Andrew Zollinger, State Bar No. 24063944
andrew.zollinger@dlapiper.com
DLA Piper LLP (US)
1717 Main Street, Suite 4600
Dallas, Texas 75201-4629
Telephone: (214) 743-4500
Facsimile: (214) 743-4545

Thomas R. Califano (*pro hac vice admission pending*)
Dienna Corrado (*pro hac vice admission pending*)
thomas.califano@dlapiper.com
dienna.corrado@dlapiper.com
DLA Piper LLP (US)
1251 Avenue of the Americas
New York, New York 10020-1104
Telephone: (212) 335-4500
Facsimile: (212) 335-4501

PROPOSED COUNSEL FOR THE DEBTORS

Daniel M. Simon (*pro hac vice admission pending*)
daniel.simon@dlapiper.com
DLA Piper LLP (US)
One Atlantic Center
1201 West Peachtree Street, Suite 2800
Atlanta, Georgia 30309
Telephone: (404) 736-7800
Facsimile: (404) 682-7800

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

In re:	§	Chapter 11
4 West Holdings, Inc. *et al.*,[1]	§	Case No. 18-30777
Debtors.	§	(Joint Administration Requested)

DECLARATION OF LOUIS E. ROBICHAUX IV IN SUPPORT OF CHAPTER 11 PETITIONS AND FIRST DAY PLEADINGS

I, Louis E. Robichaux IV, hereby declare under penalty of perjury:

1. I am the Chief Restructuring Officer ("CRO") of 4 West Holdings, Inc. and its subsidiaries and certain of its affiliates (collectively, the "Debtors" or the "Company") in

[1] A list of the Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, is attached hereto as **Exhibit A**.

the above-captioned chapter 11 cases (collectively, the "Chapter 11 Cases"). I have served as CRO of the Debtors since February 12, 2018.

2. Ankura Consulting Group, LLC ("Ankura") was initially engaged by the Company on May 8, 2017 to assist the Debtors in an advisory capacity as well as to review strategic alternatives relating to their existing debt obligations. On July 26, 2017, I was appointed as the Company's Interim President and Chief Financial Officer, and served in that role until February 12, 2018 when I was appointed as the Debtors' CRO.

3. In addition to my role with the Debtors, I am a Senior Managing Director with Ankura, and in that role provide broad restructuring, crisis management, financial advisory, and expert witness services to parties in a broad variety of distressed corporate settings, with a significant emphasis on the U.S. healthcare industry. I have nearly 30 years of industry and restructuring experience, and have served in numerous chief restructuring officer and similar roles, both in-court and out-of-court, including, Tuomey Healthcare System, Healthcare Partners Investments LLC, St. Francis' Hospital, Medicalodges Inc., Senior Living Properties LLC, Vencor (n/k/a Kindred Health Care), Virginia United Methodist Homes of Williamsburg Inc., The Clare at Water Tower, Ascent Group, Sage Physician Partners Inc. d/b/a American Physician Housecalls, Orthodontic Centers of America, and MMH Medical Holdings Inc. I hold a B.B.A. from Austin Peay State University, and an M.B.A. from Mays Business School at Texas A&M University. Additionally, I hold an inactive license in Texas as a Licensed Nursing Facility Administrator.

4. In my capacity as CRO, I have personal knowledge of, and am familiar with, the business affairs, day-to-day operations, books and records, and financial condition of the

Debtors, and I am authorized to submit this declaration (the "Declaration") on behalf of the Debtors. I submit this Declaration to assist the Court and parties in interest in understanding the circumstances that led to the commencement of these Chapter 11 Cases and in support of: (a) the Debtors' voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") filed on the date hereof (the "Petition Date") in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Court"); and (b) the relief that the Debtors have requested from the Court pursuant to the motions and applications described herein.

5. Contemporaneously herewith, the Debtors have filed the following motions, applications and pleadings (collectively, the "First Day Pleadings"):

a. Motion of Debtors for Entry of an Order (I) Directing the Joint Administration of Their Chapter 11 Cases and (II) Granting Related Relief (the "Joint Administration Motion");

b. Motion of Debtors for Entry of an Order Authorizing the Filing of a Consolidated Mailing Matrix and Consolidated List of Forty (40) Largest Unsecured Creditors (the "Creditor List Motion");

c. Motion of the Debtors for Entry of an Order Pursuant to Bankruptcy Rule 1007 Extending the Deadline to File Schedules of Assets and Liabilities and Statements of Financial Affairs (the "Schedules Extension Motion");

d. Motion of the Debtors for Entry of an Order Authorizing the Implementation of Procedures to Maintain and Protect Confidential Patient Information (the "Confidential Patient Information Procedures Motion");

e. Application of the Debtors for Entry of an Order Authorizing Employment and Retention of Rust Consulting/Omni Bankruptcy as Claims, Noticing, and Administrative Agent, *Nunc Pro Tunc* to the Petition Date (the "Claims Agent Retention Application");

f. Motion of the Debtors For Entry of Interim and Final Orders Authorizing (I) Continued Use of Existing Cash Management System, (II) Maintenance of Existing Bank Accounts, and (III) Continued Use of Existing Business Forms, and (IV) Extension of Time to Comply

With 11 U.S.C. § 345(b) Deposit and Investment Requirements (the "Cash Management Motion");

g. Motion of the Debtors for Entry of Interim and Final Orders Authorizing Debtors to (I) Pay Prepetition Wages, Compensation, and Employee Benefits, (II) Continue Certain Employee Benefit Programs in the Ordinary Course, and (III) Granting Related Relief (the "Employee Wage Motion");

h. Motion of the Debtors for Entry of Interim and Final Orders Authorizing the Debtors to Pay Certain Prepetition Taxes (the "Tax Motion");

i. Motion of the Debtors for Entry of Interim and Final Orders (I) Approving Proposed Form of Adequate Assurance of Payment to Utility Companies, (II) Establishing Procedures for Resolving Objections by Utility Companies, (III) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Service, and (IV) Granting Related Relief (the "Utilities Motion");

j. Motion of the Debtors for Entry of Interim and Final Orders Authorizing the Debtors to (I) Maintain, Administer and Modify Their Refund Programs and Practices, and (II) Honor Obligations Related Thereto (the "Refund Programs Motion");

k. Motion of the Debtors for Entry of Interim and Final Orders Authorizing Debtors to Pay or Honor Prepetition Obligations to Critical Vendors (the "Critical Vendor Motion"); and

l. Debtors' Motion (I) Pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 Authorizing the Debtors to (A) Obtain Senior Secured Priming Superpriority Postpetition Financing, (B) Grant Liens and Superpriority Administrative Expense Status, (C) Use Cash Collateral of Prepetition Secured Parties, and (D) Grant Adequate Protection to Prepetition Secured Parties; (II) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(b) and 4001(c); and (III) Granting Related Relief (the "DIP Motion").

6. I am generally familiar with the contents of each First Day Pleading and believe that the relief sought therein allows the Debtors to fulfill their duties as debtors in possession, minimize the possible disruption to the Debtors' business that may be caused by the chapter 11 filings and position the Debtors to pursue a successful and prompt reorganization.

7. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my review of relevant documents, my opinion based upon my experience and knowledge of the industry and of the Debtors' operations and financial condition, and information provided to me by management, advisors, employees or other representatives of the Debtors (including management personnel of non-Debtor Health Care Navigator LLC ("HCN"), which, as more fully described below, provides essential business and administrative consulting services on behalf of the Debtors). If called as a witness, I could and would testify competently to the facts set forth in this Declaration.

8. To familiarize the Court with the Debtors and the relief the Debtors seek early in these Chapter 11 Cases, this Declaration, is organized into four sections. Section I provides an introduction to the Debtors and detailed information on the Debtors' corporate history and business operations. Section II provides an overview of the Debtors' organizational structure and prepetition capital structure. Section III describes the circumstances leading to the commencement of these Chapter 11 Cases, the Debtors' efforts to negotiate the Restructuring Support Agreement and the Proposed Plan (each as defined below) with key constituencies, and the objectives of these Chapter 11 Cases. Section IV sets forth the relevant facts in support of each of the First Day Pleadings filed in connection with these Chapter 11 Cases, which the Debtors believe are critical to administering these Chapter 11 Cases and preserving and maximizing the value of the Debtors' estates.

PRELIMINARY STATEMENT

9. The Debtors are licensed operators of forty-one (41) skilled nursing facilities and manage one (1) skilled nursing facility (each, a "Facility")[2] located in seven (7) states:

[2] The Facility located in Snellville, Georgia also includes a licensed Personal Care unit that is operated by Debtor Scepter Senior Living Center, LLC.

Georgia, Indiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia. In addition, one of the Debtors, Palladium Hospice and Palliative Care, LLC f/k/a Ark Hospice, LLC ("Palladium") provides hospice and palliative care services at certain of the Facilities and other third party locations. The Debtors have faced the same fiscal challenges which have impacted the broader healthcare sector and more particularly the operators of skilled nursing facilities ("SNF") in recent years. As has been the case for many of the participants in this industry, the Debtors have faced numerous financial challenges. As described more fully herein, the performance of the current group of operating Facilities has been negatively impacted by industry headwinds, regulatory actions at certain Facilities, and an inefficient geographic footprint in certain regions in the United States.

10. In light of these developments, the Debtors engaged restructuring advisors to assist in the redevelopment and refinement of a business plan, and initiated confidential restructuring negotiations with their primary stakeholders. The commencement of these Chapter 11 Cases represents the culmination of a lengthy process of business plan analysis and development and, following that, an accelerated period of intense, confidential restructuring negotiations with the Debtors' key stakeholders. As a result of the foregoing, the Debtors have formulated a clear path to an effective reorganization, which can be implemented quickly, thus protecting the interests of the residents of the Facilities and minimizing administrative costs and impact to the Debtors' Facilities, their residents, employees, and creditors. As part of that process, the Debtors have reached a comprehensive Restructuring Support Agreement (the "RSA"), a copy of which is attached hereto as **Exhibit B**, with certain of the Omega Parties (as described in further detail below), the Debtors' principal creditor, that provides for a resolution of the financial, legal

and other issues confronted by the Debtors and permits the Debtors to proceed with a chapter 11 plan process.

I. OVERVIEW OF THE DEBTORS' STRUCTURE AND BUSINESS OPERATIONS

A. Corporate History and Organizational Structure

11. The Company's corporate history began with the formation of 4 West Holdings, Inc. ("4 West Holdings") in August 2013 in connection with the acquisition by merger (the "Merger") of Ark Holding Company, Inc. d/b/a Covenant Dove ("AHC")[3] pursuant to that certain Agreement and Plan of Merger, dated September 13, 2013, by and among 4 West Holdings, New Ark Investment, Inc. ("Acquisition Sub"), AHC, and Behrman Capital PEP L.P. (the previous owner of AHC). Upon the merger of Acquisition Sub with and into AHC, AHC remained as the surviving corporation, which is now known as Orianna Investment, Inc., a Debtor in these Chapter 11 Cases.

12. The closing of the Merger was conditioned upon the consummation of the Sale Leaseback Agreement, dated September 13, 2013 (the "Sale Leaseback Agreement") with OHI Asset RO, LLC,[4] an affiliate of Omega Healthcare Investors, Inc., a publicly traded real estate investment trust that invests in SNFs and assisted living facilities in the United States and United Kingdom (collectively with its affiliates and subsidiaries, the "Omega Parties"). Pursuant to that transaction, which closed on or about November 27, 2013, certain of the Omega Parties acquired AHC's real estate portfolio for cash (which was the source of the consideration paid to AHC's shareholders in the Merger) and agreed to lease the property back to the Company pursuant to certain Master Leases (defined herein).

[3] AHC was formed in 2007 by a private equity firm, Behrman Capital, to provide long-term care and rehabilitation services primarily in the Southeast region of the United States.

[4] OHI Asset RO, LLC is also the entity providing the Debtors with debtor-in-possession financing in these chapter 11 cases.

In late 2015, with a change in the executive leadership team, the "Covenant Dove" portfolio was rebranded to what is now known as "Orianna Health Systems."

B. Accommodations and Services

13. The Company provides post-acute skilled nursing services and hospice and palliative care in their Facilities. As of the Petition Date, the Facilities have 4,667 licensed beds.

14. An individual interested in occupying a unit in one of the Facilities must first enter into an admission agreement (an "Admission Agreement") with one of the Debtors, which establishes the terms and conditions under which a resident will reside in a Facility and gain access to a number of services.

15. The services and accommodations covered by the daily room rate include meals, utilities, laundry, assistance with daily living (including dressing, bathing, and grooming), housekeeping, planned activities, nursing services and local transportation for private appointments.

C. Business Operations

16. As noted above, as of the Petition Date, the Debtors operate or manage forty-two (42) SNFs[5] in Georgia, Indiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia. In addition, Debtor Palladium provides hospice and palliative care services at certain of the Facilities as well as other non-Debtor locations. The Debtors employ approximately 5,000 employees, including but not limited to, nurses, nursing assistants, social workers, regional directors and supervisors.

[5] As noted above, the Facility located in Snellville, Georgia also includes a licensed Personal Care unit that is operated by Scepter Senior Living Center, LLC.

17. In order to provide for the management of their day-to-day operations, the Debtors are party to various intercompany affiliate service agreements (each, a "Service Agreement"). Debtor Orianna Health Systems, LLC ("OHS"), either itself or through HCN pursuant to the HCN Consulting Agreement (as defined herein) provides Palladium and certain other Operating Debtors (as defined herein) with the following services: (a) employee policies and benefits administration; (b) capital improvements of more than $10,000 a year; (c) payment processing; (d) insurance procurement; (e) finance and accounting services, including the maintenance of an accounting system; (f) public relations; (g) human resources; (h) cash management; (i) miscellaneous additional services; and (j) arranging for working capital. The term of each agreement is three years with automatic renewals for one year periods. The fee for such services is a proportionate share of costs based on the per-resident day calculation of the total costs attributable to all long-term care facilities subject to similar agreements.

18. Debtor Olive Leaf, LLC ("OL") is party to twenty (20) Service Agreements with other Operating Debtors, pursuant to which OL is contracted to provide the following services: (a) employee policies and benefits administration; (b) capital improvements of more than $10,000 a year; (c) payment processing; (d) insurance procurement; (e) finance and accounting services, including the maintenance of an accounting system; (f) public relations; (g) human resources; (h) cash management; (i) miscellaneous additional services; and (j) arranging for working capital. OL passes on these services to OHS and remits all fees received to OHS pursuant to a Service Agreement between OL and OHS.

19. Moreover, the Debtors also rely on a non-debtor affiliate, HCN, to provide a myriad of essential consulting and advisory services, including back office administrative

support, pursuant to the Consulting and Advisory Services Agreement, dated as of November 27, 2013 by and between OHS and HCN (the "HCN Consulting Agreement"). HCN provides various essential services to the Debtors, including but not limited to, (i) strategic planning, (ii) compliance review and support, (iii) operations assessment and review, (iv) vendor and third party relations assessment and monitoring, (v) accounting and financial services, (vi) insurance procurement, monitoring, maintenance and management services, (vii) legal services, (viii) information and technology services, (ix) benefits administration and payroll services, (x) credit and treasury management services, and (xi) assistance with legislative affairs, along with any other additional services upon agreement between the parties from time to time. While the stated monthly fee to be paid to HCN for the foregoing services under the HCN Consulting Agreement is five percent (5%) of gross revenues for the applicable period, HCN has, on average, only sought and collected reimbursement of fees averaging 2-3% of gross revenues for the applicable period. Currently, HCN receives approximately $1.2 million monthly on account of such consulting services, although the formula provided under the HCN Consulting Agreement would have entitled HCN to an average monthly service fee of approximately $1.9 million. As of the Petition Date, HCN is owed approximately $5.5 million, all of which is attributable to periods prior to January, 2017.[6] The Debtors intend to pay their post-petition obligations to HCN under the HCN Consulting Agreement in the ordinary course of business, including post-petition amounts accrued on a *pro rata* basis for March 2018, but do not seek approval to pay outstanding amounts owing to HCN as of the Petition Date.

[6] Pursuant to that certain Subordination Agreement (Consultant Agreement), dated March 1, 2016, between HCN and the Senior Lenders (as defined herein), HCN agreed to subordinate its rights under the Consulting Agreement to the Debtors' obligations to the Senior Lenders under the Senior Credit Facility (as defined herein).

20. Non-Debtor affiliate Halcyon Rehabilitation, LLC ("Halcyon"), and each of the Operating Debtors[7] have entered into a Therapy and Administrative Services Agreement (each, a "Therapy and Services Agreement"), whereby Halcyon provides physical therapy, occupational therapy, and speech language pathology services to the Facilities. As of the Petition Date, the Debtors owe approximately $12.36 million to Halcyon. The Debtors intend to pay their post-petition obligations to Halcyon under the various Therapy and Services Agreements in the ordinary course of business, but do not seek approval to pay outstanding amounts owing to Halcyon as of the Petition Date.

21. Each of the Operating Debtors is also party to an agreement (each, a "Membership Agreement") with non-Debtor affiliate HMS Purchasing, LLC ("HMS") which performs the function of a "Group Purchasing Organization" for purchasing medical supplies, dietary food items, medical equipment and a variety of products used by long-term care facilities. HMS provides a program to its members whereby it negotiates pricing with vendors so that its members can purchase a broad selection of the foregoing products in bulk at a more favorable rate from suppliers. In exchange for participating in the program, each of the Operating Debtors pays a monthly membership fee which is calculated based on the number of licensed beds in a Facility. As of the Petition Date, the Debtors owe approximately $210,000 to HMS. The Debtors intend to pay their post-petition obligations to HMS under the Membership Agreement in the ordinary course of business, but do not seek approval to pay outstanding amounts owing to HMS as of the Petition Date.

22. The Operating Debtors receive revenue from several sources, including: (a) Medicare reimbursements, (b) Medicaid reimbursements, and (c) other third party and

[7] The Therapy and Services Agreement between Halcyon and the Facility in Indiana is with a non-debtor operator because the Debtor is the manager of such Facility.

private payors. The Debtors use the revenue generated by the receipt of daily basic rates and service fees to fund their daily operations, and when funds are available, make monthly rent payments to the Omega Parties, service their legacy liabilities and other debt obligations, and make capital improvements to the Facilities. The Debtors' aggregate revenue in 2017 was approximately $415 million.

D. Regulatory Agencies

23. Operators of SNFs, such as the Facilities, are heavily regulated by various state and federal agencies. In particular, nearly every aspect of the operation of the Facilities, including the services provided to residents as well as billing and collections, is subject to rules and regulations promulgated by (a) the United States Department of Health and Human Services' Centers for Medicare & Medicaid Services, (b) the Department of Aging, Office of Health Assurance and Licensing, Bureau of Long Term Care, Bureau of Regulatory Enforcement, and (c) the Department of Medicaid, Department of Health, and Division of Health Services Regulation in each state in which the Facilities operate.

II. PREPETITION ORGANIZATIONAL AND CAPITAL STRUCTURE

A. Organizational Structure

24. The activities and business affairs of the Debtors generally fall into three categories: (i) holding companies that directly or indirectly hold a portfolio of certain assets, (ii) entities that are tenants under the Master Leases with the Omega Parties (the "Tenant Debtors"), and (iii) entities which are subtenants under the subleases with the Tenant Debtors and operate the Facilities (the "Operating Debtors").[8] As noted above, Debtor

[8] Debtor Johns' Island Rehabilitation and Healthcare Center, LLC is an Operating Debtor but its lease is with a third party, Sea Island Comprehensive Health Care, Corp.

Palladium is a separately licensed hospice and palliative care services provider that is wholly owned by Debtor Orianna Investment, Inc.

25. As reflected in the organizational chart attached hereto as **Exhibit C**, Debtor 4 West Holdings is a wholly owned subsidiary of Debtor 4 West Investors, LLC, which is a non-operating holding company. 4 West Holdings, in turn, is the holding company of Debtors Orianna Investment, Inc. (formerly AHC), New Ark Operator Holdings, LLC and New Ark Master Tenant, LLC, which, in turn wholly owns, directly or indirectly, each of the Tenant Debtors and the Operating Debtors. Each of the Operating Debtors holds a license to operate a skilled nursing facility and is certified to participate in the Medicare and Medicaid programs.

26. Three trusts, in which members of the Schwartzberg family acted as settlors maintain indirect beneficial ownership of each of the Debtors. In addition, various trusts of the Schwartzberg family similarly maintain indirect beneficial ownership in non-Debtors HCN, Halcyon, and HMS.

B. Pre-Petition Capital Structure[9]

1. Senior Credit Facility

27. On March 1, 2016, certain of the Operating Debtors (collectively, the "Borrowers") entered into a Revolving Loan and Security Agreement, dated as of March 1, 2016 (as amended from time to time, and together with all related documents and exhibits thereto, the "Sterling Credit Agreement"), with Sterling National Bank ("Sterling") and certain other lenders party thereto (collectively with Sterling, the "Senior Lenders"). Pursuant to the Sterling Credit Agreement, the Senior Lenders provided a $30 million,

[9] A more detailed description of the Debtors' prepetition debt structure is set forth in the DIP Motion.

three-year revolving credit facility (the "Senior Credit Facility"). As of the Petition Date, the outstanding balance owed under the Senior Credit Facility is approximately $14.2 million.

28. To secure its obligations under the Senior Credit Facility, the Borrowers granted the Senior Lenders a first priority perfected security interest in:[10] (a) all Receivables, (b) to the maximum extent permitted by law, all deposit accounts of such Borrower subject to a Depository Account Control Agreement ("DACA"), including, without limitation, each Lockbox and each Lockbox Account, and amounts held therein, (c) all money and cash, including all cash collateral, in a deposit account subject to a DACA, including, without limitation, all Collections, (d) all general intangibles and payment intangibles, and any other rights to payment of every kind and description, and any contract rights, chattel paper, documents and instruments relating to the Receivables and all of such Borrower's rights and remedies with respect to the Receivables (including the creation, enforcement and collection of the Receivables) or the obligation of any Obligor with respect thereto, (e) all Records relating to the Borrowers' Receivables and the other items in (a) through (d) above; (f) and all proceeds of any kind or nature of the foregoing.

29. Certain of the Debtors (the "Guarantors")[11] guaranteed the Borrowers' obligations under the Credit Agreement obligations pursuant to the Guaranty and Security Agreement, dated March 1, 2016 (the "Guaranty"). Under the Guaranty, the Guarantors granted the Senior Lenders a security interest in the following: (a) to the maximum extent

[10] Capitalized terms not otherwise defined in this paragraph and the next paragraph shall have the meanings ascribed to such terms in the Sterling Credit Agreement.

[11] The Guarantors of the Senior Credit Facility are: Debtors 4 West Holdings, Inc., New Ark Investment, Inc., Covenant Dove Holding Company, LLC (n/k/a Orianna Health Systems, LLC), Covenant Dove, LLC (n/k/a Orianna Health Systems, LLC), Ark Mississippi Holding Company, LLC, Olive Leaf Holding Company, LLC, Olive Leaf, LLC and Ark South Carolina Holding Company, LLC, Ark SC Operator Holdings, Inc., and New Ark Operator Holdings, LLC.

permitted by law, all deposit accounts of such Guarantor into which any Collections are directly or indirectly swept and which are subject (or required pursuant to the terms hereof to be subject) to a DACA, including, without limitation, each concentration account and controlled disbursement account listed in Schedule III to the Sterling Credit Agreement, as such Schedule III may be amended from time to time, and amounts held therein; (b) all money and cash, including all cash collateral, in a deposit account into which any Collections are directly or indirectly swept and which are subject (or required pursuant to the terms hereof to be subject) to a DACA, including, without limitation, all Collections swept into any such account; (c) all Records relating to the items in (a) and (b) above; and; (d) all proceeds of any kind or nature of the foregoing.

30. The Borrowers and Guarantors established lockbox accounts at The PrivateBank and Trust Company ("TPB") for the deposit of all receivables, which are subject to Sterling's first priority liens.

31. On October 11, 2016, the Senior Lenders issued a notice of default under the Senior Credit Facility (the "First Sterling Default Notice"), identifying certain covenant defaults under the Sterling Credit Agreement and defaults under the Master Leases (defined herein). The Sterling Default Notice further stated that Sterling has not elected to exercise any rights or remedies on account of the existing events of default, other than to request funds in the Lockbox Accounts of the Company be directed to Sterling, and to charge a collateral monitoring fee of 0.50%. In addition, the Sterling Default Notice stated that the Borrowers may not make payments to HCN (other than expenses) or the mezzanine lender pursuant to certain subordination agreements.

32. On February 7, 2017, Sterling issued a second notice of default and reservation of rights (the "Second Sterling Default Notice") stating, among other things that the lessees under the Master Leases (defined herein) have failed to make payments for January 2017 and February 2017 and that as a result, additional events of default are existing under the Senior Credit Facility. The Second Sterling Default Notice also stated that as long as Omega agrees to waive the default under the Master Leases and subleases, the Senior Lenders will continue to consider each request for a discretionary advance as set forth in the First Sterling Default Notice.

33. On February 22, 2018, Sterling issued a third notice of default and reservation of rights (the "Third Sterling Default Notice") stating that all events of default referenced in the prior notices are continuing. The Third Sterling Default Notice stated that default interest will accrue and further Revolving Advances, if any, were to be funded at the sole discretion of the Sterling Lenders.

2. Omega Master Leases

34. Certain of the Debtors are party to lease agreements with certain of the Omega Parties. As of the Petition Date, certain of the Debtors operate Facilities leased through the following master leases (each, a "Master Lease" and collectively, the "Master Leases"):

a. South East Region – Master Lease, effective as of November 27, 2013, by and between certain Omega Parties and certain Tenant Debtors with respect to 37 Facilities.

b. Indiana Region – Master Lease, effective as of November 27, 2013, by and between an Omega Party and Tenant Debtor Connersville RE, LLC with respect to one (1) Facility that the Debtors manage but operated by a third party; and

c. Laurel Baye – Master Lease, effective as of June 27, 2014, by and between certain Omega Parties and Tenant Debtor New Ark Master Tenant, LLC with respect to four (4) Facilities.

35. Pursuant to the Master Leases and related security documents, each Tenant Debtor and each Operating Debtor granted a security interest in substantially all of their assets to certain of the Omega Parties. Each Tenant Debtor also granted precautionary mortgages on the real property that is the subject of the Master Leases. In addition, in connection with the Laurel Bay Master Lease, pursuant to the Pledge Agreement, dated June 27, 2014, 4 West Investors, LLC pledged its equity interests in 4 West Holdings to various affiliates of the Omega Parties. Certain Debtors that are holding companies also pledged their respective interests in their Debtor subsidiaries to various Omega Parties. HCN also granted certain of the Omega Parties a security interest in, among other things, machinery, furniture, equipment, trade fixtures, appliances, accounts, contract rights, licenses and permits located at, arising out of the operations of, or used in connection with the Facilities.

36. In connection with each of the Master Leases, pursuant to a Subordination Agreement (collectively, the "Omega Intercompany Subordination Agreements"), 4 West Holdings, Inc. and certain other Debtors specified in the Omega Intercompany Subordination Agreements agreed to subordinate intercompany debt to amounts owing to the Omega Parties under the Master Leases. In addition, in connection with each of the South East and Indiana Master Leases, pursuant to an Assignment, Consent and Subordination of Services Agreement, HCN, as consultant, agreed to subordinate any fees owed to HCN to amounts owing to the Omega Parties under the South East and Indiana Master Leases. Similarly, in connection with the Laurel Baye Master Lease, pursuant to an Assignment, Consent and Subordination of Services Agreement, OHS, as consultant, agreed

to subordinate any fees owed to OHS to amounts owing to the Omega Parties under the Laurel Baye Master Lease.

37. In addition to the foregoing subordination agreements, the Master Leases are also subject to the following two intercreditor agreements:

i. Pursuant to the Subordination Agreement, dated November 27, 2013, between the Omega Parties and New Ark Mezz Holdings, LLC, New Ark Mezz's liens and right to payment are subordinate to the liens and rights of the Omega Parties under the Master Leases.

ii. Pursuant to the Subordination and Intercreditor Agreement, dated March 1, 2016 by and among the Borrowers, Senior Lenders and certain Omega Parties (as amended pursuant to the First Amendment to Subordination and Intercreditor Agreement, dated May 2, 2017) (the "Sterling/Landlord Intercreditor Agreement"), the Omega Parties' liens and right to payment under the Master Leases (and the Working Capital Loan Agreement (as defined below)) are subordinate to the liens and rights of Sterling under the Senior Credit Facility.

38. As of the Petition Date, the Debtors owed approximately $52 million to the Omega Parties as rent under the Master Leases. The Omega Parties have not issued a notice of default to the Company.

3. Omega Working Capital Loan Agreement

39. Pursuant to the Working Capital Loan Agreement, dated May 2, 2017, OHI Asset RO, LLC ("Working Capital Lender"), one of the Omega Parties, provided an $18.8 million line of credit to the Company for working capital expenses (the "Omega Working Capital Loan"). Most of the proceeds of the Omega Working Capital Loan were used to pay rent and real property taxes, with the remainder used for other operating expenses. As of the Petition Date, the outstanding balance under the Omega Working Capital Loan was approximately $15 million. The Working Capital Lender's rights under the Working Capital Loan are subject and subordinate to the liens and rights of Sterling under the Senior Credit Facility, in accordance with the Sterling/Landlord Intercreditor Agreement.

40. The Debtors' obligations under the Working Capital Loan are secured by, and cross-defaulted with, all guaranties, security interests, liens, subordinations, assignments and encumbrances granted by any one of the borrowers under the Master Leases to the Omega Parties. Furthermore, any of the borrower's (or its affiliates') property in which the Working Capital Lender or any of its affiliates has a security interest to secure payment of any other debt also secures payment of and, is part of the collateral for, the Omega Working Capital Loan, including any other indebtedness of a borrower to the Working Capital Lender or any of its affiliates (whether or not arising under the Working Capital Loan Agreement). Additionally, a default under any of the Senior Credit Facility, the New Ark Mezz Note (as defined below), or the Omega Working Capital Loan constitutes a default under each of the Master Leases.

4. New Ark Mezz Note

41. Pursuant to the First Amended and Restated Subordinated Promissory Note, dated April 1, 2014, 4 West Holdings issued a $11,150,000 subordinated secured note (as amended, the "New Ark Mezz Note") to New Ark Mezz Holdings, LLC ("New Ark Mezz"),[12] the proceeds of which were paid to the Omega Parties in connection with the Merger. As of the Petition Date, the maturity date of the New Ark Mezz Note is March 31, 2018. As of the Petition Date, the outstanding balance under the New Ark Mezz Note was approximately $6.2 million.

42. The New Ark Mezz Note is secured by a Subordinated Security Agreement, dated November 27, 2013 whereby New Ark Mezz was granted a second priority security interest in all of 4 West Holding's ownership interests in New Ark SC Operator Holdings,

[12] HCN is a member of New Ark Mezz.

Inc. (n/k/a Orianna SC Operator Holdings, Inc., a Debtor in these Chapter 11 Cases).[13] New Ark Mezz's rights are subordinated to the rights of the Senior Lenders under the Senior Credit Facility[14] and the rights of the Omega Parties under the Master Leases.[15]

5. SA Mezz Note

43. Pursuant to the Amended and Restated Promissory Note, dated February 1, 2017, Debtor Palladium issued a $1,100,000 unsecured promissory note (the "SA Mezz Note") to SA Mezz Holdings, LLC ("SA Mezz"), the proceeds of which were applied in connection with Palladium's acquisition of Pinnacle Hospice, LLC in August 2016. The maturity date of the SA Mezz Note is August 1, 2021. As of the Petition Date, the outstanding balance of the SA Mezz Note, with interest, was approximately $1.2 million.

6. Other Unsecured Debt

44. As of the Petition Date, the Debtors owe an aggregate of approximately $67 million of unsecured trade debt, most of which is owed to vendors who provide critical goods or services necessary in the operation of the SNFs.

III. EVENTS LEADING UP TO THESE CHAPTER 11 CASES

45. Since 2015, the Debtors have faced significant liquidity constraints caused principally by: (a) unfavorable commercial agreements and certain liabilities assumed as part of Merger, including regulatory and personal liability claims; (b) historical losses at certain of the Debtors' previously-operated facilities, (c) a decline in performance within the current portfolio for a variety of industry-wide developments; and (d) significant capital

[13] Certain Omega Parties hold the first priority security interest.

[14] Pursuant to the Subordination Agreement (Mezzanine Loan) by and between Sterling National Bank, as agent, and New Ark Mezz Holding, LLC, as Mezzanine Lender, dated March 1, 2016.

[15] Pursuant to the Subordination Agreement (Mezzanine Loan) by and between the Landlord and New Ark Mezz Holding, LLC, as Mezzanine Lender, dated November 27, 2013.

expenditure needs. Further, the Debtors also faced rent payment obligations to the Omega Parties under the Master Leases, which were significantly higher than their operating income could support.

A. Financial Difficulties After the Merger

46. As a result of the Merger, the Company assumed AHC's liabilities related to approximately forty (40) pending lawsuits including professional liability, general liability and employment-related litigation pending at the time of the acquisition. As of the Petition Date, claims accrued prior to the Merger have cost the Company nearly $6.5 million.

47. Furthermore, in connection with the Merger, the Company assumed various contracts with AHC's vendors, many of which did not contain favorable pricing for a company of this size. The Company spent significant time transitioning out of many of those agreements, including a significant contract relating to the pharmaceutical and medical supplies used at the Facilities. Exiting these contracts in some cases subjected the Company to lawsuits arising from such contracts.

48. Following the Merger, the Company analyzed its portfolio and shortly thereafter, with the assistance of the Omega Parties, took the necessary steps to divest certain facilities that were operating at a historical loss. In the summer of 2014, the Company and the Omega Parties marketed the portfolio of skilled nursing facilities then operating in Texas, which were subject to a Master Lease, dated November 27, 2013 (the "Texas Master Lease") with certain Omega Parties as landlord. At that time, the Tenant Debtors terminated the subleases with the Operating Debtors and once a new operator was found (an affiliate of Daybreak Ventures, LLC ("Daybreak"), an unrelated third party), the Tenant Debtors entered into new subleases with Daybreak as the operators of the skilled nursing facilities in Texas. In July 2017, the Tenant Debtors and the Omega Parties

terminated the Texas Master Lease. The Tenant Debtors owe approximately $1.25 million to the Omega Parties as a result of the Tenant Debtors not refunding a security deposit when the Texas Master Lease was terminated.[16] Certain of the Tenant Debtors that previously operated in Texas are Debtors in these Chapter 11 Cases.

49. Further, in the fall of 2016, the Company and the Omega Parties began to market its facilities in Idaho, Oregon, Utah and Washington that were subject to a Master Lease, dated November 27, 2013 (the "Northwest Master Lease"). By early 2017, the Company began transitioning those facilities to new operators and sought to formally terminate the Northwest Master Lease. Notwithstanding the transition of the last of the facilities leased under the Northwest Master Lease in September 2017, amounts remain due and owing thereunder.

50. Within the Company's current portfolio of Facilities, certain Facilities have continued to operate at a loss and will likely continue to do so after the Petition Date. Moreover, like many other healthcare companies, the Debtors have struggled with managing their revenue cycle due to delays in payment from third party payors such as Medicaid, Medicare, and private insurance companies.

B. Negotiation and Entry Into Restructuring Support Agreement

51. As noted above, beginning in mid-2017, the Debtors and the Omega Parties began discussions regarding potential short- and long-term restructuring options for the Debtors. In November, 2017, the Debtors concluded that the best way to implement a restructuring would be through a chapter 11 filing. In light of these developments, and to support the Debtors' restructuring efforts, on January 12, 2018, the Debtors retained

[16] The Debtors understand that Daybreak is continuing to operate the facilities under a separate master lease with the Omega Parties.

Houlihan Lokey Capital, Inc. ("Houlihan") as the Debtors' investment banker. On January 19, 2018, the Debtors retained Crowe Horwath LLP as financial advisor to provide supplementary bankruptcy preparation resources.

52. In the months leading up to the Petition Date, the Debtors engaged in extensive and sometimes protracted confidential negotiations with the Omega Parties, and SC-GA 2018 Partners, LLC, as proposed plan sponsor (the "Plan Sponsor"), regarding a good faith proposed global settlement to, among other things, provide a pathway to a prompt and efficient transfer of twenty-two of the Debtors' Facilities to one or more new operators (designated by the Omega Parties), with the remaining twenty properties and Palladium to be treated as owned or leased by the Debtors. These negotiations resulted in the entry into the RSA among certain of the Debtors, certain of the Omega Parties, and the Plan Sponsor.

53. On or around February 23, 2018, to aid in the potential restructuring process and in light of the overlap in the indirect beneficial ownership of the Debtors and the Plan Sponsor, and continuing negotiations on the RSA, 4 West Holdings, Inc. and Orianna Investment, LLC caused existing director Eric Roth to be appointed to a newly-formed Special Restructuring Committee consisting solely of Mr. Roth. Mr. Roth is currently the sole director of 4 West Holdings, Inc., and one of three board members of Orianna Investment, LLC. Each of the respective boards delegated to the Special Restructuring Committee the full power and authority to, among other things (i) authorize the chapter 11 filing of 4 West Holdings, Inc., its parent company 4 West Investors, LLC, and each of their respective subsidiaries; (ii) effectuate the transactions contemplated under the Proposed Plan (as defined below); and (iii) engage various advisors to the Debtors, including Houlihan to explore potential other plan funding sources under the RSA, consistent with

Bank of America, N.A. v. 203 N. LaSalle St. Partnership, 526 U.S. 434 (1999). Furthermore, as CRO of the Debtors, I retain principal responsibility for the Debtors' restructuring efforts, by reporting to and making recommendations to the Special Restructuring Committee.

54. The RSA, among other things, contemplates a two-part resolution of the issues between the Omega Parties and the Debtors in accordance with a settlement, to be submitted to this Court for approval pursuant to a separate motion to be filed under Fed. R. Bankr. P. 9019. The resolution was developed in part based on the Debtors' determination that certain of the Facilities operated by the Debtors are unprofitable and that the Debtors lack the liquidity or other resources necessary to turn them around and restore them to profitable operations. These unprofitable Facilities are identified in the RSA as the "Transfer Portfolio." In addition, the Debtors also identified a core group of Facilities around which the Debtors could develop a successful restructuring strategy. These Facilities are identified in the RSA as the "Restructuring Portfolio."

55. With the Debtors' Facilities thus differentiated between those that could support a successful restructuring and those that would undermine it, the Debtors, the Omega Parties, and the Plan Sponsor negotiated the two-step restructuring contemplated in the RSA, which comprises:

a. a "Transfer Transaction"[17] whereby 4 West and certain of its affiliates will transition the Transfer Portfolio, including all of the assets necessary for the operation of such properties, to one or more new operators designated by the Omega Parties under corresponding Operations Transfer Agreements; and

[17] The Transfer Portfolio and the Transfer Transaction are set forth in greater detail in the RSA.

b. a "Restructuring Transaction"[18] whereby the Restructuring Portfolio will be transferred to the Plan Sponsor under the terms of the Proposed Plan.

56. In this fashion, the Debtors are poised to swiftly divest themselves of underperforming, unprofitable Facilities and minimize the accrual of future administrative rent and operational losses while positioning the remainder of the Facilities for a successful reorganization.

57. As part of the Restructuring Transaction, the Plan Sponsor would cause the funding of the Debtors' proposed plan of reorganization with $225 million (comprised of $195 million in cash and a $30 million note) in exchange for equity in the Reorganized Debtors (the "Proposed Plan").[19]

58. Furthermore, the RSA contemplates that the Omega Parties will provide the Debtors with an approximately $30 million senior secured superpriority debtor-in-possession financing facility (the "DIP Facility"). The Debtors are seeking authorization to access $25 million of the DIP Facility (consisting of a term loan in the amount of $14.2 million and a revolver of up to $10.8 million) upon entry of an interim order in order to pay all amounts owed to Sterling and meet their working capital needs, with the remainder of the $5 million revolver to be available upon entry of the final order approving the DIP Facility.

59. The Debtors have determined, after extensive diligence and in consultation with their advisors and key stakeholders, that maximizing the value of the Debtors' estates is best accomplished through the Transfer Transaction and the Restructuring Transaction.

[18] The Restructuring Portfolio and the Restructuring Transaction are set forth in greater detail in the RSA and the Proposed Plan.

[19] The RSA contains a "fiduciary out" that allows the Debtors and their officers and directors to solicit or accept any alternative transaction that the Debtors determine in good faith is on more favorable terms to the Debtors' creditors than the current Restructuring Transaction.

This global resolution with the Omega Parties represents the best available alternative for the Debtors and, significantly, effectuating the transactions contemplated under the RSA will reduce the risk of potentially expensive and protracted litigation. Taken together, the Transfer Transaction and the Restructuring Transaction through a chapter 11 process will allow the Debtors to resolve their legacy and contingent liabilities in a comprehensive manner, remove the litigation overhang, transfer certain underperforming Facilities to new operators in an efficient and structured manner, and above all, provide certainty regarding the Debtors' future operations for all of the Debtors' stakeholders including, most importantly, the Debtors' residents, employees, and vendors. Accordingly, I believe that the effectuation of transactions under the RSA, represents the best option for the Debtors to maximize the value of their estates.

IV. First Day Pleadings

60. Contemporaneously with the filing of their chapter 11 petitions, the Debtors have filed the First Day Pleadings.[20] The Debtors request that each of the First Day Pleadings described below be granted, as they constitute a critical element in ensuring the Debtors' successful reorganization in these Chapter 11 Cases.

A. Motion of Debtors for Entry of an Order (I) Directing the Joint Administration of Their Chapter 11 Cases and (II) Granting Related Relief (the "Joint Administration Motion").

61. Pursuant to the Joint Administration Motion, the Debtors request entry of an order, directing the consolidation and joint administration of these Chapter 11 Cases, for procedural purposes only. Given the integrated nature of the Debtors' operations, joint

[20] Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the applicable First Day Pleading

administration of these Chapter 11 Cases will provide significant administrative convenience without harming the substantive rights of any party in interest.

62. The Debtors anticipate that numerous notices, applications, motions, other pleadings, hearings, and orders in these Chapter 11 Cases will affect several or all of the Debtors. The failure to jointly administer these 135 cases—each with its own case docket—would result in numerous duplicative filings for each issue, which would then be served upon separate service lists. Further, joint administration will relieve the Court of entering duplicative orders and maintaining duplicative files and dockets. The Office of the United States Trustee and other parties in interest will similarly benefit from joint administration of these Chapter 11 Cases, sparing them the time and effort of reviewing duplicative pleadings and papers.

63. I understand that the rights of the Debtors' creditors will not be adversely affected by joint administration of these Chapter 11 Cases because the Joint Administration Motion requests only the administrative consolidation of the estates for procedural purposes, and does not seek substantive consolidation at this time. Each creditor and other party in interest will maintain whatever rights it has against the particular estate against which it allegedly has a claim or right. Furthermore, because these Chapter 11 Cases involve thousands of creditors, the entry of an order of joint administration will: (a) significantly reduce the volume of pleadings that otherwise would be filed with the Clerk of this Court, (b) render the completion of various administrative tasks less costly, and (c) minimize the number of unnecessary delays associated with the administration of numerous separate Chapter 11 Cases.

64. Accordingly, on behalf of the Debtors, I respectfully submit that the Joint Administration Motion should be approved.

B. Motion of Debtors for Entry of an Order Authorizing the Filing of a Consolidated List of Forty (40) Largest Unsecured Creditors (the "Creditor List Motion").

65. Pursuant to the Creditor List Motion, the Debtors request entry of an order authorizing the Debtors to file one consolidated list of their forty (40) largest unsecured creditors for all of the Debtors.

66. The Debtors are comprised of 135 affiliated companies that maintain their books and records on a consolidated basis with one accounts payable system. There are thousands of creditors and other parties in interest in these Chapter 11 Cases, and there may be potential for confusion and/or overlap regarding creditor obligations. Given the circumstances, the Debtors submit that it is appropriate for them to file one consolidated mailing matrix and one consolidated list of their forty (40) largest unsecured creditors. Absent such relief, the Debtors would be required to manually build each accounts payable sub-ledger. The consolidated list of creditors will provide good and sufficient notice to all creditors and parties in interest in an efficient manner.

67. Accordingly, on behalf of the Debtors, I respectfully submit that the Creditor List Motion should be approved.

C. Motion of the Debtors for Entry of an Order Pursuant to Bankruptcy Rule 1007 Extending the Deadline to File Schedules of Assets and Liabilities and Statements of Financial Affairs (the "Schedules Extension Motion").

68. Pursuant to the Schedules Extension Motion, the Debtors request entry of an order extending the required time for filing the (a) schedules of assets and liabilities, (b) schedules of executory contracts and unexpired leases, (c) schedules of current income and

expenditures, and (d) statement of financial affairs (collectively, the "Schedules and Statements"), from March 20, 2018 to April 12, 2018, without prejudice to the Debtors' ability to request additional extensions for cause shown.

69. Although the Debtors have commenced preparation of their Schedules and Statements, as a result of the large numbers of creditors and parties in interest in the Debtors' Chapter 11 Cases, the Debtors need additional time to prepare and file the Schedules and Statements.

70. Given the size and complexity of the Debtors' operations, and taking into account that there are 135 separate Debtor-entities, a significant amount of information must be accumulated, reviewed, and analyzed to properly prepare the Schedules and Statements. Further, it is estimated that it will take approximately two weeks for the Debtors to close their pre-petition books and for all pre-petition invoices to be received by the Debtors' accounting department. The Debtors will then have to extract all necessary information from their books and records and populate such information in the Official Forms. In light of the large number of debtors and creditors in these cases, it will take time for this process to be completed, and the Debtors therefore submit that cause exists for the requested extension.

71. Accordingly, on behalf of the Debtors, I respectfully submit that the Schedules Extension Motion should be approved.

D. Motion of the Debtors for Entry of an Order Authorizing the Implementation of Procedures to Maintain and Protect Confidential Patient Information (the "Confidential Patient Information Procedures Motion").

72. Pursuant to the Confidential Patient Information Procedures Motion, the Debtors request entry of an order authorizing the implementation of procedures to protect

confidential information of the Debtors' patients as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

73. In the ordinary course of operating their skilled nursing facilities and providing care for their patients, the Debtors are required to maintain the confidentiality of patient information pursuant to HIPAA. However, the Debtors recognize that such requirements may conflict with the duty to disclose information under the Bankruptcy Code, including, without limitation, the duty to file a list of creditors, and the Schedules and Statements.

74. The Debtors believe that the proposed procedures to maintain patient confidentiality during the pendency of these Chapter 11 Cases balances the need to maintain confidential patient information under HIPAA and the need for disclosure under the Bankruptcy Code.

75. Accordingly, on behalf of the Debtors, I respectfully submit that the Confidential Patient Information Procedures Motion should be approved.

E. Application of the Debtors for Entry of an Order Authorizing Employment and Retention of Rust Consulting/Omni Bankruptcy as Claims, Noticing, and Administrative Agent, *Nunc Pro Tunc* to the Petition Date (the "Claims Agent Retention Application").

76. Pursuant to the Claims Agent Retention Application, the Debtors request entry of an order authorizing the appointment of Rust Consulting/Omni Bankruptcy ("Rust Omni") as the claims and noticing agent for the Debtors in these Chapter 11 Cases, including assuming full responsibility for the distribution of notices and the maintenance, processing and docketing of proofs of claim filed in these Chapter 11 Cases.

77. The Debtors obtained and reviewed engagement proposals from two other court-approved claims and noticing agents to ensure selection through a competitive process. The Debtors submit, based on all proposals obtained and reviewed, that Rust

Omni's rates are competitive and reasonable given Rust Omni's quality of services and expertise.

78. Accordingly, on behalf of the Debtors, I respectfully submit that the Claims Agent Retention Application should be approved.

F. Motion of the Debtors For Entry of Interim and Final Orders Authorizing (I) Continued Use of Existing Cash Management System, (II) Maintenance of Existing Bank Accounts, and (III) Continued Use of Existing Business Forms, and (IV) Extension of Time to Comply With 11 U.S.C. § 345(b) Deposit and Investment Requirements (the "Cash Management Motion").

79. Pursuant to the Cash Management Motion, the Debtors request entry of interim and final orders authorizing (a) the Debtors to (i) continue to use their existing cash management system, (ii) maintain their existing bank accounts, and (iii) continue to use their existing business forms, and (b) an extension of time to comply with the deposit and investment requirements of section 345(b) of the Bankruptcy Code, to the extent they are applicable.

Cash Management System

80. In the ordinary course of their businesses, the Debtors utilize a centralized cash management system (the "Cash Management System") through which funds are received, consolidated, and disbursed to pay various business-related expenses. The Cash Management System is similar to those commonly employed by corporate enterprises of comparable size and complexity.

81. On a daily basis, the Debtors process a large number of transactions through the Cash Management System. In doing so, the Debtors routinely deposit, withdraw, and otherwise transfer funds to, from, and between bank accounts by various methods, including by check, wire transfer, automated clearing house transfer, and electronic funds transfer. The Debtors maintain current and accurate records of all transactions processed through the

Cash Management System, including intercompany obligations. In the ordinary course of business, the Debtors generally do not engage in intercompany transfers; however, to the extent that there are any intercompany claims incurred after the Petition Date, such transactions will be documented in the Debtors' books and records through their ordinary course accounting process.

82. The Cash Management System consists of the banks and bank accounts listed on **Schedule 1** to the proposed interim order (such bank accounts and banks, the "Bank Accounts" and "Banks," respectively).

83. As of the Petition Date, the Cash Management System utilized a total of 306 Bank Accounts. Most of the Bank Accounts are held at TPB, Sterling, and Wells Fargo Bank, N.A. As of the Petition Date, the Debtors were in the process of transitioning their accounts from TPB to Sterling (the "Account Migration Process"). As each Facility completes its transition of deposit accounts to Sterling, the corresponding accounts with TPB are closed. In some instances, the transition of accounts is in process but have not been completed primarily due to delays associated with redirecting government receivables into a new Sterling account. The Debtors seek authorization to continue, in their sole discretion, the Account Migration Process postpetition. [21]

84. The Debtors request that the Court authorize the Banks to continue to maintain, service and administer the applicable Bank Accounts without interruption in the ordinary course of business, notwithstanding whether the Banks are authorized depository institutions in this District. However, all of the Banks are Federal Deposit Insurance Corporation insured banking institutions and therefore the Debtors submit that it is

[21] There are approximately sixty-five accounts at TBP that are currently pending closure.

appropriate to continue to maintain these accounts during the pendency of these Chapter 11 Cases.

The Bank Accounts

85. The Cash Management System consists of the following categories of Bank Accounts:

a. Government Receivables Accounts: Each Facility that the Debtors operate maintains a deposit account for government receivables (each, a "Government Receivables Account"). Most of the Government Receivables Accounts are held at Sterling, but some still remain at TPB as the Account Migration Process is ongoing. These Bank Accounts are funded from Medicaid and Medicare payments and are zero balance accounts. Any funds contained in these accounts are swept on a daily basis into a Concentration Account (as defined below) of each Facility entity's parent.

b. Private Pay Accounts: Each Facility also maintains an account into which non-government receivables are funded (each, a "Private Pay Account"). These accounts are funded from resident and resident payments (including through insurance carriers). As with the Government Receivables Accounts, any funds contained in these accounts are swept on a daily basis into a Concentration Account (as defined below) of each Facility entity's parent.

c. Concentration Accounts: The Debtors maintain five (5) concentration accounts (each, a "Concentration Account") at Sterling and four (4) Concentration Accounts at TPB.[22] As discussed above, funds from the Governmental Receivables Accounts and the Private Pay Accounts are swept daily into a Concentration Account of each Facility entity's parent. The funds in the Concentration Accounts are then swept daily into the 4 West Holdings Master Deposit Accounts (as defined below).

d. 4 West Holdings Master Deposit Accounts: Debtor 4 West Holdings, Inc. maintains a master deposit account at Sterling and another at TPB (together, the "4 West Holdings Master Deposit Accounts"). Funds from the Concentration Accounts held at Sterling are swept daily into the 4 West Holdings Master Deposit Account at Sterling. Funds from the Concentration Accounts held at TPB are swept daily into the 4 West Holdings Master Deposit Account at TPB. Funds in both 4 West Holdings Master Deposit Accounts are then transferred by automatic daily wire to Sterling to pay down the revolving line of credit under the Sterling credit facility. Following the Petition Date, and following payoff of the

[22] Some Concentration Accounts at TPB are referred to as "Master Deposit Accounts" but have the same function as a Concentration Account in the Debtors' overall Cash Management System.

Sterling Obligations pursuant to an order approving the DIP Motion, the Debtors will no longer be required to transfer the funds in the 4 West Holdings Master Deposit Accounts to Sterling, and rather will transfer those funds on a daily basis to the Operating Account.

e. Operating Account: Prior to the Petition Date, the Debtors, through Debtor OHS, make a daily borrowing request for funding under the Sterling credit facility. Sterling deposits funds into OHS' operating account at Sterling (the "Operating Account"). Funds from the Operating Account are swept daily to the (i) OHS Disbursement Account (as defined below), (ii) OHS Payroll Disbursement Account (as defined below), or (iii) OHS Payroll Tax Disbursement Account (as defined below), to among other things, fund payroll and other operating expenses. Following the Petition Date, and following payoff of the Sterling Obligations pursuant to an order approving the DIP Motion, there will be a daily transfer from the 4 West Holdings Master Deposit Accounts to the Operating Account.

f. OHS Disbursement Account: As needed, funds from the Operating Account are swept daily into an OHS disbursement account at Sterling (the "OHS Disbursement Account") to pay operating expenses and employee benefit programs (other than 401(k)), either via check, wire transfer, or ACH to vendors.

g. OHS Payroll Disbursement Account: As needed, funds from the Operating Account were swept daily into an OHS payroll disbursement account at Sterling (the "OHS Payroll Disbursement Account") to fund payroll for all employees employed by the Debtors[23], employee contributions to the 401(k) plan and other employee benefit and processing fees. HCN is the payroll processor and benefits administrator for the Debtors.

h. OHS Payroll Tax Disbursement Account: As needed, funds from the Operating Account are transferred into an OHS payroll tax disbursement account at Sterling (the "OHS Payroll Tax Disbursement Account"). The funds in this account are transferred to Ceridian Tax Services to remit payroll taxes to the appropriate taxing authorities and employee garnishments to the appropriate third parties.

i. Scepter Security Deposit Account: Debtor Scepter Senior Living Center, LLC ("Scepter") maintains a security deposit account at CIBC (the "Scepter Security Deposit Account") to hold security deposits of Scepter's residents. Upon a resident leaving Scepter or upon the death of a resident, any remaining funds in the security deposit account are returned to the resident or the resident's representative.

j. Brushy Creek Accounts: Debtor Brushy Creek Rehabilitation and Healthcare

[23] With the exception of employees employed by Palladium.

Center, LLC ("Brushy Creek") maintains a deposit account at TPB (the "Deposit Account"). Brushy Creek is not a borrower under the Sterling credit facility and therefore, the funds in Brushy Creek's deposit account are transferred via wire (as needed) into the OHS Operating Account (instead of flowing through a parent's Concentration Account into the 4 West Holdings Master Deposit Account).

k. Palladium Accounts: Debtor Palladium is a company that provides hospice care in a number of the Debtors' Facilities as well as other non-debtor skilled nursing facilities. Palladium is not a borrower under the Sterling credit facility[24] and therefore its receivable account (for both government receivables and third party payors) maintained at TPB (the "Palladium Receivables Account") is not swept into the 4 West Master Deposit Accounts. Instead, the funds in the Palladium Receivables Account are swept daily into Palladium's master operating account (the "Palladium Master Operating Account")[25]. Checks, ACH transfers and wire transfers are made from the Palladium Master Operating Account to pay payroll for employees employed by Palladium, vendors and other operating expenses of Palladium. As needed, funds are swept into Palladium's payroll tax disbursement account to fund payroll taxes and garnishment payments. Palladium also utilizes the services of Ceridian for remittance of payroll taxes and HCN for payroll processing.

l. Resident Trust Accounts: Each Facility maintains a resident trust account (collectively, the "Resident Trust Accounts") for their residents for amounts in excess of $100. Upon written authorization of a resident, the Facility must hold, safeguard, manage and account for such resident's personal funds as federally mandated. The Resident Trust Accounts are escrow accounts which hold funds belonging to the residents, such as social security payments or any other payments they may receive from third parties. The Resident Trust Accounts are not property of the Debtors' estates, but rather are property of the Debtors' residents. The Facility's residents may direct a draw from the Resident Trust Account upon request and to the extent that residents use the funds to pay amounts owed to the Debtors, such funds are transferred to the Resident Care Cost Account and then from there, by automatic wire to a Concentration Account at Sterling. The Facility's residents may also transfer funds in the Resident Trust Account or into the Resident Trust Petty Cash Account (as defined below).

m. Resident Trust Petty Cash Accounts: Each Facility also maintains a resident trust petty cash account ("Resident Trust Petty Cash Accounts"), for any other personal resident's funds (usually amounts less than $100 from the Resident Trust Accounts), which allows the residents to withdraw small amounts of cash for personal use such as entertainment, travel, or personal care. The Resident Trust Petty Cash Accounts are also escrow accounts and the funds contained therein are

[24] Palladium is, however, a borrower under the Omega Working Capital Loan.

[25] The Palladium Master Operating Account is also referred to as a "General Account."

not property of the Debtors' estates, but rather are property of the Debtors' residents.

n. Resident Care Cost Accounts: Each Facility maintains a resident "care cost" account (the "Care Cost Accounts"). Funds from the Resident Trust Accounts are transferred to Care Cost Accounts to pay for services rendered to residents that are not covered by third party payors. Each day, funds in the Care Cost Accounts are automatically wired into the Facility's Concentration Account.

o. New Operator Accounts. Approximately one year prior to the Petition Date, the Debtors transferred certain of their Facilities to new operators (the "Third Party Operators"). As part of the transition, the Debtors coordinated with the Third Party Operators to change the direct deposit and wire transfer information with third parties, including Medicare and Medicaid, so that any future payment of funds from these entities would be transferred to the Third Party Operators' accounts. Despite the Debtors' efforts, these payment changes have taken longer than expected to effectuate and consequently, from time to time, the Debtors continue to inadvertently receive money into their accounts (the "New Operator Accounts") rather than Third Party Operators' accounts. In the ordinary course of business, the Debtors routinely remit such funds to the Third Party Operators as the Debtors understand that they are not entitled to such funds. The Debtors seek authority to continue this practice of remitting funds from the New Operator Accounts to the Third Party Operators postpetition in accordance with prepetition practices.

Business Forms

86. In addition to the Cash Management System and Bank Accounts, the Debtors, in the ordinary course of its business, use numerous business forms (including but not limited to checks, deposit slips, letterhead, contracts, purchase orders and invoices) (collectively, the "Business Forms"). Most of the Business Forms are printed on an as-needed basis from an electronic template and therefore, the Debtors will be able to designate "Debtor-in-Possession" on such forms, including checks. However, with respect to the preprinted Business Forms, the Debtors request that they be authorized to continue to use these preprinted Business Forms on a postpetition basis and once their existing stock is depleted, the Debtors will then replace them with stock containing the "Debtor-in-Possession" designation. The Debtors submit that it would be expensive and wasteful, and

disruptive to the Debtors' business, to destroy all of these forms and order new ones. Absent this relief, the estates will be required to bear a potentially significant expense that the Debtors believe is unwarranted, without any meaningful corresponding benefit, and would unnecessarily distract the Debtors away from their efforts from administering these Chapter 11 Cases.

87. Given the size and complexity of the Debtors' business operations, any disruption of their accounting and cash management procedures would be burdensome and disruptive and could adversely impact the Debtors' efforts to reorganize. At this critical juncture, the Debtors must be able to conduct "business as usual" to the extent possible. To this end, it is essential that the Debtors be permitted to continue to use their existing Cash Management System and Bank Accounts.

88. The Cash Management System and Bank Accounts provide numerous benefits to the Debtors and their estates. Among other benefits, the Cash Management System and the Bank Accounts permit the Debtors to centrally control and monitor the collection and transfer of funds, to ensure cash availability, to reconcile intercompany transactions, to maximize investment income, and to reduce administrative burden and expense. The Debtors have the capability through the Cash Management System to distinguish between prepetition and postpetition transactions and to reconcile intercompany transactions without the necessity of closing the Bank Accounts and opening new ones. Moreover, the Debtors have the ability to generate through the Cash Management System detailed and accurate reports.

89. Finally, because the Debtors accept Medicare and Medicaid payments, the Bank Accounts are subject to certain restrictions. Specifically, anti-assignment rules require Medicare

and Medicaid payments to be made only to a bank account that is under the sole control of the healthcare provider, and any governmental payments must be made into a lockbox account. If Medicare or Medicaid receivables were assigned to another account, such assignment could violate the anti-assignment rules and result in the termination of the provider agreement.

90. The Debtors respectfully submit that under the circumstances, the maintenance of the Debtors' Cash Management System in substantially the same form as it existed prior to the Petition Date is in the best interests of the Debtors' estates and creditors. Preserving a "business as usual" atmosphere and avoiding the unnecessary distractions that inevitably would be associated with any substantial changes to the Cash Management System will (a) facilitate the Debtors' stabilization of their postpetition business operations and (b) assist the Debtors in their efforts to preserve and maximize value. Moreover, it will allow the Debtors to continue providing services to the residents at the Debtors' facilities in an undisrupted manner.

91. Accordingly, on behalf of the Debtors, I respectfully submit that the Cash Management Motion should be approved.

G. Motion of the Debtors for Entry of Interim and Final Orders Authorizing Debtors to (I) Pay Prepetition Wages, Compensation, and Employee Benefits, (II) Continue Certain Employee Benefit Programs in the Ordinary Course, and (III) Granting Related Relief (the "Employee Wage Motion").

92. Pursuant to the Employee Wage Motion, the Debtors request entry of interim and final orders authorizing the Debtors: (a) to pay and/or perform, as applicable, prepetition obligations to their employees and independent contractors, including accrued prepetition wages, salaries and other cash and non-cash compensation claims, except as otherwise set forth in the Employee Wage Motion (collectively, the "Employee Claims"); (b) to honor and continue in the ordinary course of business until further notice (but not

assume under section 365(a) of the Bankruptcy Code), certain of the Debtors' vacation, sick time and holiday time policies, employee benefit plans, programs, policies and procedures (collectively, the "Employee Benefit Obligations"), and to pay all fees and costs in connection therewith, except as otherwise set forth in the Employee Wage Motion; (c) to reimburse Employees (as defined below) for prepetition expenses that Employees incurred on behalf of the Debtors in the ordinary course of business (the "Employee Expense Obligations"); (d) to pay all related prepetition withholdings, and payroll-related taxes associated with the Employee Claims and the Employee Benefit Obligations (the "Employee Taxes"); and (e) to pay all administrative fees and employee contributions to the Employee 401(k) plan (the "401(k) Obligations" and, together with the Employee Claims, the Employee Benefit Obligations, the Employee Expense Obligations and the Employee Taxes collectively, the "Prepetition Employee Obligations"), all in accordance with prepetition practices, and as described in further detail in the Employee Wage Motion.

93. The Debtors' workforce comprises a total of approximately 5,000 employees, as follows (collectively, the "Employees"):[26]

a. approximately 465 full-time salaried employees (the "Salaried Employees");

b. approximately 3,060 full-time hourly employees (the "Hourly Employees" and together with the Salaried Employees, the "Full Time Employees");

c. approximately 40 part-time salaried employees (the "Salaried Part Time Employees"); and

d. approximately 1,450 regular part-time hourly employees ("Hourly Part Time Employees" and together with the Salaried Part Time Employees, the "Part Time Employees").

[26] None of the Employees are unionized.

94. In addition, the Debtors utilize the services of six (6) staffing agencies (collectively, the "Employment Agencies") to provide nurses, licensed practical nurses, certified nursing assistants and other supplemental and temporary employees to the Debtors' Facilities (collectively, the "Supplemental Employees") to meet staffing needs with the requisite ratio of staff to residents pursuant to requirements established by Medicare and Medicaid. As of the Petition Date, the Debtors estimate that approximately $214,000 remains due and outstanding to the Employment Agencies on behalf of the Supplemental Employees. The Debtors also utilize the services of medical directors for each of their Facilities, all of whom are independent contractors (the "Independent Contractors"). On average, the Debtors pay approximately $1,500 to $3,000 per month for each Facility. As of the Petition Date, approximately $165,000 is owed to the Independent Contractors. The Debtors seek authority to pay any pre-petition amounts outstanding, up to the statutory cap of $12,850, to the Independent Contractors, and to continue their services post-petition in the ordinary course.

95. The Debtors have a strong business purpose for paying the Prepetition Employee Obligations. The Debtors' success in these Chapter 11 Cases cannot be accomplished without the contribution of their Employees. Failure to pay the Prepetition Employee Obligations would negatively impact the morale of the Debtors' Employees at a critical time for the Debtors and their business and potentially jeopardize the Debtors' restructuring efforts. Indeed, maintaining the goodwill of the Employees and ensuring the uninterrupted availability of their services now and in the future will (a) assist the Debtors in maintaining the necessary "business as usual" atmosphere and, in turn, protect the going-concern value of the estates and maximize the value ultimately available to creditors and (b)

preserve the Debtors' relationships with their customers. The creditors of the Debtors will ultimately benefit from the payment of these prepetition claims.

96. Further, failure to pay the Prepetition Employee Obligations would likely lead to a mass exodus of Employees which would effectively shut down the Debtors' operations and risk the health and safety of the residents under their care. Moreover, even if Employees remained without being paid prepetition wages and benefits, it is likely their work would be adversely affected.

97. Similarly, the Independent Contractors and the Employment Agencies are equally critical and are parties with whom the Debtors must deal. As discussed above, the Employment Agencies provide Supplemental Employees (including nurses, licensed practical nurses, certified nursing assistants) to meet the daily staffing needs in each Facility and to comply with the requirements established by Medicare and Medicaid to maintain a certain ratio of staff to residents. The Independent Contractors consist of medical directors who provide a myriad of services including but not limited to, providing guidance on medical policy at the Facility, overseeing the medical services provided to the residents, and consulting with nurses with respect to the condition of the residents at the Facility.

98. Any disruption to the foregoing services, even if for a short period of time, would disrupt not only the Debtors' operations but also risk the health and safety of their residents. Needless to say, the Debtors' Employees, Supplemental Employees, and the Independent Contractors are the main asset and lifeblood of the Debtors, and without them, the Debtors would not be able to continue as a going concern, preserve value, or reorganize.

99. Accordingly, on behalf of the Debtors, I respectfully submit that the Employee Wage Motion should be approved.

H. Motion of the Debtors for Entry of Interim and Final Orders Authorizing the Debtors to Pay Certain Prepetition Taxes (the "Tax Motion").

100. Pursuant to the Tax Motion, the Debtors request entry of interim and final orders authorizing the Debtors to pay, in their sole discretion, any use, property, provider and all similar taxes and related obligations, including any business license and permit fees and assessments (collectively, the "Taxes") that accrued or that arose before the Petition Date that will become due during the pendency of these Chapter 11 Cases[27] to the applicable federal, state and local taxing authorities (collectively, the "Taxing Authorities") in the ordinary course of business, without prejudice to the Debtors' rights to contest the amounts and/or priority of any Taxes on any grounds they deem appropriate.

101. The Debtors, in the ordinary course of their businesses, incur various tax liabilities. With the exception of real property taxes, the Debtors' books and records reflect that they have paid all Taxes that were due and payable prior to the Petition Date. The Taxing Authorities, however, will continue to invoice the Debtors for Taxes relating to periods prior to the Petition Date following the commencement of these Chapter 11 Cases. As of the Petition Date, the Debtors owe approximately $5.35 million in prepetition Taxes. Of that amount, approximately $750,000 in Taxes will become due and payable within the first twenty-one (21) days of these Chapter 11 Cases, which the Debtors seek to pay pursuant to the proposed interim order. The Debtors seek authority to pay the remaining outstanding taxes of $4.6 million, of which approximately $3.8 million are real estate taxes, pursuant to the proposed final order.

[27] Through the Tax Motion, the Debtors are not seeking authorization with respect to certain payroll taxes and withholdings related to the Debtors' employees. Rather, such authorization is sought pursuant to the *Motion of the Debtors for Entry of Interim and Final Orders Authorizing Debtors to (I) Pay Prepetition Wages, Compensation, and Employee Benefits, (II) Continue Certain Employee Benefit Programs in the Ordinary Course, and (III) Granting Related Relief* filed contemporaneously herewith.

102. The Debtors are subject to the following Taxes:

a) **Use Taxes**. In the ordinary course of business, the Debtors incur use taxes (the "Use Taxes") as the result of purchasing supplies from out of state vendors. Certain Taxing Authorities require the Debtors to pay Use Taxes that are based on a percentage of sales prices. In most cases, the Use Taxes are paid in arrears once collected. The Debtors estimate approximately $5,000 to $7,000 in prepetition Use Taxes will become due and payable following the Petition Date for prepetition amounts owed.

b) **Property Taxes**. The Debtors incur real property taxes (the "Property Taxes") to certain of the Taxing Authorities. Property Taxes are assessed based on a statutorily mandated percentage of property value (for both real and personal property) and become payable in the ordinary course of business. Property Taxes are typically due annually, although the precise timing varies by jurisdiction. As of the Petition Date, the Debtors estimate that approximately $3.8 million in Property Taxes accrued but remain unpaid. Certain additional Property Taxes may be the subject of a dispute by the Debtors, or may be late in being invoiced, and therefore remain unpaid. Further, additional Property Taxes may be billed during the pendency of these Chapter 11 Cases.

c) **Licensing Fees and Other Taxes**. Certain Taxing Authorities impose and collect franchise taxes, licensing, *de minimis* registration and other filing fees (collectively, the "Franchise Taxes") on the Debtors for the right to exist as a domestic corporation, for the privilege of doing business in the state as a foreign corporation, or for the actual conduct or carrying on of business in the state. Some states assess a flat Franchise Tax on all businesses and other states assess a Franchise Tax based upon some measure of income, gross receipts, net worth, or other measure of value. Additionally, the Debtors' failure to pay the Franchise Taxes could cause some states to challenge the Debtors' right to operate within their jurisdiction. Addressing any subsequent action taken by those states would be costly, place an administrative burden on management, and divert management's attention from the reorganization process. As of the Petition Date, the Debtors owe approximately $20,000 in Franchise Taxes and estimate that approximately another $36,000 will become due and payable following the Petition Date for the first quarter of 2018.

d) **Annual Report Taxes**. Various Taxing Authorities require the Debtors to pay annual report or bi-annual report taxes (collectively, the "Annual Report Taxes") in order to be in good standing for purposes of conducting business within the states in which they operate. Annual Report Taxes cost the Debtors approximately $60,000 annually and become due at various times between the Petition Date and June 2018.

e) **State and Local Taxes**. The Debtors are subject to various fees and taxes

from states and counties ("State and Local Taxes"). In an average month, the Debtors remit approximately in State and Local Taxes to the Taxing Authorities. As of the Petition Date, the Debtors' believe that they are substantially current on their payment of State and Local Taxes to all Taxing Authorities

f) **Provider Taxes**. Certain states in which the Debtors operate Facilities charge a tax based on the number of residents treated per day at the Facility (the "Provider Taxes"). In many instances, the Provider Taxes are due monthly and in at least one state, Georgia, Provider Taxes are due quarterly. As of the Petition Date, the Debtors estimate that they owe approximately $800,000 in prepetition Provider Taxes, of which approximately $522,000 will become due and payable in the twenty-one (21) days following the Petition Date.

103. The continued payment of the prepetition Taxes on their normal due dates will ultimately preserve the resources of the Debtors' estates, thereby promoting their prospects for a successful reorganization. If such obligations are not timely paid, the Debtors will be required to expend time and money to resolve a multitude of issues related to such obligations, each turning on the particular terms of each Taxing Authority's applicable laws, including (a) whether the obligations are priority, secured, or unsecured in nature, (b) whether they are proratable or fully prepetition or postpetition, and (c) whether penalties, interest, attorneys' fees, and costs can continue to accrue on a postpetition basis, and if so, whether such penalties, interest, attorneys' fees, and costs are priority, secured, or unsecured in nature. The Debtors desire to avoid unnecessary disputes with the Taxing Authorities — and expenditures of time and money resulting from such disputes — over a myriad of issues that are typically raised by such entities as they attempt to enforce their rights to collect taxes.

104. The Debtors may suffer immediate and irreparable harm if the prepetition Taxes are not paid when they become due and payable. Additionally, the Taxing Authorities may cause the Debtors to be audited if Taxes are not paid immediately. Such

audits will unnecessarily divert the Debtors' attention away from the reorganization process. If the Debtors do not pay such amounts in a timely manner, the Taxing Authorities may attempt to revoke the Debtors' licenses, suspend the Debtors' operations, and pursue other remedies that will harm the estates. In all cases, the Debtors' failure to pay Taxes could have a material adverse impact on their ability to operate in the ordinary course of business. Any disputes that could impact their ability to conduct business in a particular jurisdiction could have a wide-ranging and adverse effect on the Debtors' operations as a whole.

105. Accordingly, on behalf of the Debtors, I respectfully submit that the Tax Motion should be approved.

I. Motion of the Debtors for Entry of Interim and Final Orders (I) Approving Proposed Form of Adequate Assurance of Payment to Utility Companies, (II) Establishing Procedures for Resolving Objections by Utility Companies, (III) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Service, and (IV) Granting Related Relief (the "Utilities Motion").

106. Pursuant to the Utilities Motion, the Debtors request entry of interim and final orders, (i) approving the proposed form of adequate assurance of payment to the Utility Companies (as defined below), (ii) establishing procedures for resolving objections by Utility Companies, (iii) prohibiting Utility Companies from altering, refusing, or discontinuing service to the Debtors on the basis of the commencement of these Chapter 11 Cases, that a debt owed by the Debtors for prepetition Utility Services (as defined below) was not paid when due, or on account of any perceived inadequacy of the Debtors' proposed adequate assurance, and (iv) granting related relief.

107. To operate their businesses and manage their properties, the Debtors obtain various utility services, including but not limited to, electricity, natural gas, water, telephone, other telecommunications, waste removal and other services (each, a "Utility

Service" and, collectively, the "Utility Services") from utility companies as that term is used in section 366 of the Bankruptcy Code (each a "Utility Company" and, collectively, the "Utility Companies"). The Utility Companies that provide Utility Services to the Debtors as of the Petition Date are listed on Schedule 1 attached to the Utilities Motion.[28]

108. In the ordinary course of business prior to the Petition Date, the Debtors utilize the services of Cass Information Systems, Inc. ("Cass") for processing and payment of most of their utilities. Each week, Cass submits an invoice to the Debtors for the aggregate amount of utilities due for that week and the Debtors wire that amount to Cass, who in turn, remit payment to the Utility Companies. As of the Petition Date, the Debtors owe Cass approximately $6,000 of administrative fees in connection with this service (the "Administrative Fees"). For Utility Services that are not processed or paid by Cass, the Debtors pay those Utility Companies directly.

109. To the best of the Debtors' knowledge, there are no defaults or arrearages of any significance for the Debtors' undisputed invoices for prepetition Utility Services, other than payment interruptions that may be caused by the commencement of these Chapter 11 Cases. Prior to the Petition Date, the Debtors spent an average of approximately $784,000 each month on account of Utility Services.[29] The Utility Companies currently hold bonds and cash deposits in the aggregate amount of approximately $408,000 as of the Petition Date.

110. Uninterrupted Utility Services are essential to the Debtors' business operations during the pendency of these Chapter 11 Cases. Should any Utility Company

[28] The Debtors reserve the right to argue that any of the entities now or hereafter included on the Utility Company List are not "utilities" within the meaning of section 366(a) of the Bankruptcy Code.

[29] This amount is based on the period from July 1, 2017 through December 31, 2017.

alter, refuse, or discontinue service, even for a brief period, the Debtors' business operations could be severely disrupted, and such disruption would jeopardize the Debtors' reorganization efforts. Such disruption would also hinder the Debtors' ability to continue providing crucial services to the elderly residents at the Debtors' facilities who use the Utility Services. Accordingly, the Debtors seek to establish an orderly process for providing adequate assurance to their Utility Companies.

111. The Debtors propose to pay the Proposed Adequate Assurance into the Adequate Assurance Account to provide adequate assurance to its Utility Companies. Under the circumstances of these cases, the Debtors believe that the deposit of one-half of one month deposit for the benefit of the Utility Companies, based on the Debtors' estimated monthly consumption, constitutes adequate assurance of payment under section 366(c). In addition, the Debtors propose to protect the Utility Companies by establishing the Adequate Assurance Procedures provided in the Utility Motion, whereby any Utility Company can request additional adequate assurance in the event that it believes there are facts and circumstances with respect to its providing postpetition services to the Debtors that would merit greater protection. Finally, the Debtors have budgeted for all of the postpetition obligations of the Utility Companies. In light of these commitments, the Debtors submit that the Utility Companies are adequately assured of future payments.

112. If the Utility Companies are permitted to terminate service after the Petition Date, the Debtors would be unable to operate their business to the severe detriment of its estates, creditors, and employees. The Debtors would then be forced to pay whatever amounts are demanded by the Utility Companies or face the cessation of essential utility services and, ultimately, their business.

113. The Debtors believe that the Proposed Adequate Assurance and the proposed Adequate Assurance Procedures are reasonable and the relief requested in the Utilities Motion is necessary and appropriate, and in the best interests of the Debtors' estates and creditors.

114. Accordingly, on behalf of the Debtors, I respectfully submit that the Utilities Motion should be approved.

J. Motion of the Debtors for Entry of Interim and Final Orders Authorizing the Debtors to (I) Maintain, Administer and Modify Their Refund Programs and Practices, and II) Honor Obligations Related Thereto (the "Refund Programs Motion").

115. Pursuant to the Refund Programs Motion, the Debtors request entry of interim and final orders (a) authorizing the Debtors (i) to maintain, administer, modify, their Refund Program (as defined below) and make payments to residents and Third-Party Payors (as defined below) or to otherwise honor accrued prepetition obligations owed under their Refund Program (collectively, and as identified below, the "Refund Program Obligations") and (ii) to continue, replace, modify, or terminate any Refund Program in the ordinary course of business, and (b) granting certain related relief.

116. In the ordinary course of business, the Debtors are required to make refunds to residents and third-party payors, including healthcare insurers, private pay sources ("Private Third Party Payors"), Medicare, and Medicaid and other governmental and quasi-governmental agencies (and together with Private Third Party Payors, the "Third-Party Payors"), when overpayments are identified.[30] The Debtors routinely issue refunds for

[30] Furthermore, the terms in the standard Admission Agreement signed by every resident entering a facility provides that: "All refunds that are payable to the Resident or the Resident's estate shall be confirmed by an audit performed by the Facility's central accounting service. All refunds: (a) [s]hall be made regardless of the reason for the Resident leaving the Facility; (b) [s]hall be remitted with a full accounting if and when so requested; and (c) [s]hall be made payable to the Resident, his/her assigned representative or governmental or legal agency as directed by law. Where Medicare, Medicaid or other third-party coverage is involved, refunds may be delayed until

reimbursement of overpayments made by or on behalf of residents resulting from the interaction between the Debtors' billing procedures, resident medical insurance deductibles, and third-party payments, including payments made in connection with extended repayment plans with the applicable federal or state agencies overseeing Medicare and Medicaid (the "Refund Program").

117. The case-by-case nature of the myriad of services provided to the residents of the Debtors' skilled nursing facilities makes the process of determining each resident's insurance coverage particularly complex. As a result, whether due to data input errors during claims processing, or overpayments arising from coordination-of-benefits issues among multiple insurers, resident accounts—once fully processed—may contain credit balances. Once the Debtors receive payments from residents or insurers, the Debtors review accounts that have credit balances and refund any surplus to the resident or the Third-Party Payor who is due a refund based on an overpayment. Depending on the magnitude of such overpayments, the Debtors sometimes enter into an extended repayment plan with the applicable federal or state agencies overseeing Medicare and Medicaid.

118. When the Debtors discover and verify an overpayment from a resident or Private Third-Party Payor, the amount of the overpayment is entered into the Debtors' billing system, which then administers refunds to the resident or Private Third-Party Payor, as appropriate. There is typically a significant lag between when the resident is treated, when the overpayment is recognized or determined, and when the overpayment is entered into the Debtors' billing system. After the overpayment amount is entered into the billing

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formal determination and documentation of the Resident's eligibility is received by the Facility from the appropriate third-party payor."

system, the Debtors issue a check or other form of payment to the resident or Private Third-Party Payor in the amount of the overpayment.

119. At any given time, it is difficult to determine the amount of outstanding overpayments that have been made and identified, but for which a refund check has not yet been issued. Moreover, some refund checks issued to residents or Third-Party Payors before the Petition Date may not have been presented for payment or may not have cleared the Debtors' banking system and, accordingly, have not been honored and paid as of the Petition Date. Nonetheless, the Debtors are required, under the laws of various states, to reimburse residents and Third-Party Payors as overpayments are identified.

120. The Debtors request authority to continue to issue and pay the Refund Program Obligations to residents and Third-Party Payors, including refunds for overpayments made prepetition or resulting from prepetition services in the ordinary course of business, on a postpetition basis.

121. Failure to honor the Refund Program could result in the imposition of penalties and damages and erode the Debtors' hard-earned reputation and brand loyalty, adversely affecting the Debtors' prospects ability to maintain the continuity of operations during the pendency of these Chapter 11 Cases.

122. Accordingly, on behalf of the Debtors, I respectfully submit that the Refund Programs Motion should be approved.

K. Motion of the Debtors for Entry of Interim and Final Orders Authorizing Debtors to Pay or Honor Prepetition Obligations to Critical Vendors (the "Critical Vendor Motion").

123. Pursuant to the Critical Vendor Motion, the Debtors request entry of interim and final orders authorizing the Debtors to pay or honor, in the reasonable exercise of their business judgment, amounts owed to Critical Vendors, *provided, however*, that

authorization for payments be limited to $3,000,000 for the period between the Petition Date and the date of the final hearing on the Critical Vendor Motion, and to $4,200,000 in the aggregate as of the final hearing, and granting certain related relief.[31]

124. The Debtors, in consultation with their professional advisors, spent a significant amount of time carefully reviewing its prepetition vendor list to identify those vendors who are most critical to the Debtors' operations. As part of this identification process, the Debtors considered a vendor to be critical only if, among other things, (i) the goods and services provided by such vendor cannot be easily and efficiently replaced, where alternatives are typically limited and even a short-term interruption of services or supplies would be materially disruptive; (ii) the importance of the vendor to the Debtors' business operations; (iii) the likelihood that the vendor would discontinue service if not timely paid; (iv) the ability of the vendor to assert liens; and (v) whether the vendor is a party to a contract with the Debtors and any terms thereof (*i.e.*, short-term termination rights), and if so, whether enforcement thereof could be accomplished in a timely and cost-efficient manner without unduly disrupting the Debtors' business.

125. In doing so, the Debtors identified a small number Critical Vendors that provide essential goods and services to the Debtors' businesses in the following categories, each of which is essential to continuing operation of the Debtors' facilities and maintenance of vital services to their residents: (i) life safety, (ii) x-ray lab, (iii) transportation vendors, (iv) HVAC maintenance, (v) laundry services, (vi) dietary, and (vii) housekeeping (collectively, the "Critical Goods and Services"). The Debtors have narrowly tailored the list of Critical Vendors to address the immediate need for the Debtors to continue operations without disruption to the ordinary

[31] The Interim Cap represents approximately 4.5% and the Final Cap represents approximately 6.3% of the aggregate estimated prepetition accounts payable outstanding. The percentage of the Debtors' vendors sought to be covered by this Motion is less than 5%.

course of their businesses or risk the safety of their residents. The Debtors expressly reserve the right to amend, modify, and/or supplement such list.

126. Of critical importance to the Debtors' business are those vendors that provide goods or services that contribute, maintain and enhance the daily lives of the Debtors' residents. Many of these services are essential to meet the ongoing needs of the Debtors' residents and, if the Debtors incur any disruption in these goods and services, such disruption (even of limited duration) could ultimately lead to potential lapses in the health and safety of these residents. Among these services, the Debtors contract with one particular Critical Vendor that supplies each of their facilities with dining services, laundry and housekeeping. The Debtors' ongoing relationship with this provider has undoubtedly been harmed by the Debtors' deteriorating cash situation, and the Debtors believe that there is significant risk if the Critical Vendor does not receive partial payment on account of its claim, it may result in the termination of its relationship with the Debtors. In that case, approximately 4,000 residents would be without food, laundry services, or necessary housekeeping in the Debtors' facilities. If the Debtors were not able to continue to do business with this and other Critical Vendors providing vital services to the Debtors' residents, it would be very difficult and time consuming for the Debtors to find replacement goods and services for each of the Debtors' facilities to carry them through this period of transition until a suitable arrangement was obtained. Not only would this result in a material disruption in the Debtors' business, but more critically, it would adversely and severely impact the daily lives of those residents that rely upon, and indeed take for granted that, the Debtors are able to provide them with these daily necessities.

127. The Debtors estimate that as of the Petition Date, the Debtors owe approximately $24.7 million to the Critical Vendors (the "Critical Vendor Claims"). The Debtors carefully assessed the universe of vendors considered essential to the Debtors' operations under the foregoing criteria, and estimated the total amount of payments that might be necessary to ensure the continued supply of Critical Goods and Services to the Debtors following the Petition Date.

128. The Debtors submit that each of the Critical Vendors is of great necessity on a go-forward basis and cannot be easily and efficiently replaced. Even if the Debtors were able to convince the Critical Vendors to continue to supply the Critical Goods and Services absent payment of their prepetition claims, which is improbable, the Critical Vendors would likely agree to do so only on trade terms much less favorable than the Debtors' customary terms.

129. Moreover, the failure to pay the Critical Vendors for the Critical Goods and Services likely would result in a severe disruption or, or in some cases, risk to the safety and welfare of the residents under the Debtors' care. As the Debtors would benefit from maintaining lower costs for the Critical Goods and Services purchased or provided during the postpetition period and avoiding the severe disruption that might be caused by an interruption or cessation of the Critical Goods and Services, the Debtors respectfully submit that they should have the authority to pay the Critical Vendors some or all of their prepetition claims.

130. The Debtors may, in their sole discretion, condition the payment of Critical Vendor Claims on (a) the agreement of the individual Critical Vendor to continue supplying goods to the Debtors on the most favorable terms in effect between such Critical Vendor

and the Debtors in the 12 months before the Petition Date, or on terms more favorable to the Debtors to which the Debtors and the Critical Vendor may otherwise agree (the "Customary Trade Terms"), and (b) written verification before issuing payment to a Critical Vendor that such Critical Vendor will continue to provide goods and services to the Debtors on Customary Trade Terms throughout the Debtors' Chapter 11 Cases.

131. Furthermore, the Debtors will take all reasonable steps to limit the extent by which payment to the Critical Vendors is required which, in many instances, would allow for such Critical Vendors to obtain payment that is less than (and in some instances, substantially less than) the total amount of their pre-petition claim. In doing so, the Debtors will manage these payments in a fashion narrowly tailored to ensuring that the Critical Vendors continue to maintain business with the Debtors while, at the same time, conserving estate resources.

132. The Debtors and, in turn, their residents, are highly dependent on the continuous delivery of the Critical Goods and Services from the Critical Vendors. Due to the highly regulated nature of the Debtors' operations, any failure to provide continuous delivery of the Critical Goods and Services may lead to investigations, deficiency citations, regulatory sanctions, and other remedial actions by the governmental agencies monitoring the Debtors, which would impair the Debtors' restructuring efforts, causing a catastrophic effect on the Debtors' business.

133. The Debtors believe that the payment of the Critical Vendor Claims is vital to the Debtors' effort to maximize the value of their assets because, in various instances, the Critical Vendors are the only source from which the Debtors can procure certain goods and services within a time frame and at a price that will permit the Debtors to continue operating

their businesses. Failure to pay the Critical Vendor Claims would likely result in Critical Vendors refusing to provide goods and services to the Debtors postpetition and may force the Debtors to obtain, if at all possible, such goods and services elsewhere at a higher price or in a quantity or quality that is insufficient to satisfy the Debtors' requirements. While such vendors' actions may well be violations of the automatic stay, there is no assurance that the Debtors can obtain remedies that are timely enough and sufficient to avert the potentially disastrous consequences of a supply or service disruption. In addition, certain Critical Vendors may be able to assert administrative claims, possessory liens, or mechanics' or materialmen's liens on goods that are critical to maintaining Debtors' operations.

134. Given the paramount importance of the goods and services provided by the Critical Vendors, the Debtors believe authority to pay Critical Vendor Claims is vital to preserve their trade credit on a post-petition basis and prevent vendors from ceasing to do business with the Debtors altogether.

135. Accordingly, on behalf of the Debtors, I respectfully submit that the Critical Vendor Motion should be approved.

L. Debtors' Motion (I) Pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 Authorizing the Debtors to (A) Obtain Senior Secured Priming Superpriority Postpetition Financing, (B) Grant Liens and Superpriority Administrative Expense Status, (C) Use Cash Collateral of Prepetition Secured Parties, and (D) Grant Adequate Protection to Prepetition Secured Parties; (II) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(b) and 4001(c); and (III) Granting Related Relief (the "DIP Motion").

136. Pursuant to the DIP Motion, the Debtors request entry of interim and final orders authorizing the Debtors to obtain postpetition financing in an aggregate principal amount of up to $30 million by entering into the DIP Credit Agreement. Absent interim

access to the DIP Financing, the Debtors will not have access to any cash whatsoever. Accordingly, Debtors have an immediate need for access to liquidity to, among other things, permit the orderly continuation of the operation of their business, to make payroll, and to satisfy other working capital and operational needs, all of which are required to preserve and maintain Debtors' going concern value for the benefit of all parties in interest.

137. If approved, the DIP Facility will provide sufficient funds to repay the Sterling Obligations and fund working capital critical to the Debtors' day to day operations. Absent access to the working capital financing that will be available to the Debtors under the proposed DIP Credit Agreement, the Debtors will be unable to maintain their business operations or preserve the value of their assets. Moreover, the Debtors would be forced to immediately cease operating, which would result in immediate and irreparable harm to their business and risk the health and safety of their residents.

138. I believe that the Sterling Payoff is necessary to ensure the consent of the Sterling Parties and to avoid an objection to this DIP Financing Motion from the Sterling Parties, which could cause expensive, risky litigation and a potential delay in the Debtors' access to required liquidity. Any such litigation would be detrimental to the Debtors' efforts to smoothly transition into bankruptcy, maintain vendor and resident confidence and maximize the Debtors' enterprise value. In addition, I believe that the collateral securing the Sterling Obligations exceeds the extent of the Sterling Obligations as of the Petition Date and that the Sterling Agent holds a fully secured claim; therefore, the Debtors, their estates and creditors will not be prejudiced by permitting the Debtors to obtain the DIP Financing and to execute and perform under the Payoff Letter.

139. I believe that the terms and conditions of the DIP Credit Agreement, the proposed Interim Order, and the related relief requested therein are fair, reasonable, and in the best interests of the Debtors, their estate, and their creditors.

140. I believe that the debtor-in-possession financing of the type needed in this case could not have been obtained on an unsecured basis. Indeed, the potential sources of a debtor-in-possession facility for the Debtors, obtainable on an expedited basis and on reasonable terms, are practically nonexistent. Because of the Debtors' acute liquidity crisis, the status of the Debtors' operations and collateral base, the need to maintain key employees, and the impracticability and cost of pursuing commitments from numerous prospective lenders, it was not practicable to try to "shop" the DIP Credit Agreement to all possible lenders prior to the Petition Date. The DIP Lender is an affiliate of a group of prepetition secured lenders to and landlord of the Debtors. As a result, the DIP Lender is familiar with the Debtors' business operations, corporate structure, financing arrangements, and collateral base, and has already performed due diligence in connection with the DIP Credit Agreement, was able to offer DIP financing to meet the Debtors' working capital needs on the terms and within the time frame needed by the Debtors.

141. The Debtors negotiated the DIP Credit Agreement with the DIP Lender in good faith, at arm's-length, and with the assistance of outside counsel, to obtain the required post-petition financing on terms as favorable as possible for the Debtor under the circumstances. As noted above, the DIP Credit Agreement will provide the Debtors with much-required access to necessary liquidity, which the Debtors and their advisors have independently determined should be sufficient to support Debtors' ongoing operations and reorganization activities through the pendency of the Chapter 11 Cases.

142. I believe that the size of the DIP Facility is both necessary and sufficient to meet the Debtors' immediate and projected liquidity needs. I base this on my knowledge of the Debtors' liquidity needs to pay taxes, vendors, utility providers, employees and other disbursements requested in the First Day Pleadings.

143. I believe that the terms and conditions of the DIP Facility represent the best alternative for postpetition financing to provide the necessary liquidity in these Chapter 11 Cases. Accordingly, on behalf of the Debtors, I respectfully submit that the DIP Motion should be approved.

[*remainder of page left intentionally blank*]

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I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 6, 2018
Dallas, Texas

By: */s/ Louis E. Robichaux IV*
Name: Louis E. Robichaux IV
Title: Chief Restructuring Officer