto, and whether or not the transactions contemplated hereby are consummated. No eCapital Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any Debtor or any of its subsidiaries or any shareholders or creditors of the foregoing for or in connection with the transactions contemplated hereby. All indemnities of the eCapital Indemnified Parties shall constitute eCapital Obligations.

(d) *Release of DACAs.* Following payment in full in cash of the eCapital Obligations, eCapital shall work in good faith with the Debtors and the DIP Lender to release any applicable deposit account control agreements or similar control agreements.

39. Receivership Debtors. Notwithstanding anything herein to the contrary, this Order, and no finding or order herein, shall be binding upon or apply to Debtors El Paso HCC, LLC; Flanagan HCC, LLC; Kewanee AL, LLC; Knoxville AL, LLC; Legacy Estates AL, LLC; Marigold HCC LLC; Monmouth AL LLC; Polo LLC; El Paso HCO, LLC; Flanagan HCO, LLC; CYE Kewanee HCO, LLC; CYE Knoxville HCO, LLC; Legacy HCO, LLC; Marigold HCO, LLC; CYE Monmouth HCO LLC; and Polo HCO, LLC (collectively, “Receivership Debtors”), any assets of Receivership Debtors or X-Caliber Funding LLC, in its capacity as servicer for U.S. Bank, N.A., as trustee of XCAL 2019-IL-1 MORTGAGE TRUST (“X-Caliber”), except as set forth in this paragraph 39. In addition:

(a) *X-Caliber’s Reservation of Rights.* X-Caliber shall have the full opportunity to object on factual and legal bases to any subsequent request by Debtors to bind X-Caliber and/or Receivership Debtors to provisions of this Order (other than this paragraph 39 at a later date and its factual and legal arguments in response thereto shall not be limited, by any finding or order set forth herein, including, without limitation, all findings and/or grants of adequate protection, granting of liens, granting of superpriority and/or administrative claims, waivers under 506(c) and 552(b), identification and fees.

(b) *X-Caliber Financing for Receivership Debtors.* Until a final order is entered on X-Caliber’s Motion to Dismiss [Dkt. No. 60] and Motion to Prohibit Turnover [Dkt.

No. 59], Receiver may use X-Caliber's cash collateral and borrower funds from X-Caliber pursuant to the Receivership Order ("Interim Receiver Financing"); provided that Receiver must provide Receivership Debtors at least forty eight hours' notice of funds being expended. If Receivership Debtors object to any expenditure and are unable to resolve it, they may raise the matter to the Court before the expenditure is made (and if such expenditure is an emergency, the parties shall request the Court's expedited consideration of the dispute).

(c) *X-Caliber Superpriority Claims.* X-Caliber is hereby granted an allowed senior administrative expense claim against Receivership Debtors and their estates (the "X-Caliber Superpriority Claims") with priority in payment over any and all administrative expenses at any time existing or arising, of any kind or nature whatsoever, including, without limitation, the kinds specified or ordered pursuant to any provision of the Bankruptcy Code, including, but not limited to, sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 and 1114 of the Bankruptcy Code or otherwise, including those resulting from the conversion of any of the Chapter 11 Cases pursuant to section 1112 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment; provided further that the X-Caliber Superpriority Claims shall have recourse to and be payable from all prepetition and postpetition property and assets of Receivership Debtors and their estates and all proceeds thereof. The X-Caliber Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(d) *X-Caliber DIP Liens.* Effective immediately and automatically as of the entry of this Interim Order, as security for the Interim Receiver Financing, X-Caliber is granted continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected priming first lien security interests in and liens (collectively, the "X-Caliber DIP Liens") on assets of Receivership Debtors as collateral security for the prompt and complete performance and payment of the Interim Receiver Financing. Pursuant to section 364(d)(1) of the Bankruptcy Code, the X-Caliber DIP Liens are valid, binding, continuing, enforceable, non-avoidable automatically

and fully perfected priming first priority senior liens and security interests in all of Receivership Debtors assets.

(e) *X-Caliber Adequate Protection Claim.* X-Caliber is further granted a valid, perfected replacement lien on and security interest in its pre-petition collateral in an amount equal to the aggregate diminution of value of its interest thereon by Receiver's use of its cash collateral ("X-Caliber Adequate Protection Claim").

(f) *X-Caliber 507(b) Claim.* X-Caliber is further granted an allowed superpriority administrative expense claim as provided in section 507(b) of the Bankruptcy Code in the amount of the X-Caliber Adequate Protection Claim with, except as set forth in this Interim Order, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the "X-Caliber's 507(b) Claims"); which 507(b) Claims shall have recourse to and be payable from Receivership Debtors' assets

(g) For the avoidance of doubt, if neither of X-Caliber's Motion to Dismiss or Motion to Prohibit Turnover are granted, the Receivership Debtors reserve the right to request that their assets be subject to the DIP priming first lien and superpriority claim granted to the DIP Lender hereunder and all of X-Caliber's rights with respect thereto are reserved.

40. Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the provisions of this Interim Order, and this retention of jurisdiction shall survive the confirmation and consummation of any chapter 11 plan for any one or more of the Debtors notwithstanding the terms or provisions of any such chapter 11 plan or any order confirming any such chapter 11 plan.

41. Final Hearing. The Final Hearing to consider entry of a Final Order shall be held on April 23, 2024 at 11:00 a.m. (prevailing Eastern Time) and any objections or responses to the DIP Motion shall be filed on or prior to April 16, 2024 at 4:00 p.m. (prevailing Eastern Time). At the Final Hearing the Court will hear arguments preserved in the HUD Objections relating to the ability of the Court to enter orders granting priming liens on real property securing HUD-insured loan facilities (the "Priming Dispute"). On or before April 8, 2024 at 5:00 p.m. (prevailing Eastern Time), the Debtors and/or the DIP Lender shall file with the Court written briefing on the Priming

Dispute. To the extent the HUD Objectors and/or the United States desire to file additional briefing on the Priming Dispute, such briefing shall be filed on or before April 18, 2024 at 5:00 p.m.(prevailing Eastern Time).

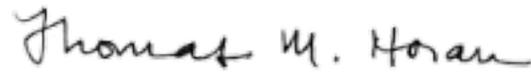
42. Objections. Any party in interest objecting to the relief sought at the Final Hearing shall file with this Court and serve written objections, which objections shall be served upon (a) the Debtors, Winston & Strawn LLP, 35 West Wacker Drive, Chicago, IL 60601 (Attn.: Greg Gartland, Dan McGuire and Joel Mudd) and 200 Park Avenue, New York, New York 10166 (Attn.: Carrie Hardman) and Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801 (Attn.: Andrew L. Magaziner, Shella Borovinskaya, and Carol E. Cox) ; (b) the Office of the United States Trustee for the District of Delaware (Attn: Linda Richenderfer and Jon Lipshie); (c) counsel to the Creditors Committee, if appointed; (d) counsel for the DIP Lender, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019 (Attn: Robert Hirsh and Francisco Vazquez) and Morris James LLP, 500 Delaware Avenue, Suite 1500, Wilmington, DE 19801 (Attn: Eric J. Monzo); (e) counsel for Column Financial, Inc., Holland & Knight, LLP, 511 Union Street, Ste. 2700, Nashville, Tennessee 37219 (Attn: Tyler Layne) and Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, P.O. Box 2087, Wilmington, DE 19899 (Attn: Adam Landis and Rick Cobb); and (f) counsel for all other Prepetition Secured Parties (collectively, the “Notice Parties”).

43. For the avoidance of doubt, nothing in this Interim Order shall create new liens for the benefit of or improve the lien position of any of the Prepetition Secured Parties, nor shall it grant any lien for any party on any collateral that was not granted to that party prior to the Petition Date.

44. The Debtors shall promptly serve copies of this Interim Order (which shall constitute adequate notice of the Final Hearing) to the parties having been given notice of the Interim Hearing and to any party that has filed a request for notices with this Court in these Chapter 11 Cases.

45. Nothing in this Interim Order is intended to create an injunction, but injunctive relief may be sought.

Dated: March 26th, 2024
Wilmington, Delaware



THOMAS M. HORAN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1
DIP Term Sheet

March 18, 2024

SC Healthcare Holding, LLC
 \$45,000,000
 Debtor-in-Possession Term Loan Facility
 Summary of Terms and Conditions

This term sheet (together with the exhibits and schedules hereto, the “Term Sheet”) sets forth a summary of the terms and conditions with respect to the DIP Facility (as defined below) from and after, and subject to, the entry of the Interim Order (as defined below). This Term Sheet shall be a binding agreement from and after, and subject to, the entry of the Interim Order with respect to the DIP Loans (as defined below) but does not purport to summarize all of the terms, conditions, representations and other provisions with respect to the DIP Facility, which will be set forth in the DIP Documents (as defined below). The obligation of the DIP Lender (as defined below) to provide financing pursuant to this Term Sheet is conditioned upon the execution and delivery of signature pages to this Term Sheet by each of the parties hereto and shall be subject to the conditions precedent and other terms and conditions set forth herein. In the event of any conflict between this Term Sheet and the terms of the Interim Order or the Final Order (as defined below), the terms of the Interim Order or the Final Order (as applicable) shall govern.

1.	<i>Borrowers:</i>	<ul style="list-style-type: none"> SC Healthcare Holding, LLC et. al.¹ (the “Borrower” and together with all of Borrower’s existing and future, direct or indirect domestic or foreign subsidiaries that become debtors and debtors-in-possession in the Chapter 11 Cases, the “Borrowers”, each a “Loan Party” and collectively, the “Loan Parties”). The Loan Parties are expected to be debtors and debtors-in-possession in the anticipated chapter 11 cases (the “Chapter 11 Cases” (Borrower and its subsidiaries shall be referred to herein under the Chapter 11 Cases, each as a “Debtor” and collectively, the “Debtors”)) under chapter 11 of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”) to be commenced in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) on or around March 20, 2024 (the “Petition Date”).
2.	<i>DIP Lender:</i>	<ul style="list-style-type: none"> JMB Capital Partners Lending, LLC and/or its designees or its assignees.
3.	<i>Type and Amount of the DIP Facility:</i>	<ul style="list-style-type: none"> A non-amortizing priming, super-priority senior secured term loan facility in an aggregate principal amount not to exceed \$45,000,000 consisting of up to \$45,000,000 in term loan commitments (the “DIP Facility”; the definitive documentation evidencing the DIP Facility, the “DIP Documents”; the DIP Lender’s commitments under the DIP Facility, the “DIP Commitments”; and the loans under the DIP Facility, the “DIP Loans”). The borrowing of DIP Loans shall permanently decrease the DIP Commitments, and DIP Loans repaid may not be reborrowed.

¹ Additional borrowers (“Debtors”) are listed on Schedule 1.

		<ul style="list-style-type: none"> Initial net proceeds of the DIP Loan shall be funded in accordance with a funds flow (which, for the avoidance of doubt, shall include the payoff amount for eCapital). Subsequent DIP Loan proceeds to be funded into Borrowers' DIP Bank Account maintained at U.S. Bank and Loan Parties shall obtain a satisfactory control agreement in favor of the DIP Lender to be entered into within 15 business days of the entry of the Final Order subject to a 15 day cure period if the Loan Parties are using commercially reasonable efforts to obtain a satisfactory control agreement; <u>provided</u> that the Carve-Out shall be funded as described in the Interim Order.
4.	<i>Initial Availability:</i>	<ul style="list-style-type: none"> Upon the Bankruptcy Court's entry of the Interim Order, and satisfaction of all applicable conditions precedent described in Section 16 herein, the DIP Lender shall make available an aggregate amount of \$15,000,000 of the DIP Loans and the Borrowers shall be entitled to make draws of the DIP Loans as described in Section 7 below immediately upon entry of the Interim Order (the "Initial Draws", the date of such first Initial Draw shall be referred to herein as the "Closing Date"). The closing of definitive DIP Documents shall occur as soon after the first Initial Draw as reasonably possible but in any event no later than two (2) business days prior to the hearing to consider entry of the Final Order.
5.	<i>Full Availability:</i>	<ul style="list-style-type: none"> Upon (i) the Bankruptcy Court's entry of the Final Order (as defined below) and (ii) the satisfaction of all applicable conditions precedent described in Section 17 herein, the remaining amount of the DIP Facility totaling an additional \$30,000,000 shall be available to the Debtors, subject to compliance with the terms, conditions, and covenants described in the DIP Documents, in additional draws in accordance with Section 7 below (each an "Other Draw" and collectively, the "Other Draws", and together with the Initial Draws, and each Other Draw, each a "Draw" and collectively, the "Draws").
6.	<i>Draws:</i>	<ul style="list-style-type: none"> Subject to satisfaction of the conditions precedent to the Initial Draws or Other Draws, as applicable and availability under the DIP Commitments, the Borrowers shall be entitled to make Draws of the DIP Loans in accordance with the Budget (as defined below). Each Draw shall be made (in an aggregate minimum amount of \$1,000,000 (and multiples thereof) upon three (3) business days' written notice, up to the aggregate amount of the undrawn DIP Commitments at any time prior to three (3) business days before the DIP Termination Date (as defined below); <u>provided</u> that the first Initial Draw shall be in the amount of \$15,000,000 and deemed requested in accordance with the terms of this Term Sheet, and funded within one (1) business day following the entry of the Interim Order and shall not require any further advance written notice but shall require a customary notice of borrowing.

7.	<i>Maturity and Termination:</i>	<ul style="list-style-type: none"> • All DIP Obligations shall be due and payable in full in cash (“Payment in Full”² or such other form of consideration as the DIP Lender and the Borrowers may mutually agree) on the earliest of: <ul style="list-style-type: none"> i. December 31, 2024; ii. the effective date of any chapter 11 plan of reorganization with respect to the Borrowers (a “Plan”); iii. the consummation of any sale or other disposition of all or substantially all of the assets of the Borrowers pursuant to section 363 of the Bankruptcy Code; iv. the date of the acceleration of the DIP Loans and the termination of the DIP Commitments following the occurrence and during the continuation of an Event of Default in accordance with the DIP Documents; v. dismissal of the Chapter 11 Cases or conversion of the Chapter 11 Cases into cases under chapter 7 of the Bankruptcy Code; and vi. 45 days after the Petition Date (or such later date as agreed to by the DIP Lender), unless the Final Order has been entered by the Bankruptcy Court on or prior to such date (such earliest date, the “DIP Termination Date”). • The occurrence of the DIP Termination Date shall terminate the ability of the Borrowers to borrow the Draws and shall terminate any further obligation the DIP Lender has to make any DIP Loans under the DIP Documents. • For the avoidance of doubt, any of the above conditions from (i) through (vi) automatically triggers the Maturity Date.
8.	<i>Interest Rate:</i>	<ul style="list-style-type: none"> • The DIP Loans shall bear interest at a per annum rate equal to 12% payable in cash on the first day of each month in arrears (the “Non-Default Interest”). • Notwithstanding the foregoing, after the occurrence and during the continuance of an Event of Default (as defined below), the DIP Loans shall bear interest at an additional per annum rate of 2%, in each case payable in cash, together with the Non-Default Interest, on the first day of each month in arrears.
9.	<i>Commitment Fee, Exit Fee and Other Fees:</i>	<ul style="list-style-type: none"> • The Borrowers shall pay to the DIP Lender a commitment fee equal to 2.0% of the total amount of the DIP Commitments (the “Commitment Fee”). The Commitment Fee shall be fully earned, non-refundable upon entry of the Interim Order, and shall be payable out of the proceeds of the Initial Draw.

² For purposes hereof, the term “**Payment in Full**” means, with respect to the DIP Obligations, the irrevocable and indefeasible payment in full in cash of all DIP Obligations, other than contingent indemnification and expense reimbursement obligations for which no claim or demand has been asserted, and all commitments thereunder shall have irrevocably, permanently and finally expired or shall have been terminated, cancelled and discharged.

		<ul style="list-style-type: none"> • The Borrowers shall pay to the DIP Lender an exit fee equal to the sum of 8.0% of the total amount of the DIP Commitments, which shall be fully earned and nonrefundable upon the Bankruptcy Court’s entry of the Interim Order (the “Exit Fee”). The Exit Fee shall be due and payable upon the earlier of (i) the DIP Termination Date, (ii) Payment in Full of the DIP Obligations or (iii) on a pro rata basis for any Voluntary Prepayment of the DIP Obligations, <u>provided, however</u>, if the DIP Termination Date has occurred solely as a result of the occurrence and continuation of an Event of Default under the DIP Documents, then the Exit Fee shall not be payable until the DIP Obligations have been accelerated by the DIP Lender. • The Commitment Fee and the Exit Fee shall be approved by the Bankruptcy Court as part of the Interim Order. If such fees are not approved by the Bankruptcy Court, this Term Sheet shall automatically terminate and be of no further force and effect. • On the date of execution of the indication of the interest (“IOI”), between the DIP Lender and the Borrowers, the Borrowers paid the DIP Lender a non-refundable work fee in the amount equal to \$75,000.
10.	<i>Use of Proceeds:</i>	<ul style="list-style-type: none"> • The proceeds of the DIP Facility shall be used only for the following purposes and, excluding payments pursuant to clauses (ii), (iii), and (iv) below, subject to the Budget and 20% permitted variances as set forth below: <ul style="list-style-type: none"> i. working capital and other general corporate purposes of the Borrowers, and any other subsidiaries, if applicable if such subsidiaries are Loan Parties under the DIP Documents; ii. professional fees and expenses of administering the Chapter 11 Cases (including fees incurred prior to the Closing Date) in accordance with the Bankruptcy Code and any orders of the Bankruptcy Court, as applicable; iii. fees and expenses payable under the DIP Facility, including, without limitation, the Commitment Fee, the Exit Fee and legal expenses of the DIP Lender (including fees incurred prior to the Closing Date); iv. interest and other amounts payable under the DIP Facility; and v. the first Initial Draw shall in part, be used to repay the eCapital facility in full. • Notwithstanding any other provision of this Term Sheet, from and after the Closing Date, no DIP Loans or DIP Collateral (as defined below), or any portion of the Carve-Out, may be used directly or indirectly by any Debtor, any official committee appointed in the Chapter 11 Cases, or any trustee appointed in the Chapter 11 Cases or any successor cases, including any chapter 7 cases, or any other person, party or entity:

		<ul style="list-style-type: none"> i. in connection with the investigation, initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation <ul style="list-style-type: none"> a. against the DIP Lender, or its respective predecessors-in-interest, agents, affiliates, representatives, attorneys, or advisors, or any action purporting to do the foregoing in respect of the DIP Obligations, DIP Liens (as defined below), or DIP Claims (as defined below), or b. challenging the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset to, the DIP Obligations and/or the liens, claims, rights, or security interests granted under the Orders (as defined below), the DIP Documents, including, in each case, without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550, or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise; ii. to prevent, hinder, or otherwise delay the DIP Lender’s enforcement or realization on the DIP Obligations, DIP Collateral, and the liens, claims and rights granted to such parties under the Interim Order or the Final Order, as applicable, each in accordance with the DIP Documents and the Interim Order or the Final Order, as applicable; <u>provided, however</u>, this shall not apply to (x) objections to the Final Order and (y) any challenge to whether a DIP Termination Event has occurred and/or the propriety of the DIP Lender’s termination and/or acceleration of the DIP Obligations or calculation of the amounts owed thereunder; iii. to seek to modify any of the rights and remedies granted to the DIP Lender under the Orders (other than with the consents contemplated thereunder), or the DIP Documents, as applicable; or iv. to apply to the Bankruptcy Court for authority to approve superpriority claims or grant liens (other than the Carve-Out and liens permitted pursuant to the DIP Documents) or security interests in the DIP Collateral or any portion thereof that are senior to, or on parity with, the DIP Liens, DIP Claims, unless permitted under the DIP Documents or unless all DIP Obligations, and claims granted to the DIP Lender under the Interim Order or the Final Order, as applicable, have been refinanced or Paid in Full in cash or otherwise agreed to in writing by the DIP Lender.
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11.	<i>Voluntary Prepayments:</i>	<ul style="list-style-type: none"> Voluntary prepayments of the DIP Loans shall be permitted at any time, subject to (i) payment of the ratable portion of the Exit Fee due thereon, which shall be due and payable on the date of such voluntary prepayment; (ii) accrued interest on the amount prepaid; and (iii) in minimum amounts of at least \$1,000,000 of principal.
12.	<i>Security:</i>	<ul style="list-style-type: none"> As security for the DIP Obligations, subject to the Carve Out, each Loan Party shall grant to the DIP Lender a priming first lien security interest (“Priming First Lien”) on all of such Loan Party’s right, title and interest in, to and under all the Loan Parties’ assets, including, but not limited to the following, in each case, whether now owned or existing or hereafter acquired, created or arising and wherever located: all assets and property of such Loan Party and its estate, real or personal, tangible or intangible, now owned or hereafter acquired, whether arising before or after the Petition Date, including, without limitation, all fee-owned real properties listed on Schedule 3 hereto, contracts, contract rights, licenses, general intangibles, instruments, equipment, accounts, documents, goods, inventory, fixtures, documents, cash, cash equivalents, accounts receivables, chattel paper, letters of credit and letter of credit rights, investment property (including, without limitation, all equity interests owned by any Loan Party in its current and future subsidiaries), commercial tort claims, arbitration awards, money, insurance, receivables, receivables records, deposit accounts, collateral support, supporting obligations and instruments, fixtures, all interests in leaseholds and real properties, all patents, copyrights, trademarks, all trade names and other intellectual property (whether such intellectual property is registered in the United States or in any foreign jurisdiction), together with all books and records relating to the foregoing, all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing (as such terms are defined in the Uniform Commercial Code as in effect from time to time in the State of New York) and, subject to the entry of a Final Order, (i) proceeds of actions brought under section 549 of the Bankruptcy Code to recover any postpetition transfer of DIP Collateral and (ii) proceeds of actions under sections 544, 545, 547, 548 and 550 of the Bankruptcy Code (collectively, the “DIP Collateral”). Negative pledge on all assets of the Loan Parties subject to permitted liens to be agreed upon by the Final Order. In addition to appropriate orders of the Bankruptcy Court granting and perfecting such liens, the Loan Parties shall take all other commercially reasonable steps (including the execution and filing of UCC financing statements, intellectual property security agreements, and deeds of trust on any real property owned in fee by any Loan Party with a value equal to or in excess of \$[3,000,000] (“DOT”) requested by DIP Lender with respect to such security interests and liens, including without limitation, at the DIP Lender’s discretion, a DOT or comparable security document owned by a Loan Party sufficient under

		<p>applicable law to provide the DIP Lender with a security interest therein and otherwise in form and substance reasonably satisfactory to the DIP Lender.</p> <ul style="list-style-type: none"> • No later than 30 days following the entry of the Final Order, the DIP Lender shall receive DOTs in form and substance satisfactory to the DIP Lender executed by the appropriate Loan Party which holds title to the fee-owned real properties listed on Schedule 3. • The Loan Parties shall cooperate with the DIP Lender’s due diligence of the Debtors’ fee-owned real properties listed on Schedule 3 and shall, promptly following the Bankruptcy Court’s entry of the Interim Order, provide the DIP Lender with true, correct and complete copies of all existing leases or other occupancy agreements with respect to such fee-owned real properties, their current title policy and survey for such fee-owned real properties, all available plans and specifications for the such properties, and all other documents in their possession or control which describe or otherwise detail the physical, engineering or environmental condition of the owned real properties, including, without limitation, all environmental or engineering studies or reports. <p>The Loan Parties shall provide the DIP Lender and its consultants reasonable access to the fee-owned real properties listed on <u>Schedule 3</u> (subject to customary prior notice) for diligence purposes.</p>
13.	<i>Priority and Security:</i>	<ul style="list-style-type: none"> • Subject to the Carve-Out, all obligations of the Loan Parties under the DIP Documents, including, without limitation, all principal, accrued interest, costs, fees and premiums provided for therein, and all obligations of the Loan Parties under the DIP Facility (the “DIP Obligations”) shall be entitled to (a) senior secured priming lien and (b) superpriority claim status pursuant to section 364(c)(1) and section 364(d)(1) of the Bankruptcy Code, with priority over any and all secured liens, administrative expense claims and unsecured claims, of any kind or nature whatsoever, now existing or hereafter arising under the Bankruptcy Code (the “DIP Claims”). • Subject to the Carve-Out and the Permitted Prior Liens (as defined in Schedule 2), all DIP Obligations in respect of the DIP Facility shall be: <ul style="list-style-type: none"> i. pursuant to section 364(c)(1) of the Bankruptcy Code, entitled to superpriority claim status in the Chapter 11 Cases (which claims shall be payable from and have recourse to all DIP Collateral); and ii. secured, pursuant to (i) section 364(c)(2) of the Bankruptcy Code, by a valid, enforceable, fully perfected and automatic first-priority lien on the DIP Collateral; and iii. senior secured priming first lien, pursuant to section 364(d)(1) of the Bankruptcy Code. • The liens securing the DIP Facility, including but not limited to the DOTs (the “DIP Liens”) shall mean the liens described above and in the priority set forth in the Interim Order and Final Order. The DIP

		Liens described herein shall, to the fullest extent permitted by applicable law, be effected and perfected upon entry of the Interim Order and without the necessity of the execution of mortgages, landlord agreements, security agreements, pledge agreements, control agreements, financing statements or other agreements.
14.	<i>Remedies</i>	<ul style="list-style-type: none"> • Upon the occurrence and during the continuation of an Event of Default under the DIP Documents, all remedies customarily available in the Chapter 11 Cases including, without limitation, those remedies customarily available to a senior secured, administrative expense claim of a debtor-in-possession lender, including, without limitation: <ul style="list-style-type: none"> i. declare that the DIP Commitments are terminated, reduced or restricted, whereupon the DIP Commitments shall be terminated, reduced, or restricted on account of any further Draws; ii. declare the unpaid amount of the DIP Obligations to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties; iii. charge interest at the default rate under the DIP Documents; iv. declare the termination, restriction, or revocation of the ability of the Debtors to use Cash Collateral (as defined in the Orders); or v. take any other action or exercise any other right or remedy (including, without limitation, with respect to the liens in favor of the DIP Lender) permitted under the DIP Documents, or by applicable law. <p>Any exercise of remedies by the DIP Lender shall be subject in all respects to the terms of the Orders.</p>
15.	<i>Conditions Precedent to Initial Draw</i>	<ul style="list-style-type: none"> • entry of the Interim Order within 5 business days of the Petition Date, which order shall not be stayed or subject to appeal; • delivery of the Initial Budget acceptable to the DIP Lender in its reasonable discretion; • all out-of-pocket costs, fees and expenses required to be paid to the DIP Lender pursuant to this Term Sheet, the DIP Documents or the Interim Order shall have been paid (provided that the Commitment Fee shall be paid out of the proceeds of the Initial Draw); • the representations and warranties of the Loan Parties under the DIP Documents shall be true and correct in all material respects (or in the case of representations and warranties with a “materiality” qualifier, true and correct in all respects); • no Material Adverse Effect (as defined below) shall have occurred and be continuing;

		<ul style="list-style-type: none"> • the Debtors shall be in compliance in all respects with the Interim Order; • no Event of Default shall have occurred and be continuing under this Term Sheet; • no order has been entered reversing, amending, staying, vacating, terminating or otherwise modifying in any manner adverse to the DIP Lender the Interim Order; and • the Borrowers shall have delivered to the DIP Lender a customary borrowing notice.
16.B	<p><i>Conditions Precedent to Availability of Other Draws</i></p>	<ul style="list-style-type: none"> • The Bankruptcy Court shall have entered a Final Order approving the DIP Facility not later than 45 days following the Petition Date, which Final Order shall be in the form of the Interim Order with such changes as are customary for a final order or otherwise are acceptable to the DIP Lender; and • In addition, the DIP Documents shall contain conditions precedent as are usual and customary in loan documents for similar debtor-in-possession financings and other conditions precedent deemed by the DIP Lender appropriate to the specific transaction, including, without limitation: <ul style="list-style-type: none"> i. execution and delivery of a credit agreement (the “DIP Credit Agreement”), the DOTs, and other DIP Documents evidencing and securing the DIP Facility, in each case, which shall be in form and substance substantially consistent with this Term Sheet and otherwise in form and substance acceptable to the DIP Lender and the Loan Parties; ii. delivery of any Budget subsequent to the Initial Budget, acceptable to the DIP Lender in its reasonable discretion; iii. no trustee, examiner, or receiver shall have been appointed or designated with respect to the Loan Parties’ business, properties or assets and no motion shall be pending seeking similar relief or any other relief, which, if granted, would result in a person other than the Loan Parties exercising control over their assets; iv. the representations and warranties of the Loan Parties under the DIP Documents shall be true and correct in all material respects (or in the case of representations and warranties with a “materiality” qualifier, true and correct in all respects); v. the Borrowers shall have delivered to the DIP Lender a customary borrowing notice;

		<ul style="list-style-type: none"> vi. the Debtors shall be in compliance in all respects with the Final Order and the Loan Parties shall be in compliance in all respects with the DIP Documents; vii. no default or event of default shall have occurred and be continuing under the DIP Documents; viii. no order has been entered reversing, amending, staying, vacating, terminating or otherwise modifying in any manner adverse to the DIP Lender the Interim Order or the Final Order, as applicable; ix. since the Petition Date, other than the Chapter 11 Cases, there shall not have occurred or there shall not exist any event, condition, circumstance or contingency that, individually, or in the aggregate, (a) has had or could reasonably be expected to have a material adverse effect on the business, operations, properties, assets, performance or financial condition of the Loan Parties taken as a whole, (b) has resulted in, or could reasonably be expected to result in, a material adverse effect on the validity or enforceability of, or the rights, remedies or benefits available to the DIP Lender, or (c) has had or could reasonably be expected to have, a material adverse effect on the ability of the Loan Parties to perform their obligations under any DIP Document (each of the foregoing being a “Material Adverse Effect”); x. the Debtors shall have all insurance policies maintained by Loan Parties name the DIP Lender as additional insured and lender/mortgagee loss payee, as applicable, and shall use commercially reasonable efforts to cause each of their tenants under leases of the fee-owned real properties listed on Schedule 3 to name the DIP Lender as additional insured and lender/mortgagee loss payee (for the avoidance of doubt, if the Debtors are unable to direct that the tenants name the DIP Lender on such policies as required hereunder, the Debtor shall cooperate with the DIP Lender in order to reach a workaround to ensure that the DIP Lender is adequately protected with respect to these properties); xi. all costs, fees, expenses (including, without limitation, legal fees and expenses) set forth in the DIP Documents or otherwise to be paid to the DIP Lender shall have been paid when due; and xii. a granting to the DIP Lender of a Priming First Lien for all DIP Obligations pursuant to section 364(d)(1) of the Bankruptcy Code.
17.	Documentation	<ul style="list-style-type: none"> • Definitive financing documentation (including the Orders) with respect to the DIP Loans shall be reasonably satisfactory to the DIP Lender and the Borrowers (the “DIP Documents”). For the

		avoidance of doubt, DIP Documents (other than this Term Sheet and the Interim Order) shall be documented prior to entry of the Final Order.
18.	<i>Representations and Warranties:</i>	<ul style="list-style-type: none"> • The DIP Documents shall contain representations and warranties with respect to the Loan Parties as are usual and customary in loan documents for similar debtor-in-possession financings and as acceptable to the DIP Lender and Borrowers, including without limitation, due organization and authorization, enforceability, financial condition, no material adverse changes, title to properties, liens, litigation, payment of taxes, compliance with laws and regulations, employee benefit liabilities, environmental liabilities, and perfection and priority of liens securing the DIP Facility. • Each Loan Party represents and warrants that none of its assets and properties are subject to any liens, security interests or encumbrances as of the Petition Date and no liens, security interests or encumbrances will be created on or after the Petition Date except, in each case, for liens set forth on <u>Schedule 2</u> hereto.
19.	<i>Affirmative Covenants:</i>	<ul style="list-style-type: none"> • The DIP Documents shall contain affirmative covenants as are usual and customary with respect to the Loan Parties in loan documents for similar debtor-in-possession financings and as are acceptable to the DIP Lender and the Borrowers.
20.	<i>Negative Covenants:</i>	<ul style="list-style-type: none"> • The DIP Documents shall contain negative covenants with respect to the Loan Parties as are usual and customary in loan documents for debtor-in-possession financings and as are acceptable to the DIP Lender and the Borrowers; <u>provided</u> that the DIP Documents will permit: (i) the Debtors to continue to pursue a sale process for all or substantially all of the Borrowers' assets and consummate any sale or sales related thereto subject to Bankruptcy Court approval and provided that such sale or sales and/or related transactions, when taken in the aggregate, provide for the Payment in Full of the DIP Obligations, (ii) the ability to reject or modify contracts, (iii) post-petition employment arrangements subject to maximum thresholds agreed upon by the DIP Lender and the Borrowers, (iv) post-petition capital expenditures subject to maximum thresholds agreed upon by the DIP Lender and the Borrowers, and (v) provide for adequate protection in accordance with the Budget and reasonably acceptable to the DIP Lender.
21.	<i>DIP Budget / Variance Reporting:</i>	<ul style="list-style-type: none"> • The DIP Lender shall receive an extended weekly budget commencing with the week during which the Interim Order is entered, containing line items of sufficient detail to reflect the consolidated operating cash flow of the Debtors for the period from the Petition Date through and including the end of the thirteenth (13th) calendar week thereafter (the "Initial Budget") (the Initial Budget, as modified from time to time in accordance herewith, shall be the "Budget"). [The Budget shall include a monthly reserve in connection with the cash management system maintained by Borrowers in amounts agreed to by the Loan Parties and the DIP Lender in the DIP Documents.]

		<ul style="list-style-type: none"> • The Budget shall be updated and provided to the DIP Lender on the fourth Wednesday following the prior Budget’s approval and every fourth Wednesday thereafter, or more frequently at the reasonable discretion of both the Borrowers and DIP Lender, with such updated Budget extending the term thereof and the DIP Lender, in its reasonable discretion, shall have the right to approve any such updates (or any amendments) by providing the Borrowers specific notice thereof within 5 business days after the delivery by the Borrowers of any such update or amendment (“Updated Budget”) and, (ii) to the extent the DIP Lender provides written notice rejecting the updates (or any amendments), the then existing Budget shall continue to constitute the applicable Budget until such time as an update or amendment is approved by the DIP Lender. In the event the DIP Lender does not provide written notice of its rejection of the proposed Updated Budget within such five business day period, such Updated Budget shall become effective as the Budget. • On a weekly basis after the delivery of the first Updated Budget, the Borrowers shall deliver to the DIP Lender a variance report for the four-week period ending the prior Friday comparing the difference/variance, expressed as a percentage (each, a “Budget Variance”), between actual net operating cash flow for such period to projected net operating cash flow for such period as set forth in the Budget on a cumulative 4 week rolling basis (each a “Measuring Period”) and explaining in reasonable detail all material variances, it being understood that any Net Operating Variance (as defined below) solely with respect to net operating cash flow that exceeds 20% shall be material and shall constitute an Event of Default under the DIP Documents (each such report, a “Variance Report,” which shall be in a form reasonably satisfactory to the DIP Lender). For the avoidance of doubt, net operating cash flow shall not include professional fees and restructuring charges (including trustee fees or other statutory fees) related to the Chapter 11 Cases. • For purposes of each Measuring Period, the Borrowers shall calculate: the numerical difference between “net operating cash flow” (such terms reflecting those line items illustrated in the Budget) for such period to “net operating cash flow” for such period as set forth in the Budget on a cumulative 4 week rolling basis, and to the extent the difference is a positive number, the percentage such difference is of the cumulative budgeted amount for such period (the “Net Operating Variance”). For purposes herein, a “Permitted Variance” shall be limited to not greater than 20% for budget variances with respect to the Net Operating Variance, each as set forth in the applicable Variance Report. For the avoidance of doubt, United States Trustee fees, professional fees of the DIP Lender, Prepetition Secured Parties (to the extent reimbursed) and the Loan Parties, and certain other administrative expenses to be agreed, shall not be included in the Net Operating Variance calculation.
22.	<i>Interim Order:</i>	<ul style="list-style-type: none"> • The interim order approving the DIP Facility, which shall be in form and substance acceptable to the DIP Lender and its counsel

		<p>(the “Interim Order”), shall, among other things, authorize and approve:</p> <ol style="list-style-type: none"> i. the Initial Draws; ii. the making of the DIP Loans; iii. the granting of the superpriority claims and liens against the Debtors and their assets in accordance with this Term Sheet and the DIP Documents with respect to the DIP Collateral; iv. the payment of all fees and expenses (including the fees and expenses of outside counsel and any financial advisors) required to be paid to the DIP Lender as described herein under the heading “<i>Indemnification and Reimbursement of Expenses</i>” by the Debtors; v. the payment of the Commitment Fee upon the Closing Date and the payment of the Exit Fee as set forth in Section 10 of this Term Sheet, which Commitment Fee payment shall not be subject to reduction, setoff or recoupment for any reason, and shall be fully earned upon entry of the Interim Order; and vi. upon entry of the Final Order, the Debtors’ waiver of (a) any right to surcharge the DIP Collateral pursuant to sections 105(a) and 506(c) of the Bankruptcy Code or otherwise, and (b) the equitable doctrine of marshaling and other similar doctrines, in each case, with respect to the DIP Collateral and the DIP Obligations.
23.	<i>Final Order:</i>	<ul style="list-style-type: none"> • The final order approving the DIP Facility, which shall be substantially in the same form as the Interim Order (with such modifications as are necessary to convert the Interim Order into a final order) and otherwise in form and substance reasonably acceptable to the DIP Lender (the “Final Order” and together with the Interim Order, the “Orders”), shall, among other things, authorize and approve the DIP Facility on a final basis, the total amount of the DIP Commitments, and the payment of the Exit Fee, which Exit Fee payment shall not be subject to reduction, setoff or recoupment for any reason, and shall be fully earned upon entry of the Final Order.
24.	<i>Carve Outs:</i>	<ul style="list-style-type: none"> • The liens and security interests in the DIP Collateral, and the superpriority administrative claims shall be subject in all respects to the Carve-Out, which shall be defined in the Orders.
25.	<i>Events of Default:</i>	<ul style="list-style-type: none"> • The DIP Documents shall contain events of default (collectively, “Events of Default”) consistent with this Term Sheet and customary for debtor-in-possession financing facilities of this type, including, without limitation: <ol style="list-style-type: none"> i. payment, non-compliance with covenants set forth in the DIP Documents, judgements in excess of specified amounts, impairment of security interest in the DIP Collateral and other customary defaults, subject to any

		<p>applicable grace and/or cure periods to be agreed for non-payment defaults only and as are customary for transactions of this nature;</p> <ul style="list-style-type: none"> ii. the entry of the Final Order shall have not occurred within 45 days after the Petition Date; iii. the dismissal of any of the Chapter 11 Cases or the conversion of any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code; iv. non-compliance, subject to any applicable grace and/or cure periods, by any Loan Party with the terms of the Interim Order or the Final Order; v. the entry of an order staying, reversing, vacating or otherwise modifying the Interim Order or the Final Order, in each case without the prior written consent of the DIP Lender; vi. the entry of an order appointing a trustee, responsible officer, or an examiner having expanded powers (beyond those set forth under sections 1106(a)(3) and (4) of the Bankruptcy Code) under section 1104 of the Bankruptcy Code (other than a fee examiner) in the Chapter 11 Cases, or the Bankruptcy Court shall have entered an order providing for such appointment, in each case without the prior written consent of the DIP Lender in its sole discretion; vii. the entry of an order in any of the Chapter 11 Cases granting relief from any stay or proceeding (including, without limitation, the automatic stay) so as to allow a third party to proceed with foreclosure against any material assets of the Loan Parties to which the fair market value of which exceeds \$5,000,000; viii. the entry of an order (a) surcharging any of the DIP Collateral under sections 105, 506(c), or any other section of the Bankruptcy Code, (b) allowing any administrative expense claim having priority over or ranking in parity with the DIP Claims or the rights of the DIP Lender (subject to the Carve-Out), or (c) otherwise adversely impacting the DIP Lender's liens and priority in the DIP Collateral as set forth in this Term Sheet; ix. any action by any Debtor to (a) challenge the rights and remedies of the DIP Lender under the DIP Facility in any of the Chapter 11 Cases or acting in a manner inconsistent with the DIP Documents or (b) avoid or require disgorgement by the DIP Lender of any amounts received in respect of the obligations under the DIP Facility; x. entry of an order without the express written consent of the DIP Lender obtaining additional financing from a
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		<p>party other than the DIP Lender under section 364(d) of the Bankruptcy Code except if such financing contemplates Payment in Full of the DIP Obligations;</p> <ul style="list-style-type: none"> <li data-bbox="678 310 1438 611">xi. the making of any material payments in respect of prepetition obligations other than (a) as permitted by the Interim Order or the Final Order, (b) as permitted by any “first day” or “second day” orders reasonably satisfactory to the DIP Lender, (c) as permitted by any other order of the Bankruptcy Court reasonably satisfactory to the DIP Lender, (d) as permitted under the DIP Documents in accordance with the Budget, or (e) as otherwise agreed to by the DIP Lender; <li data-bbox="678 632 1438 793">xii. entry of an order by the Bankruptcy Court terminating or modifying the exclusive right of any Debtor to file a chapter 11 plan pursuant to section 1121 of the Bankruptcy Code, without the prior written consent of the DIP Lender; <li data-bbox="678 814 1438 976">xiii. the Debtors shall seek to, or support any other person’s motion to, (a) disallow in whole or in part the DIP Obligations, (b) challenge the validity and enforceability of the DIP Liens, or (c) contest any material provision of any DIP Document; <li data-bbox="678 997 1438 1262">xiv. the Debtors file a plan of reorganization that is not in form and substance satisfactory to the DIP Lender, it being understood that a plan will be satisfactory to the DIP Lender if it provides for the Payment in Full of the DIP Obligations pursuant to a signed commitment to lend from a recognized lender or another source of funding sufficient to allow for the indefeasible payment in cash of the full amount of the outstanding DIP Obligations; <li data-bbox="678 1283 1438 1381">xv. the Debtors file a motion seeking to settle a controversy or claim on account of the DIP Collateral without the prior written consent of the DIP Lender; <li data-bbox="678 1402 1438 1535">xvi. the Debtors file a motion for the Bankruptcy Court to approve a sale of the DIP Collateral pursuant to section 363 of the Bankruptcy Code which proposed sale is not reasonably acceptable to the DIP Lender; or <li data-bbox="678 1556 1438 1885">xvii. the Debtors shall fail to execute and deliver to the DIP Lender any agreement, financing statement, trademark filing, copyright filing, notices of lien or similar instruments or other documents that the DIP Lender may reasonably request from time to time to more fully evidence, confirm, validate, perfect, preserve and enforce the DIP Liens created in favor of the DIP Lender, subject to the time periods and terms set forth in this Term Sheet which includes a post-closing period for delivery of the mortgages as set forth herein.
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26.	<i>Indemnification and Reimbursement of Expenses:</i>	<ul style="list-style-type: none"> • The DIP Documents shall contain customary indemnification provisions for the benefit of the DIP Lender, and its related parties, including, without limitation, indemnification against losses, claims, damages, liabilities or expenses incurred in respect of the financing contemplated by the DIP Documents or the use or the proposed use of proceeds thereof. • Subject to the DIP Documents, all documented out-of-pocket accrued and unpaid fees, costs, disbursements, and expenses of the DIP Lender, including the fees and expenses of Norton Rose Fulbright US LLP, as counsel to the DIP Lender, and any other local Delaware counsel retained in their capacity as counsel to the DIP Lender for real estate and bankruptcy matters, incurred in connection with the DIP Facility and the Chapter 11 Cases shall be paid on a current basis.
27.	<i>Release:</i>	<ul style="list-style-type: none"> • The Orders shall include a customary release of the DIP Lender, with respect to any and all claims and causes of action arising from or related to the DIP Facility.
28.	<i>Waivers:</i>	<ul style="list-style-type: none"> • The Final Order shall include terms and conditions customary for final DIP financing orders and shall be reasonably acceptable to the DIP Lender, including, without limitation, waiver of the automatic stay, credit-bidding rights, “no marshaling” provisions and other similar doctrines, and waivers of the imposition of costs or right to surcharge the DIP Collateral pursuant to sections 105(a) and 506(c) of the Bankruptcy Code or otherwise, in each case, to the extent applicable.
29.	<i>Governing Law:</i>	<ul style="list-style-type: none"> • New York (and to the extent applicable, the Bankruptcy Code).

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed as of the date first set forth above.

SC HEALTHCARE HOLDING, LLC and all entities listed on Schedule I, as Borrowers

By: David Campbell
Name: David Campbell
Title: Chief Restructuring Officer

[Signature Page to Term Sheet]

JMB CAPITAL PARTNERS LENDING, LLC

By: 
Name: [Vikas Tandon]
Title: Chief Investment Officer

[Signature Page to Term Sheet]

Schedule 1
Additional Borrowers

1. Aledo HCO, LLC
2. Aledo RE, LLC
3. Arcola HCO, LLC
4. Arcola RE, LLC
5. Aspen HCO, LLC
6. Aspen RE, LLC
7. Bement HCO, LLC
8. Bement RE, LLC
9. Betty's Garden HCO, LLC
10. Betty's Garden RE, LLC
11. Bradford AL RE, LLC
12. Bushnell AL RE, LLC
13. Casey HCO, LLC
14. Collinsville HCO, LLC
15. Collinsville RE, LLC
16. CYE Bradford HCO, LLC
17. CYE Bushnell HCO, LLC
18. CYE Girard HCO, LLC
19. CYE Kewanee- PHC, Inc.
20. CYE Knoxville - PHC, Inc.
21. CYE Monmouth - PHC, Inc.
22. CYE Sullivan HCO, LLC
23. CYE Walcott HCO, LLC
24. CYV Kewanee AL RE, LLC
25. Decatur HCO, LLC
26. Decatur RE, LLC
27. Eastview HCO, LLC
28. Eastview RE, LLC
29. Effingham HCO, LLC
30. Effingham RE, LLC
31. El Paso - PHC, Inc
32. Flanagan - PHC, Inc.
33. Havana HCO, LLC
34. Havana RE, LLC
35. Jonesboro, LLC
36. Kewanee, LLC
37. Knoxville & Pennsylvania, LLC
38. Lebanon HCO, LLC
39. Lebanon RE, LLC
40. Legacy - PHC Inc.
41. Macomb, LLC
42. Marigold - PHC Inc
43. MBP Partner, LLC
44. McLeansboro HCO, LLC
45. McLeansboro RE, LLC
46. Midwest Health Operations, LLC
47. Midwest Health Properties, LLC

48. North Aurora HCO, LLC
49. North Aurora, LLC
50. Petersen 23, LLC
51. Petersen 25, LLC
52. Petersen 26, LLC
53. Petersen 27, LLC
54. Petersen 29, LLC
55. Petersen 30, LLC
56. Petersen Farmer City, LLC
57. Petersen Health & Wellness, LLC
58. Petersen Health Business, LLC
59. Petersen Health Care - Farmer City, LLC
60. Petersen Health Care - Illini, LLC
61. Petersen Health Care - Roseville, LLC
62. Petersen Health Care II, Inc.
63. Petersen Health Care III, LLC
64. Petersen Health Care Management, LLC
65. Petersen Health Care V, LLC
66. Petersen Health Care VII, LLC
67. Petersen Health Care VIII, LLC
68. Petersen Health Care X, LLC
69. Petersen Health Care XI, LLC
70. Petersen Health Care XIII, LLC
71. Petersen Health Care, Inc.
72. Petersen Health Enterprises, LLC
73. Petersen Health Group, LLC
74. Petersen Health Network, LLC
75. Petersen Health Properties, LLC
76. Petersen Health Quality, LLC
77. Petersen Health Systems, Inc.
78. Petersen Management Company, LLC
79. Petersen MT, LLC
80. Petersen MT3, LLC
81. Petersen MT4, LLC
82. Petersen Roseville, LLC
83. Piper HCO, LLC
84. Piper RE, LLC
85. Pleasant View HCO, LLC
86. Pleasant View RE, LLC
87. Polo - PHC, Inc.
88. Prairie City HCO, LLC
89. Prairie City RE, LLC
90. Robings HCO, LLC
91. Robings, LLC
92. Rosiclare HCO, LLC
93. Rosiclare RE, LLC
94. Royal HCO, LLC
95. Royal RE, LLC
96. SABL, LLC
97. SC Healthcare Holding, LLC
98. Shangri La HCO, LLC

99. Shangri La RE, LLC
100. Shelbyville HCO, LLC
101. Shelbyville RE, LLC
102. South Elgin, LLC
103. Sullivan AL RE, LLC
104. Sullivan HCO, LLC
105. Sullivan RE, LLC
106. Swansea HCO, LLC
107. Swansea RE, LLC
108. Tarkio HCO, LLC
109. Tarkio RE, LLC
110. Tuscola HCO, LLC
111. Tuscola RE, LLC
112. Twin HCO, LLC
113. Twin RE, LLC
114. Vandalia HCO, LLC
115. Vandalia RE, LLC
116. Village Kewanee HCO, LLC
117. Walcott AL RE, LLC
118. War Drive, LLC
119. Watseka HCO, LLC
120. Watseka RE, LLC
121. Westside HCO, LLC
122. Westside RE, LLC
123. XCH, LLC

Schedule 2
Permitted Prior Liens

I. Existing Liens**Tax Liens**

Debtor	Lien Type	Amount Secured
Petersen Health Care II, Inc. an Illinois corporation	Federal Tax Lien	\$89,750.29
Petersen Health Care V, LLC, an Illinois limited liability company	Unemployment Insurance State Tax Lien	\$61,953.10

Equipment Liens

Debtor	Secured Party	Filing Date	File No.
CYE GIRARD HCO, LLC	C T CORPORATION SYSTEM, AS REPRESENTATIVE	12/6/2022	29129940
MIDWEST HEALTH OPERATIONS, LLC	C T CORPORATION SYSTEM, AS REPRESENTATIVE	7/1/2022	28648618
PETERSEN HEALTH CARE, INC.	TRANS LEASE, INC.; PLATTE VALLEY BANK	4/23/2019	24344835
PETERSEN HEALTH CARE, INC.	ILLINOIS BUSINESS FINANCIAL SERVICES	10/22/2019	24875504
PETERSEN HEALTH NETWORK, LLC	C T CORPORATION SYSTEM, AS REPRESENTATIVE	6/29/2022	28639361
PETERSEN HEALTH NETWORK, LLC	C T CORPORATION SYSTEM, AS REPRESENTATIVE	6/13/2022	28586620
PETERSEN HEALTH SYSTEMS, INC.	C T CORPORATION SYSTEM, AS REPRESENTATIVE	7/1/2022	28648626
PETERSEN HEALTH SYSTEMS, INC.	C T CORPORATION SYSTEM, AS REPRESENTATIVE	7/1/2022	28648715
ROYAL HCO, LLC	C T CORPORATION SYSTEM, AS REPRESENTATIVE	6/28/2022	28633491
PETERSEN HEALTH CARE MANAGEMENT, LLC	HITACHI CAPITAL AMERICA CORP.	3/9/2021	27034802

Debtor	Secured Party	Filing Date	File No.
EL PASO HCO, LLC	C T CORPORATION SYSTEM, AS REPRESENTATIVE	6/27/2022	28629923

II. Real Property Encumbrances

TBD

III. “Permitted Prior Liens” means:

- (a) all Liens created by the DIP Documents and the DIP Orders (including the Carve Out, Adequate Protection Liens and Adequate Protection Super-priority Claims, as defined therein);
- (b) liens for taxes that are not delinquent or thereafter payable and that are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with generally accepted accounting principles as in effect from time to time;
- (c) statutory or common law liens of landlords and liens of carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors and suppliers and other liens imposed by law or pursuant to customary reservations or retentions of title arising in the ordinary course of business for amounts not overdue;
- (d) (i) pledges or deposits in connection with workers’ compensation, unemployment insurance and other social security legislation, other than any Lien imposed by the Employee Retirement Income Security Act of 1974, and (ii) pledges and deposits of cash securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to any Loan Party;
- (e) liens on equipment arising from precautionary UCC financing statements regarding operating leases of equipment;
- (f) non-exclusive licenses and sublicenses of intellectual property entered into in the ordinary course of business;
- (g) normal and customary rights of setoff upon deposits of cash in favor of banks or other depository institutions incurred in connection with the maintenance of such deposits in the ordinary course and not arising in connection with the issuance or repayment of indebtedness; and
- (h) any zoning or similar law or right reserved to or vested in any governmental authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Loan Parties, individually, or taken as a whole.

Schedule 3
Fee-Owned Real Property

Courtyard Estates of Farmington
Courtyard Estates of Herscher
Roseville Rehabilitation & Health Care Center
Courtyard Estates of Galva
Courtyard Estates of Green Valley
Countryview Care Center of Macomb
Jonesboro Rehabilitation & Health Care Center
South Elgin Rehabilitation & Health Care Center
Courtyard Estates of Girard
Flora Health Care Center
Mt. Vernon Health Care Center
Palm Terrace of Mattoon
Toulon Rehabilitation & Health Care Center
White Oak Rehabilitation & Health Care Center
Betty's Garden Memory Care of Kewanee
Countryview Terrace
Enfield Rehabilitation & Health Care Center
Arrow Wood Estates of Rock Falls
Rock Falls Rehabilitation & Health Care Center
Iron Wood Estates of Sandwich
Sandwich Rehabilitation & Health Care Center
Shawnee Rose Care Center
Simple Blessings
Flora Gardens Care Center
Nokomis Rehabilitation & Health Care Center
Rochelle Gardens Care Center
Rochelle Rehabilitation & Health Care Center
Whispering Oaks
Willow Rose Rehab & Health Care Center
Aledo Rehabilitation & Health Care Center
Arcola Health Care Center
Aspen Rehab & Health Care
Bement Health Care Center
Casey Health Care Center
Collinsville Rehabilitation & Health Care Center
Courtyard Estates of Bradford
Courtyard Estates of Bushnell
Courtyard Estates of Sullivan
Courtyard Estates of Walcott
Courtyard Village of Kewanee
Decatur Rehabilitation & Health Care Center
Eastview Terrace
Effingham Rehabilitation & Health Care Center

Farmer City Rehab & Health Care Center
Havana Health Care Center
Kewanee Care Home
Lebanon Care Center
McLeansboro Rehabilitation & Health Care Center
North Aurora Care Center
Piper City Rehab & Living Center
Piper City Rehab & Living Center
Pleasant View Rehabilitation & Health Care Center
Prairie City Rehab & Health Care Center
Robings Manor Rehabilitation & Health Care
Robings Manor Rehabilitation & Health Care
Rosiclare Rehabilitation & Health Care Center
Royal Oaks Care Center
Shangri La Rehab & Living Center
Shelbyville Rehabilitation & Health Care Center
Sullivan Rehabilitation & Health Care Center
Swansea Rehabilitation & Health Care Center
Tarkio Rehabilitation & Health Care
Tuscola Health Care Center
Twin Lakes Rehab & Health Care
Vandalia Rehabilitation & Health Care Center
Watseka Health Care Center
Westside Rehabilitation & Care Center
Canton Courtyard Estates
Cornerstone Rehabilitation & Health Care Center
Riverview Estates
Rock River Gardens
Prairie Rose Care Center

PETERSEN HEALTHCARE

Consolidated (w/o rec) Week Ended	ESTIMATE 3/23/2024	ESTIMATE 4/6/2024	ESTIMATE 4/13/2024	ESTIMATE 4/20/2024	ESTIMATE 4/27/2024	ESTIMATE 5/4/2024	ESTIMATE 5/11/2024	ESTIMATE 5/18/2024	ESTIMATE 5/25/2024	ESTIMATE 6/1/2024	ESTIMATE 6/8/2024	ESTIMATE 6/15/2024	4-Week Total	13-Week Total	Case Total
CASH RECEIPTS															
Net Receipts	4,107,838	2,441,658	3,790,767	4,349,731	2,250,055	1,884,861	2,848,851	3,537,248	3,544,188	2,447,774	3,728,642	4,335,585	14,689,994	42,930,128	92,166,578
Management Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
DIP Term Note Funding	15,000,000	-	-	-	-	-	-	-	5,000,000	-	-	-	15,000,000	20,000,000	45,000,000
Illinois State Funding	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL RECEIPTS	19,107,838	2,441,658	3,790,767	4,349,731	2,250,055	1,884,861	2,848,851	3,537,248	8,544,188	2,447,774	3,728,642	4,335,585	29,689,994	62,930,128	137,166,578
CASH DISBURSEMENTS															
Net Payroll	-	3,966,095	-	4,426,217	4,426,217	-	4,426,217	-	4,426,217	-	-	3,874,221	8,392,312	25,545,184	56,538,953
Payroll Tax (EE & ER)	-	1,401,757	-	1,560,575	1,560,575	-	1,560,575	-	1,560,575	-	-	1,378,213	2,962,332	9,022,270	20,047,977
401k (EE & ER)	-	12,626	-	13,858	13,858	-	13,858	-	13,858	-	-	13,389	26,484	81,448	188,560
Total Payroll Disbursements	-	5,380,478	-	6,000,650	6,000,650	-	6,000,650	-	6,000,650	-	-	5,265,824	11,381,128	34,648,902	76,775,490
Food / Dietary	201,701	201,701	201,701	201,701	201,701	201,701	201,701	201,701	201,701	201,701	201,701	188,069	806,805	2,608,486	5,993,735
Therapy	67,183	67,183	67,183	67,183	67,183	67,183	67,183	67,183	67,183	67,183	67,183	59,731	268,732	865,928	1,941,085
Nursing and Supplies	310,715	310,715	310,715	310,715	310,715	310,715	310,715	310,715	310,715	310,715	310,715	239,790	1,242,862	3,968,375	8,284,589
PHC Agency (net zero)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Resident Disbursements	579,600	579,600	579,600	579,600	579,600	579,600	579,600	579,600	579,600	579,600	579,600	487,590	2,318,399	7,442,788	16,219,409
Property-related	183,284	183,284	183,284	183,284	183,284	183,284	183,284	183,284	183,284	183,284	183,284	167,039	733,135	2,366,444	5,373,145
Administrative	307,162	307,162	307,162	307,162	307,162	307,162	307,162	307,162	307,162	307,162	367,162	300,279	1,288,647	4,938,588	12,514,523
Employee-related	20,735	20,735	20,735	20,735	20,735	20,735	20,735	20,735	20,735	20,735	20,735	18,027	82,941	266,850	591,329
Management Fees (net zero)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Other Disbursements	511,181	511,181	571,181	897,365	511,181	571,181	511,181	897,365	511,181	511,181	571,181	485,344	2,104,723	7,571,881	18,478,997
DIP Interest	-	-	86,301	-	-	138,082	-	-	-	155,342	-	-	86,301	379,726	1,501,644
Total Chapter 11 Fees (non operational)	4,818,499	323,542	112,429	-	1,403,600	800,000	-	-	1,403,600	800,000	-	-	5,254,470	9,661,670	23,066,470
Total Ch. 11 Disbursements	4,818,499	323,542	198,730	-	1,403,600	938,082	-	-	1,403,600	955,342	-	-	5,340,771	10,041,396	24,568,114
TOTAL DISBURSEMENTS	5,909,280	6,794,801	1,349,511	7,091,431	8,495,031	2,088,863	7,091,431	1,476,965	8,495,031	2,046,123	1,150,781	6,238,758	21,145,022	59,704,967	136,042,010
Starting Cash	4,382,987	17,581,545	13,228,402	15,669,658	15,113,923	8,868,948	8,664,946	4,422,367	6,482,650	6,531,807	6,933,459	9,511,320	4,382,987	4,382,987	4,382,987
Change in Cash	13,198,558	(4,353,143)	2,441,257	(2,741,700)	(6,244,976)	(204,002)	(4,242,579)	2,060,283	49,158	401,651	2,577,861	(1,903,173)	8,544,972	3,225,161	1,124,568
ENDING CASH	17,581,545	13,228,402	15,669,658	12,927,959	15,113,923	8,868,948	8,664,946	4,422,367	6,482,650	6,531,807	6,933,459	9,511,320	12,927,959	7,608,147	5,507,555

