



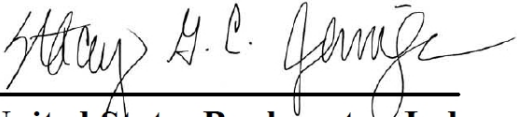
CLERK, U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

**The following constitutes the ruling of the court and has the force and effect therein described.**

**Signed July 20, 2022**

  
**United States Bankruptcy Judge**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

-----X		
In re:	§	Case No. 22-80000-sgj11
	§	(Jointly Administered)
CHRISTIAN CARE CENTERS, INC. and	§	
CHRISTIAN CARE CENTERS FOUNDATION,	§	Chapter 11
INC. <sup>1</sup>	§	
	§	
Debtors.	§	

**ORDER AUTHORIZING THE SALE OF ASSETS OF DEBTORS, APPROVING ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS, AND GRANTING OTHER RELATED RELIEF**

Upon consideration of the Motion for Order (A) Authorizing the Sale of Assets of Debtors, (B) Approving Bid Procedures and Protections in Connection with the Sale of Substantially All of the Debtors' Assets, (C) Approving Assumption and Assignment of Executory Contracts, and (D) Granting Other Related Relief (the "Sale Motion") [Doc. No. 31] of the above-captioned debtors and debtors in possession (the "Debtors"), which requests

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Christian Care Centers, Inc. (9664) and Christian Care Centers Foundation (3572). The Debtors' mailing address is 900 Wiggins Parkway, Mesquite TX 75150.

an order (this “Sale Order”) that, among other things, authorizes and approves (a) the sale, assignment, transfer, conveyance and delivery of substantially all of the Debtors’ assets (the “Assets”<sup>2</sup> to North Texas Benevolent Holdings, LLC on the terms set forth in the Asset Purchase Agreement, as the same may be amended, modified or supplemented in accordance with its terms, and including all related exhibits and schedules, the “Agreement”) a complete copy of which is attached hereto as **Exhibit A** among Debtors and North Texas Benevolent Holdings, LLC (the “Purchaser”), (v) the assumption and assignment of certain unexpired leases and executory contracts identified as “Assumed Contracts” (as defined in the Agreement and inclusive of all Purchaser’s rights and obligations with respect to the Assumed Contracts set forth in the Transaction Documents),<sup>3</sup> in each case, effective as of the Closing on the Closing Date, all as more fully set forth in the Motion; this Court having entered the *Order Approving Bid Procedures and Protections in Connection with the Sale of Substantially All of the Debtors’ Assets, Approving Procedures for the Assumption and Assignment of Executory Contracts Setting Final Hearing on Sale, and Granting Other Relief* on June 23, 2022 [Doc. No. 184] (the “Bid Procedures Order”); this Court having reviewed and considered the Sale Motion and any objections thereto; this Court having heard statements of counsel and the evidence presented in support of the relief requested by the Debtors in the Sale Motion at a hearing before this Court (the “Sale Hearing”); upon the full record of these Chapter 11 Cases; it appearing no other notice need be given; it further appearing the legal and factual bases set

---

<sup>2</sup> Except as otherwise defined herein, or where reference is made to a definition in the Sale Motion, all capitalized terms shall have the meanings ascribed to them in the Agreement.

<sup>3</sup> For the avoidance of doubt and as set forth more fully in the Transaction Documents, Purchaser has the right to, among other things: (i) review Schedule 6.06(d) (Assumed Contracts) up to three (3) days prior to the Bid Deadline as set by the Sales Approval Order and provide written notice to Seller to designate a contract as an Assumed Contact.

forth in the Sale Motion and the record made at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause therefor:

**THE COURT FINDS AND DETERMINES THAT:**

**Jurisdiction, Final Order, and Statutory Predicates**

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

C. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). The Debtors have confirmed their consent to the entry of a final order by this Court in connection with the Sale Motion, to the extent it is later determined the Court, absent the consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

D. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

E. The bases for the relief requested in this Motion are Sections 105(a), 363, 365, 503, and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), Bankruptcy Rules 2002, 6004, 6006, 9007, and 9014, and Local Rules 2002-1, and 6004-1.

F. This Sale Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, the Court expressly finds there is no just reason for delay in the implementation of this Sale Order, and waives any stay and expressly directs entry of judgment as set forth herein.

**Retention of Jurisdiction**

G. It is necessary and appropriate for the Court to retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Sale Order and the Agreement, including its related documents, all amendments thereto and any waivers and consents thereunder and each of the Transaction Documents executed in connection therewith to which the Debtors are a party or which has been assigned by the Debtors to the Purchaser, and to adjudicate, if necessary, any and all disputes involving the Debtors concerning or relating in any way to, or affecting, the Sale or the transactions contemplated in the Transaction Documents.

**Corporate Authority; Consents and Approvals**

H. Upon entry of this Sale Order, each of the Debtors has, to the extent necessary or applicable, (a) the full corporate power and authority to execute and deliver the Transaction Documents, (b) all corporate authority necessary to consummate the transactions contemplated by the Transaction Documents, and (c) taken all corporate action necessary to authorize and approve the Transaction Documents and the consummation of the transactions contemplated thereby. The Sale has been duly and validly authorized by all necessary corporate action. No consents or approvals, other than those expressly provided for in the Transaction Documents,

are required for the Debtors to consummate the Sale, the Transaction Documents, or the transactions contemplated thereby.

**Notice of Sale, Auction, Sale Hearing, Agreement, and Assumption and Assignment**

I. Actual written notice of the Sale Motion, the Sale, the Auction, the Sale Hearing, and the transactions contemplated thereby, and a reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein, has been afforded to all known interested entities and parties, including, without limitation, the following entities and parties: (a) all parties that have requested notice in these Chapter 11 Cases as of the date of the Bid Procedures Order, (b) all creditors of the Debtors, (c) potential investors who were previously contacted by Houlihan Lokey as identified in the Motion to Sell, (d) all counterparties to any of the Assigned Contracts, (e) the Office of the United States Trustee for the Northern District of Texas, (f) counsel for the Bond Trustee, (g) the Internal Revenue Service, (h) the Office of the Attorney General for the State of Texas, (i) the Texas Department of Insurance, (j) anyone else appearing on the creditor matrix (collectively “All Parties in Interest”).

J. In addition, the Debtors have caused notice of the Sale Motion, the Sale, the Auction, and the Sale Hearing to be posted on the website maintained by the Debtors’ claims and noticing agent, Epiq Corporate Restructuring, LLC, located at <https://dm.epiq11.com/ChristianCare>, as required by the Bid Procedures Order. The foregoing notice was sufficient and reasonably calculated under the circumstances to reach entities whose identities are not reasonably ascertainable by the Debtors.

K. In accordance with the provisions of the Bid Procedures Order, the Debtors have served notice upon the counterparties to the Contracts (the “Contract Counterparties”) that the Debtors seek to assume and assign to the Purchaser the Assumed Contracts on the Closing

Date (as defined in the Agreement). Service of such notice was good, sufficient, and appropriate under the circumstances. The parties to the Assumed Contracts have had an adequate opportunity to object to the adequate assurance of future performance and objections based on whether applicable law excuses the counterparty from accepting performance by, or rendering performance to, the Purchaser (or its designee) for purposes of Bankruptcy Code Section 365(c)(1). All objections, responses, or requests for adequate assurance, if any, have been resolved, overruled, or denied, as applicable. The Debtors will serve a new notice on all contract counterparties identified in the Notice of Assumption and Assignment of Executory Contracts, Doc. 252, a notice of the amounts due and owing, if any, under the applicable executory contract(s) (excluding resident contract and resident leases) through the Petition Date (the “Cure Amount”). Such contract counterparty shall have fourteen (14) days to object to the cure amount in accordance with the terms of the Bid Procedures Order. The Court will hear any unresolved cure objections for parties to the Assumed Contracts if the Debtors and the corresponding contract party cannot reach an agreed Cure Amount.

L. The notice of the Auction and the Sale Hearing provided all interested parties with timely and proper notice of the Sale, the Auction, and the Sale Hearing.

M. The Debtors have articulated good and sufficient reasons for this Court to grant the relief requested in the Sale Motion regarding the sales process, including, without limitation: (i) determination of adequate assurance for the Assumed Contracts; and (ii) approval and authorization to serve notice of the Auction and Sale Hearing.

N. As evidenced by the affidavits of service previously filed with the Court, proper, timely, adequate, and sufficient notice of the Sale Motion, the Sale, the Auction, the Sale Hearing, and the transactions contemplated thereby including, without limitation, the

assumption and assignment of the Assumed Contracts to the Purchaser, has been provided in accordance with the Bid Procedures Order and Bankruptcy Code sections 105(a), 363, and 365 and Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014. The notices described herein were good, sufficient, and appropriate under the circumstances, and no other or further notice of the Sale Motion, the Sale, the Auction, the Sale Hearing, or the assumption and assignment of the Assumed Contracts to the Purchaser is or shall be required.

O. The disclosures made by the Debtors concerning the Sale Motion, the Transaction Documents, the Auction, the Sale Hearing, the Sale, and the assumption and assignment of the Assumed Contracts to the Purchaser were good, complete, and adequate.

P. A reasonable opportunity to object and be heard with respect to the Sale and the Sale Motion, and the relief requested therein (including, without limitation, the assumption and assignment of the Assumed Contracts to the Purchaser and any adequate assurance relating to the Assumed Contracts), has been afforded to all interested persons and entities, including the applicable notice parties.

### **The Auction**

Q. The Debtors did not receive any bids, other than the Stalking Horse Bid, that met the Participation Requirements. As such, the Debtors, after consulting with the Bond Trustee and the Official Unsecured Creditors' Committee (the "Committee"), determined that there were no Qualified Bids other than the Stalking Horse Bid.

R. Pursuant to the Bid Procedures, the Debtors were not required to conduct the Auction since no Qualified Bid other than the Stalking Horse Bid was received.

### **Good Faith of the Purchaser**

S. As demonstrated by the representations of counsel and other evidence proffered or adduced at the Sale Hearing, the Debtors and their advisors marketed the Assets

to secure the highest and best offer. The terms and conditions set forth in the Transaction Documents are fair, adequate, and reasonable, including the amount of the Purchase Price (as defined in the Agreement), which is found to constitute reasonably equivalent and fair value.

T. The Purchaser is not an “insider” or “affiliate” of any of the Debtors, as those terms are defined in Bankruptcy Code Section 101, and no common identity of incorporators, directors, managers, controlling shareholders, or other insider of the Debtors exist between the Purchaser and the Debtors.

U. The Debtors and the Purchaser extensively negotiated the terms and conditions of the Transaction Documents in good faith and at arm’s length. The Purchaser is purchasing the Assets and has entered into the Transaction Documents in good faith and is a good faith buyer within the meaning of Bankruptcy Code Section 363(m), and is therefore entitled to the full protection of that provision, and otherwise has proceeded in good faith in all respects in connection with this proceeding in that, *inter alia*: (i) the Purchaser recognized the Debtors were free to deal with any other party interested in purchasing the Assets; (ii) the Purchaser agreed to subject its bid to competitive bidding at the Auction; (iii) all payments to be made by the Purchaser and other agreements or arrangements entered into by the Purchaser in connection with the Sale have been disclosed; (iv) the Purchaser has not violated Bankruptcy Code Section 363(n) by any action or inaction; (v) no common identity of directors or controlling stockholders exists between the Purchaser and the Debtors; and (vi) the negotiation and execution of the Agreement was at arm’s length and in good faith.

V. Neither the Debtors nor the Purchaser have engaged in any conduct that would cause or permit the Transaction Documents to be avoided under Bankruptcy Code Section 363(n). The Debtors and the Purchaser were represented by their own respective counsel and



other advisors during such arm's length negotiations in connection with the Agreement and the Sale.

W. No party has objected to the Sale, the Transaction Documents, or the Auction on the grounds of fraud or collusion.

X. Accordingly, the Purchaser is purchasing the Assets in good faith and is a good-faith buyer within the meaning of Bankruptcy Code section 363(m). The Purchaser is therefore entitled to all of the protections afforded under Bankruptcy Code section 363(m).

**Highest and Best Offer**

Y. As demonstrated by the *Declaration of Mark Shapiro in Support of the Sale Motion* [Docket No[s]. ], the Debtors conducted a sale process in accordance with, and have otherwise complied in all respects with, the Bid Procedures Order. The sale process set forth in the Bid Procedures Order afforded a full, fair, and reasonable opportunity for any person or entity to make a higher or otherwise better offer to purchase the Assets. The Auction was duly noticed in a non-collusive, fair, and good-faith manner, and a reasonable opportunity has been given to any interested party to make a higher and better offer for the Assets.

Z. The Transaction Documents constitutes the highest and best offer for the Assets and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. The Debtors' determination that the Transaction Documents constitutes the highest and best offer for the Assets constitutes a valid and sound exercise of the Debtors' business judgment.

AA. The Agreement represents a fair and reasonable offer to purchase the Assets under the circumstances of these Chapter 11 Cases. No other entity or group of entities has

offered to purchase the Assets for greater overall value to the Debtors' estates than the Purchaser.

AA. Approval of the Sale Motion and the Transaction Documents and the consummation of the transaction contemplated thereby are in the best interests of the Debtors, their estates, their creditors, and other parties in interest.

BB. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the Sale of the Assets prior to, and outside of, a plan of reorganization.

CC. Entry of an order approving the Transaction Documents and all the provisions thereof is a necessary condition precedent to Purchaser's consummation of the Sale, as set forth in the Transaction Documents.

**No Fraudulent Transfer or Merger**

DD. The consideration provided by the Purchaser pursuant to the Transaction Documents (a) is fair and reasonable, (b) is the highest or best offer for the Assets, and (c) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, and under the laws of the United States, any state, territory, possession, or the District of Columbia.

EE. Neither the Purchaser nor its past, present, and future subsidiaries, parents, divisions, affiliates, agents, representatives, insurers, attorneys, successors and assigns, nor any of its nor their respective directors, managers, officers, employees, shareholders, members, agents, representatives, attorneys, contractors, subcontractors, independent contractors, owners, insurance companies, or partners (collectively, the "Purchaser Parties") is a mere continuation of the Debtors or their estates, and there is no continuity of enterprise between any Purchaser

Party and the Debtors. No Purchaser Party is holding itself out to the public as a continuation of the Debtors or their respective estates. No Purchaser Party is a successor to the Debtors or their estates, and the Sale does not amount to a consolidation, merger, or *de facto* merger of the Purchaser (or any other Purchaser Party) and the Debtors.

**Validity of Transfer**

FF. The Transaction Documents was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any of its states, territories, or possessions, or the District of Columbia. Neither the Debtors nor the Purchaser are entering into the transactions contemplated by the Transaction Documents fraudulently, for the purposes of statutory and common law fraudulent conveyance and fraudulent transfer claims.

GG. The Debtors are the sole and lawful owner of the Assets. Subject to Bankruptcy Code Section 363(f) (addressed below), the transfer of the Assets to the Purchaser will be, as of the Closing Date, a legal, valid, and effective transfer of the Assets, which transfer vests or will vest the Purchaser with all right, title, and interest of the Debtors to the Assets free and clear of (i) all liens (including any liens as that term is defined in Bankruptcy Code Sections 101(37)) and Encumbrances (as defined in the Agreement) relating to, accruing, or arising any time prior to the Closing Date (collectively, the “Liens”), and (ii) all debts (as that term is defined in Bankruptcy Code Section 101(12)) arising under, relating to, or in connection with any act of the Debtors or claims (as that term is defined in Bankruptcy Code Section 101(5)), liabilities, obligations, demands, guaranties, options in favor of third parties, rights, contractual commitments, restrictions, interests, mortgages, hypothecations, charges, indentures, loan agreements, instruments, collective bargaining agreements, leases, licenses, deeds of trusts,

security interests or similar interests, conditional sale or other title retention agreements and other similar impositions, restrictions on transfer or use, pledges, judgments, claims for reimbursement, contribution, indemnity, exoneration, infringement, products liability, alter ego liability, suits, defenses, credits, allowances, options, limitations, causes of action, choses in action, rights of first refusal or first offer, rebate, chargeback, credit, or return, proxy, voting trust or agreement or transfer restriction under any shareholder or similar agreement or encumbrance, easements, rights of way, encroachments, Liabilities (as defined in the Agreement), and matters of any kind and nature, whether arising prior to or subsequent to the Petition Date, whether known or unknown, legal or equitable, mature or unmatured, contingent or noncontingent, liquidated or unliquidated, asserted or unasserted, whether imposed by agreement, understanding, law, equity, or otherwise (including, without limitation, rights with respect to Claims (as defined below) and Liens (A) that purport to give any party a right or option to effect a setoff or recoupment against, or a right or option to effect any forfeiture, modification, profit sharing interest, right of first refusal, purchase or repurchase right or option, or termination of, any of the Debtors' or the Purchaser's interests in the Assets, or any similar rights, if any, or (B) in respect of taxes, restrictions, rights of first refusal, charges of interests of any kind or nature, if any, including without limitation, any restriction of use, voting, transfer, receipt of income, or other exercise of any attribute of ownership) collectively, as defined in this clause (ii), the "Claims" and, together with the Liens and other interests of any kind or nature whatsoever, the "Interests"), relating to, accruing or arising any time prior to the entry of this Sale Order, with the exception of the Assumed Liabilities and the Permitted Encumbrances (each as enumerated in the Transaction Documents for conveyance purposes) to

the extent set forth in the Agreement, and any covenants set forth in the Transaction Documents.

HH. For the avoidance of doubt, the terms “Liens” and “Claims,” as used in this Sale Order, include, without limitation, rights with respect to any Liens and Claims:

- (1) that purport to give any party a right of setoff or recoupment against, or a right or option to affect any forfeiture, modification, profit-sharing interest, right of first refusal, purchase or repurchase writer option, or termination of, any of the Debtors’ or the Purchaser’s interest in the Assets, or any similar rights; or
- (2) in respect of taxes, restrictions, rights of first refusal, charges of interest of any kind and nature, if any, and including, without limitation, any restriction of use, voting, transfer, receipt of income, or other exercise of any of the attributes of ownership relating to, accruing, or arising at any time prior to the Closing Date, with the exception of Permitted Encumbrances and Assumed Liabilities (as those terms are defined in the Agreement) that are expressly assumed by the Purchaser pursuant to the Transaction Documents.

The term “Claim” shall not include: (i) any liability to any governmental unit as defined in 11 U.S.C. § 101(27) (“Governmental Unit”) that is not a claim as defined in 11 U.S.C. § 101(5) (“Governmental Claim”); (ii) any Governmental Claim of a Governmental Unit arising on or after the Closing Date; (iii) any liability to a Governmental Unit under police and regulatory statutes or regulations that any entity would be subject to as the owner or operator of the property after the effective date of the Sale, or (iv) any liability to a Governmental Unit on the part of any Person other than the Debtors.

II. For the further avoidance of doubt, the Purchaser is expressly assuming responsibility for the Assumed Contracts, including payment of the Cure Amounts and any obligations arising at or after the Closing Date under the Assumed Contracts, as set forth in the Transaction Documents.

**Bankruptcy Code Section 363(f) Is Satisfied**

JJ. The conditions of Bankruptcy Code Section 363(f) have been satisfied in full; therefore, the Debtors may sell the Assets free and clear of any Interests in the property other than any Permitted Encumbrances and Assumed Liabilities (as defined in the Agreement).

KK. The Purchaser would not have entered into the Transaction Documents, and would not consummate the transactions contemplated thereby, if the Sale of the Assets to the Purchaser and the assumption of any Assumed Liabilities by the Purchaser were not free and clear of all Interests, other than Permitted Encumbrances and the Assumed Liabilities, or if the Purchaser would, or in the future could, be liable for any of such Interests (other than the Permitted Encumbrances and the Assumed Liabilities). Unless otherwise expressly included in the Permitted Encumbrances or the Assumed Liabilities, the Purchaser shall not be responsible for any Interests against the Debtors, their estates, or any of the Assets, including in respect of the following: (a) any labor or employment agreement; (b) all mortgages, deeds of trust, and other security interests; (c) intercompany loans and receivables among the Debtors and any of their affiliates (as defined in Bankruptcy Code Sections 101(2)); (d) any other environmental, employee, workers' compensation, occupational disease, or unemployment- or temporary disability-related claim, including, without limitation, claims that might otherwise arise under or pursuant to (i) the Employee Retirement Income Security Act of 1974, as amended, (ii) the Fair Labor Standards Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal

Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the Worker Adjustment and Retraining Notification Act of 1988, (vii) the Age Discrimination and Employee Act of 1967 and the Age Discrimination in Employment Act, as amended, (viii) the Americans with Disabilities Act of 1990, (ix) the Consolidated Omnibus Budget Reconciliation Act of 1985, (x) state discrimination laws, (xi) the unemployment compensation laws or any other similar state laws, or (xii) any other state or federal benefits or claims relating to any employment with the Debtors or their predecessor, if any, (xiii) Claims or Liens arising under any Environmental Law (as defined in the Agreement) with respect to the Debtors' business, Excluded Liabilities (as defined in the Agreement), the Assets, the Excluded Assets (as defined in the Agreement), or any assets owned or operated by the Debtors or any corporate predecessor of the Debtors, at any time prior to the Closing Date, (xiv) any bulk sales or similar law, (xv) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended, and (xvi) any statutory or common-law bases for successor liability.

LL. The Debtors may sell the Assets free and clear of all Interests in such property of any entity other than the Debtors' estates, including, without limitation, any Liens and Claims against the Debtors, their estates, or any of the Assets (other than the Permitted Encumbrances and Assumed Liabilities) because, in each case, one or more of the standards set forth in Bankruptcy Code section 363(f)(1)-(5) has been satisfied. Those holders of Interests in the Assets, including, without limitation, holders of Liens and Claims against the Debtors, their estates, or any of the Assets, who did not object, or who withdrew their objections, to the Sale or the Sale Motion are deemed to have consented pursuant to Bankruptcy Code section 363(f)(2).

**Assumption and Assignment of the Assumed Contracts**

NN. The assumption and assignment of the Assumed Contracts pursuant to the terms of this Sale Order is integral to the Agreement and is in the best interest of the Debtors and their estates, their creditors, and all of the parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

PP. Pursuant to the terms of the Transaction Documents, the Purchaser shall: (a) to the extent necessary, cure any default existing prior to the date hereof with respect to the Assumed Contracts, within the meaning of Bankruptcy Code Sections 365(b)(1)(A) and 365(f)(2)(A); and (b) to the extent necessary, the Purchaser shall provide compensation or adequate assurance of compensation to any Contract Counterparty for any actual pecuniary loss to such party resulting from a default prior to the date hereof with respect to the Assumed Contracts, within the meaning of Bankruptcy Code Sections 365(b)(1)(B) and 365(f)(2)(A).

QQ. As of the Closing Date, subject only to the payment of the Cure Amounts, as determined in accordance with the Transaction Documents and the procedures identified in the Sale Motion and its accompanying and related documents, each of the Assumed Contracts will be in full force and effect and enforceable by the Purchaser against any contract counterparty thereto in accordance with its terms.

RR. The Debtors have, to the extent necessary, satisfied the requirements of Bankruptcy Code Sections 365(b)(1) and 365(f) in connection with the Sale, the assumption and assignment of the Assumed Contracts, and shall upon assignment thereto on the Closing Date, be relieved from any liability for any breach thereof.

SS. The Purchaser has demonstrated it has the financial wherewithal to fully perform and satisfy the obligations under the Assumed Contracts as required by Bankruptcy Code



Sections 365(b)(1)(C) and 365(f)(2)(B). Pursuant to Bankruptcy Code Section 365(f)(2)(B), the Purchaser has provided adequate assurance of future performance of the obligations under the Assumed Contracts.

TT. The Purchaser's promise to pay the Cure Amounts and to perform the obligations under the Assumed Contracts after the Closing Date shall constitute adequate assurance of future performance within the meaning of Bankruptcy Code Sections 365(b)(1)(C) and 365(f)(2)(B).

UU. Any objections to the assumption and assignment of any of the Assumed Contracts to the Purchaser, to the extent not previously resolved, are hereby overruled or withdrawn except as expressly set forth herein. The objection to the assumption of executory contracts filed by LEAF Capital Funding, LLC ("LEAF Capital") (Doc. #231) is hereby continued. For the avoidance of any doubt, any reference in Debtors' Notice of Assumption and Assignment of Executory Contracts (Doc. 210) to an executory contract held by Verdant Commercial Capital ("Verdant") in Exhibit B thereto does not impact any contract rights currently held by LEAF Capital. To the extent any party to an Assumed Contract failed to timely object to the assumption and assignment of its Assumed Contract(s) to the Purchaser, such contract counterparty to the Assumed Contract is deemed to have consented to the assignment of its Assumed Contract(s) to the Purchaser.

VV. No sections or provisions of the Assumed Contracts that purport to (a) prohibit, restrict or condition the Debtors' assignment of the Assumed Contracts, including, but not limited to, the conditioning of such assignment on the consent of the non-debtor parties to such Assumed Contracts; (b) authorize the termination, cancellation or modification of the Assumed Contracts based on the filing of a bankruptcy case, the financial condition of the Debtors or

similar circumstances; or (c) declare a breach or default or otherwise give rise to a right of termination as a result of any change in control in respect of the Debtors, shall have any force and effect, and such provisions constitute unenforceable anti-assignment provisions under Bankruptcy Code section 365(f) and/or are otherwise unenforceable under Bankruptcy Code Section 365(e). The (i) transfer of the Assets to the Purchaser and (ii) assignment to the Purchaser of the Assumed Contracts, will not subject the Purchaser or any of its affiliates or designees to any liability whatsoever that arises prior to the Closing or by reason of such transfer under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based, in whole or in part, directly or indirectly, on any theory of antitrust, successor, transferee, derivative, or vicarious liability or any similar theory and/or applicable state or federal law or otherwise.

WW. Notwithstanding anything herein to the contrary, all assumption rights of Purchaser under the Transaction Documents are expressly preserved.

**Sound Business Purpose for the Sale**

XX. Good and sufficient reasons for approval of the Transaction Documents and the Sale have been articulated. The relief requested in the Sale Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest.

YY. The Debtors have demonstrated both (a) good, sufficient, and sound business purposes and justifications for approving the Transaction Documents and (b) compelling circumstances for the sale outside the ordinary course of business, pursuant to Bankruptcy Code Section 363(b) before, and outside of, a plan of reorganization, in that, among other things, the immediate consummation of the Sale to the Purchaser is necessary and appropriate to maximize

the value of the Debtors' estates, and the Sale will provide the means for the Debtors to maximize distributions to creditors.

**Compelling Circumstances for an Immediate Sale**

ZZ. To maximize the value of the Assets and preserve the viability of the businesses to which the Assets relate, it is essential the Sale of the Assets occur promptly. Therefore, time is of the essence in effectuating the Transaction Documents and consummating the Sale. As such, the Debtors and the Purchaser intend to close the Sale of the Assets as soon as reasonably practicable. The Debtors have demonstrated compelling circumstances and a good, sufficient and sound business purpose and justification for immediate approval and consummation of the Transaction Documents. Accordingly, there is sufficient cause to waive the stay provided in Bankruptcy Rules 6004(h) and 6006(d).

AAA. Given all of the circumstances of these Chapter 11 Cases and the adequacy and fair value of the Purchase Price under the Transaction Documents, the proposed Sale of the Assets to the Purchaser constitutes a reasonable and sound exercise of the Debtors' business judgment and should be approved.

BBB. The consummation of the Sale and the assumption and assignment of the Assumed Contracts is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation Bankruptcy Code Sections 105(a), 363(b), 363(f), 363(m), and 365, and all of the applicable requirements of such sections have been complied with in respect of the transaction.

CCC. The Sale does not constitute a *sub rosa* or *de facto* chapter 11 plan for which approval has not been sought without the protections a disclosure statement would afford, as it does not and does not propose to: (i) impair or restructure existing debt of, or equity interests in, the Debtors; (ii) impair or circumvent voting rights with respect to any future plan proposed

by the Debtors; (iii) circumvent chapter 11 plan safeguards, such as those set forth in Bankruptcy Code sections 1125 and 1129; or (iv) classify claims or equity interests, compromise controversies, or extend debt maturities. Accordingly, the Sale neither impermissibly restructures the rights of the Debtors' creditors, nor impermissibly dictates a liquidating chapter 11 plan for the Debtors.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

**General Provisions.**

1. **Relief Granted.** The relief requested in the Sale Motion and the transactions contemplated thereby and by the Transaction Documents are approved for the reasons set forth in this Sale Order and on the record of the Sale Hearing, which is incorporated herein as if fully set forth in this Sale Order.

2. **Objections Overruled.** All objections, statements, and reservations of rights to the Sale Motion and the relief requested therein that have not been withdrawn, waived, resolved herein, or settled by announcement to the Court during the Sale Hearing or by stipulation filed with the Court, including, without limitation, any and all reservations of rights included in such objections or otherwise, are hereby denied and overruled on the merits, with prejudice. Those parties who did not object, or withdrew their objections, to the Sale Motion are deemed to have consented pursuant to Bankruptcy Code Section 363(f)(2).

3. **Prior Findings and Conclusions Incorporated.** This Court's findings of fact and conclusions of law set forth in the Bid Procedures Order are incorporated herein by reference.

4. **Sale Order and Agreement Binding on All Parties.** This Sale Order and the Transaction Documents shall be binding in all respects upon all creditors of the Debtors

(whether known or unknown), agents, trustees and collateral trustees, holders of Interests in, against, or on the Assets, or any portion thereof, all Contract Counterparties and any other non-debtor parties to any contracts with the Debtors (whether or not assigned), all successors and assigns of the Debtors, and any subsequent trustees appointed in the Chapter 11 Cases or upon a conversion of the Chapter 11 Cases to one or more cases under chapter 7 of the Bankruptcy Code and shall not be subject to rejection or unwinding. Nothing in any chapter 11 plan confirmed in the Chapter 11 Cases, the confirmation order confirming any such chapter 11 plan, any order dismissing the Chapter 11 Cases, or any order entered upon the conversion of the Chapter 11 Cases to one or more cases under chapter 7 of the Bankruptcy Code or otherwise shall conflict with or derogate from the provisions of the Transaction Documents or this Sale Order.

#### **Approval of the Transaction Documents**

5. **Agreement Approved.** The Asset Purchase Agreement with North Texas Benevolent Holdings, LLC, the operations transfer agreements for each of CCCI's facilities and ancillary business lines (the operation transfer agreements are collectively defined as the "OTAs"), the Bills of Sale, the Assignment and Assumption Agreements, Deeds, and the other agreements, instruments and documents required to be delivered at the Closing (collectively the "Transaction Documents") are hereby approved, and the terms of the Agreement, the OTAs, and all other Transaction Documents are fully incorporated by reference into this Sale Order.

6. The failure specifically to include any particular provisions of the Transaction Documents (including all ancillary documents executed in connection therewith) in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Transaction Documents be authorized and approved in their entirety.

7. The Transaction Documents may be modified, amended or supplemented by the parties thereto, in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplement is not a material alteration or amendment from the terms of the existing Agreement.

8. Neither the Purchaser nor the Debtors shall have an obligation to close the Sale until all conditions precedent in the Transaction Documents to each of their respective obligations to close the Sale have been met, satisfied, or waived in accordance with the terms of the Transaction Documents.

9. Nothing contained in any plan of reorganization or liquidation confirmed in these Chapter 11 Cases or any order of this Court confirming such plans or in any other order in these Chapter 11 Cases, including any order entered after any conversion of these Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, shall alter, conflict with, or derogate from, the provisions of the Transaction Documents or the terms of this Order. To the extent of any such conflict or derogation, the terms of this Order and the Transaction Documents shall govern.

10. **Authorization to Consummate Transactions.** Pursuant to Bankruptcy Code Sections 363(b) and (f), the Debtors are authorized, empowered, and directed to use their reasonable best efforts to take any and all actions necessary or appropriate to (a) consummate the Sale pursuant to and in accordance with the terms and conditions of the Transaction Documents, (b) close the Sale as contemplated in the Transaction Documents and this Sale Order, and (c) execute and deliver, perform under, consummate, implement, and fully close the Transaction Documents, including the assumption and assignment to the Purchaser of the

Assumed Contracts, together with additional instruments and documents that may be reasonably necessary or desirable to implement the Transaction Documents and the Sale.

**Transfer of the Assets**

11. **Transfer of the Assets Authorized.** Pursuant to Bankruptcy Code Sections 105(a), 363(b), 363(f), and 365 the Debtors are authorized and directed to (a) take any and all actions necessary or appropriate to perform, consummate, implement, and close the Sale in accordance with the terms and conditions set forth in the Transaction Documents and this Sale Order, (b) assume and assign any and all Assumed Contracts, and (c) take all further actions and execute and deliver the Transaction Documents and other related ancillary transaction documents and any and all additional instruments and documents that may be necessary or appropriate to implement the Transaction Documents and the other related documents and consummate the Sale in accordance with the terms thereof, all without further order of the Court. At Closing, all of the Debtors' right, title, and interest in and to, and possession of, the Assets shall be immediately vested in the Purchaser (or its designee). Such transfer shall constitute a legal, valid, enforceable, and effective transfer of the Assets.

12. **Surrender of Assets by Third Parties.** Upon entry of this Sale Order, all persons and entities that are in possession of some or all of the Assets on the Closing Date are directed to surrender possession of such Assets to the Purchaser or its assignee at the Closing. On the Closing Date, each of the Debtors' creditors are authorized and directed to execute such documents and take such other actions as may be reasonably necessary to release their Interests in the Assets, if any, as such Interests may have been recorded or may otherwise exist. All persons are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with, or which would be inconsistent with, the ability of the Debtors to sell

and transfer the Assets to the Purchaser in accordance with the terms of the Transaction Documents and this Sale Order.

13. **Transfer Free and Clear of Interests.** Upon the Debtors' receipt of the Purchase Price, and other than Permitted Encumbrances and Assumed Liabilities specifically set forth in the Transaction Documents, the transfer of the Assets to the Purchaser shall be free and clear of all Interests of any kind or nature whatsoever, including, without limitation, (a) successor or successor-in-interest liability, (b) Claims in respect of the Excluded Liabilities, and (c) any and all Contracts not assumed and assigned to the Purchaser pursuant to the terms of the Transaction Documents. If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens* or other documents or agreements evidencing Encumbrances against or in the Assets shall not have delivered to the Debtors prior to the Closing of the Sale in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction or releases of all Encumbrances that the person or entity has with respect to such Assets, then only with regard to the Assets that are purchased by the Purchaser pursuant to the Transaction Documents and this Sale Order, the Debtors are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Assets.

14. For the avoidance of doubt, subject to the challenge rights of the Committee and other parties in interest set forth in paragraph 36 of the DIP Order (defined below), all liens, claims, interests and encumbrances in Debtors' Assets attach automatically to the proceeds of the Sale, including, but not limited to, the Purchase Price in the same manner, extent, validity and priority that they attached to the Debtors' Assets prior to the Sale with the exception of the liens that secure all amounts ultimately owed for year 2022 ad valorem



property taxes, which shall remain attached to the Assets and become the sole responsibility of the Purchaser. Notwithstanding any other provision in this Sale Order, the holders of liens that secure year 2022 ad valorem property taxes retain all of their state law collection and enforcement rights against the Purchaser.

15. Nothing in this Order or related documents discharges, releases, precludes, or enjoins: (i) any liability to any governmental unit as defined in 11 U.S.C. § 101(27) (“Governmental Unit”) that is not a “claim” as defined in 11 U.S.C. § 101(5) (“Claim”); (ii) any Claim of a Governmental Unit arising on or after the Closing Date; (iii) any liability to a Governmental Unit under police and regulatory statutes or regulations that any entity would be subject to as the owner or operator of property after the effective date of the Sale; or (iv) any liability to a Governmental Unit on the part of any Person other than the Debtors. Nor shall anything in this Order enjoin or otherwise bar a Governmental Unit from asserting or enforcing, outside this Court, any liability described in the preceding sentence.

16. Additionally, neither the United States nor the State of Texas waive any claims, liabilities, rights, defenses or causes of action it may have under applicable non-bankruptcy law with respect to the applicable Medicare provider agreements (“Medicare Agreements”) or the applicable Medicaid contracts (“Medicaid Contracts”), including, without limitation, all rights, claims, and defenses of and to setoff and recoupment under non-bankruptcy law with respect to the applicable Medicare Agreements or the applicable Medicaid Contracts and under section 553 of the Bankruptcy Code, and all such claims, liabilities, rights, defenses, and causes of action are preserved, and the United States’ and the State of Texas’s policy and regulatory power against the Debtor, the Successful Bidder, and any non-Debtor party may have with regard to such police and regulatory power.

17. Further, nothing in this Order or related documents authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization or (e) approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements and approvals under police or regulatory law. Nothing in this Order shall relieve any entity from any obligation to address or comply with information requests or inquiries from any Governmental Unit. Nothing in this Order shall affect any setoff or recoupment rights of any Governmental Unit. Nothing in this Order divests any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Order or to adjudicate any defense asserted under this Order.

18. Further, nothing in this Order, any other order, or any agreement related to the sale of the Purchased Assets shall be construed as authorizing the sale, transfer, or assignment of the applicable Medicare Agreements or the applicable Medicaid Contracts to the Successful Bidder free and clear of successor liability for any liability arising from such Medicare Agreements or Medicaid Contracts, nor as restricting the United States' or the State of Texas's rights of setoff and recoupment arising under the Medicare Agreements and Medicaid Contracts. For the avoidance of doubt, the Medicare Agreements and Medicaid Contracts shall not be sold pursuant to section 363 of the Bankruptcy Code, but shall be assumed and assigned pursuant to section 365 of the Bankruptcy Code and all applicable Medicare and Medicaid statutes and regulations, the Anti-Assignment Act, and all applicable non-bankruptcy law, as applicable.

19. New Operator<sup>4</sup> warrants and acknowledges that the Greenway Village Continuing Care Retirement Community is separately regulated by the Texas Department of

---

<sup>4</sup> New Operator has the same definition as it does in the applicable OTA.

Insurance (“TDI”) and subject to specific requirements regarding debt reserves, resident entrance fee deposits and escrow agreements and New Operator will materially comply with any such requirements of TDI to which Greenway Village may be subject.

20. For the avoidance of doubt, Purchaser and/or the New Operator under the Christian Care Mesquite OTA, as applicable, shall assume all of the Debtors’ right, title, interest, and obligations, including obligations under applicable law, under and with respect to the Residency Agreements (as defined in the Christian Care Mesquite OTA) in accordance with the Christian Care Mesquite OTA and other Transaction Documents.

21. **Property Taxes.** To the extent not already paid, the Debtors are authorized to and shall pay all ad valorem property taxes assessed against the Assets for the tax years prior to tax year 2022 plus postpetition interest that has accrued at the state statutory rate of 1% per month pursuant to 11 U.S.C. Sections 506(b) and 511 at Closing.

22. Any liens that secure ad valorem property taxes, which are assessed as a result of a change in ownership of the assets shall remain attached to the assets until they are paid in full, and the tax authorities retain all state law enforcement and collection rights against the Purchaser.

23. **Legal, Valid, and Marketable Transfer with Permanent Injunction.** The transfer of the Assets to the Purchaser pursuant to the Transaction Documents constitutes a legal, valid, and effective transfer of good and marketable title of the Assets, and vests, or will vest, the Purchaser with all right, title, and interest to the Assets, free and clear of all Interests except as otherwise expressly stated as obligations of the Purchaser under the Transaction Documents. Except as otherwise provided for in this Sale Order, all Persons holding interests or claims of any kind or nature whatsoever against the Debtors or the Assets, the operation of the Assets

prior to the Closing Date, the Auction or the Acquired Asset Sale are hereby and forever barred, estopped, and permanently enjoined from asserting against the Purchaser, its successors or assigns, its property, or the Assets, any claim, interest or liability existing, accrued, or arising prior to the Closing.

24. **Recording Offices and Releases of Interests.** On the Closing Date, this Sale Order shall be construed and shall constitute for any and all purposes a full and complete assignment, conveyance, and transfer of the Assets or a bill of sale transferring good and marketable title of the Assets to the Purchaser. This Sale Order is and shall be effective as a determination that, on the Closing Date, all Interests of any kind or nature whatsoever existing as to the Assets prior to the Closing, other than Permitted Encumbrances and Assumed Liabilities, or as otherwise provided in this Sale Order, shall have been unconditionally released, discharged, and terminated, and that the conveyances described herein have been affected. This Sale Order is and shall be binding upon and govern the acts of all persons, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal and local officials, and all other persons who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing persons is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Transaction Documents. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to

consummate the transactions contemplated by the Transaction Documents. A certified copy of this Sale Order may be: (a) filed with the appropriate clerk; (b) recorded with the recorder; and/or (c) filed or recorded with any other governmental agency to act to cancel, satisfy, release, or otherwise discharge any Interests against the Assets, other than the Permitted Encumbrances and Assumed Liabilities.

25. **Cancellation of Third-Party Interests.** If any person or entity which has filed statements or other documents or agreements evidencing Interests on or in all or any portion of the Assets (other than with respect to Permitted Encumbrances or Assumed Liabilities) has not delivered to the Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary for the purpose of documenting the release of all Interests which such person or entity has or may assert with respect to all or a portion of the Assets, the Debtors and the Purchaser are authorized to execute and file such statements, instruments, releases and other documents on behalf of such person or entity with respect to the Assets. Notwithstanding the foregoing, the provisions of this Sale Order authorizing the transfer of the Assets free and clear of all Interests (except only for Permitted Encumbrances and Assumed Liabilities) shall be self-executing, and it shall not be, or be deemed, necessary for any person or entity to execute or file releases, termination statements, assignments, consents, or other instruments in order for the provisions of this Sale Order to be implemented.

**Assumption and Assignment of Contracts**

26. **Authorization to Assume and Assign.** Upon the Closing, the Debtors are authorized and directed, in accordance with Bankruptcy Code Sections 105(a), 363 and 365, to assume and assign each of the Assumed Contracts to the Purchaser free and clear of all Interests as of the Closing Date. The payment of the applicable Cure Amounts (if any) by the Purchaser

shall (a) effect a cure of all defaults existing thereunder as of the date on which the Debtors filed their voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the “Petition Date”) and (b) compensate for any actual pecuniary loss to such contract counterparty resulting from such default. The Purchaser shall then have assumed the Assumed Contracts and, pursuant to Bankruptcy Code section 365(f), the assignment by the Debtors of such Assumed Contracts shall not be a default thereunder. After the payment of the relevant Cure Amounts, neither the Debtors, nor the Purchaser shall have any further liabilities to the contract counterparties of the Assumed Contracts other than the Purchaser’s obligations under the Assumed Contracts, that accrue and become due and payable on or after the Closing Date.

27. **Assignment Requirements Satisfied.** The Assumed Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Purchaser, in accordance with their respective terms, notwithstanding (a) any provision in any such Assumed Contract (including provisions of the type described in Bankruptcy Code Section 365(b)(2), (e)(1) and (f)(1)) which prohibits, restricts or conditions such assignment or transfer or (b) any default by the Debtors prior to Closing under any such Assumed Contract or any disputes between the Debtors and a Contract Counterparty with respect to any such Assumed Contract arising prior to Closing. In particular, any provisions in any Assumed Contract that restrict, prohibit or condition the assignment of such Assumed Contract or allow the Contract Counterparty to such Assumed Contract to terminate, recapture, impose any penalty, condition on renewal or extension or modify any term or condition upon the assignment of such Assumed Contract, constitute unenforceable anti-assignment provisions that are void and of no force and effect. Additionally, no sections or provisions of the Assumed Contracts that purport to (a) prohibit, restrict or condition the Debtors’ assignment of the Assumed Contracts, including, but not

limited to, the conditioning of such assignment on the consent of the non-debtor parties to such Assumed Contracts; (b) authorize the termination, cancellation or modification of the Assumed Contracts based on the filing of a bankruptcy case, the financial condition of the Debtors or similar circumstances; or (c) declare a breach or default or otherwise give rise to a right of termination as a result of any change in control in respect of the Debtors, shall have any force and effect, and such provisions constitute unenforceable anti-assignment provisions under Bankruptcy Code Section 365(f) and/or are otherwise unenforceable under Bankruptcy Code Section 365(e). All other requirements and conditions under Bankruptcy Code Sections 363 and 365 for the assumption by the Debtors and assignment to the Purchaser of the Assumed Contracts have been satisfied. Upon the Closing, in accordance with Bankruptcy Code Sections 363 and 365, the Purchaser shall be fully and irrevocably vested with all right, title, and interest of the Debtors under the Assumed Contracts.

28. **Consent to Assign.** The contract counterparties to each Assumed Contract shall be and hereby are deemed to have consented to such assumption and assignment under Bankruptcy Code Section 365(c)(1)(B) or this Court has determined that no such consent is required, and the Purchaser shall enjoy all of the rights and benefits under each such Assumed Contract as of the Closing Date without the necessity of obtaining the Contract Counterparty's written consent to the assumption and assignment thereof.

29. **Section 365(k).** Upon the Closing and (a) the payment of the applicable Cure Amount or (b) in the event of any dispute over the appropriate Cure Amount, the reserve and escrow of the amount necessary to satisfy the Cure Amount asserted by the contract counterparty to the Assumed Contract pending resolution of the dispute by the Bankruptcy Court, the Purchaser shall be deemed to be substituted for the Debtors as a party to the

applicable Assumed Contracts and the Debtors and their estates shall be relieved, pursuant to Bankruptcy Code Section 365(k), from any further liability under the Assumed Contracts.

30. **No Default.** Subject to the terms hereof with respect to the Cure Amounts, all monetary or non-monetary defaults or other obligations of the Debtors under the Assumed Contracts arising or accruing prior to the Closing Date have been cured or shall promptly be cured by the Debtors in accordance with the terms hereof such that the Purchaser shall have no liability or obligation with respect to any default or obligation arising or accruing under any Assumed Contract prior to the Closing Date, except to the extent expressly provided in the Transaction Documents, except for the Debtors' payment of the Cure Amounts. Each party to an Assumed Contract is forever barred, estopped, and permanently enjoined from asserting against the Purchaser or its property or affiliates, or successors and assigns, any breach or default under any Assumed Contract, any claim of lack of consent relating to the assignment thereof, or any counterclaim, defense, setoff, right of recoupment or any other matter arising prior to the Closing Date for such Assumed Contract or with regard to the assumption and assignment therefore pursuant to the Transaction Documents or this Sale Order. Upon the payment of the applicable Cure Amount, if any, the Assumed Contracts will remain in full force and effect, and no default shall exist under the Assumed Contracts nor shall there exist any event or condition which, with the passage of time or giving of notice, or both, would constitute such a default.

31. **Adequate Assurance Provided.** The requirements of Bankruptcy Code Sections 365(b)(1) and 365(f)(2) are hereby deemed satisfied with respect to the Assumed Contracts based on the Purchaser's evidence of its financial condition and wherewithal and without any further action by the Purchaser, including but not limited to any other or further



deposit. Pursuant to Bankruptcy Code Section 365(f), the Purchaser has provided adequate assurance of future performance of the obligations under the Assumed Contracts.

32. **No Fees.** There shall be no rent accelerations, assignment fees, increases or any other fees charged to the Purchaser or the Debtors as a result of the assumption and assignment of the Assumed Contracts.

33. **Injunction.** Pursuant to Bankruptcy Code Sections 105(a), 363, and 365, other than the right to payment of the Cure Amounts by the Debtors, if any, all Contract Counterparties are forever barred and permanently enjoined from raising or asserting against the Debtors or the Purchaser any assignment fee, default, breach or claim, or pecuniary loss arising under or related to the Assumed Contracts existing as of the Petition Date or any assignment fee or condition to assignment arising by reason of the Closing.

34. **No Further Debtor Liability.** Except as provided in the Transaction Documents or in this Sale Order, after the Closing, the Debtors and their estates shall have no further liabilities or obligations with respect to any Assumed Liabilities, and all holders of such Claims are forever barred and estopped from asserting such Claims against the Debtors, their successors or assigns, their property, or the Debtors' estates.

35. **No Waiver of Rights.** The failure of the Debtors or the Purchaser to enforce, at any time, one or more terms or conditions of any Assumed Contracts shall not be a waiver of any such terms or conditions, or of the Debtors' or the Purchaser's rights to enforce every term and condition of the Assumed Contracts.

#### **Prohibition of Actions Against the Purchaser**

36. **No Successor Liability.** Except for the Permitted Encumbrances and Assumed Liabilities set forth in the Transaction Documents, or as otherwise expressly provided for in this Sale Order or the Transaction Documents, the Purchaser shall not have any liability

or other obligation of the Debtors arising under or related to any of the Assets. Without limiting the generality of the foregoing, and except as otherwise expressly provided herein or in the Transaction Documents, the Purchaser shall not be liable for any Claims against the Debtors or any of their predecessors or affiliates, and the Purchaser shall have no successor or vicarious liabilities of any kind or character, including, without limitation, under any theory of antitrust, environmental, successor, or transfer liability, labor law, *de facto* merger, mere continuation, or substantial continuity, whether known or unknown as of the Closing Date, now existing, or hereafter arising, whether fixed or contingent, whether asserted or unasserted, whether legal or equitable, whether liquidated or unliquidated, including, without limitation, liabilities on account of warranties, intercompany loans, receivables among the Debtors and their affiliates, environmental liabilities, and any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of any of the Assets prior to the Closing.

37. Other than as expressly set forth in the Transaction Documents or this Order, the Purchaser shall not have any responsibility for (a) any liability or other obligation of the Debtors or related to the Assets or any claims against the Debtors or any of their predecessors or affiliates. Except as expressly provided in the Transaction Documents, the Purchaser shall not have any liability whatsoever with respect to the Debtors' (or their predecessors' or affiliates') respective businesses or operations or any of the Debtors' (or their predecessors' or affiliates') obligations (as defined herein, "Successor or Transferee Liability") based, in whole or in part, directly or indirectly, on any theory of successor or vicarious liability of any kind of character, or based upon any theory of antitrust, environmental, successor, or transferee liability, *de facto* merger or substantial continuity, labor and employment or products liability, whether known or unknown as of the Closing, now existing or hereafter arising, asserted or

unasserted, fixed or contingent, liquidated or unliquidated, including, without limitation, liabilities on account of (a) any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the Assets or the Assumed Liabilities prior to the Closing or in respect of pre-Closing periods or (b) any plan, agreement, practice, policy, or program, whether written or unwritten, providing for pension, retirement, health, welfare, compensation, or other employee benefits which is or has been sponsored, maintained, or contributed to by any Debtor or with respect to which any Debtor has any liability, whether or not contingent, including, without limitation, any “multiemployer plan” (as defined in Section 3(37) of ERISA) or “pension plan” (as defined in Section 3(2) of ERISA) to which any Debtor has at any time contributed, or had any obligation to contribute. Except to the extent expressly included in the Assumed Liabilities with respect to the Purchaser or as otherwise expressly set forth in the Transaction Documents, no Purchaser Party shall have any liability or obligation under any applicable law, including, without limitation, (a) the WARN Act, 29 U.S.C. §§ 2101 *et seq.*, (b) the Comprehensive Environmental Response Compensation and Liability Act, (c) the Age Discrimination and Employment Act of 1967 (as amended), (d) the Federal Rehabilitation Act of 1973 (as amended), (e) the National Labor Relations Act, 29 U.S.C. §§ 151 *et seq.*, or (f) any foreign, federal, state, or local labor, employment or environmental law, by virtue of the Purchaser’s purchase of the Assets, assumption of the Assumed Liabilities, or hiring of certain employees of the Debtors pursuant to the terms of the Transaction Documents. Without limiting the foregoing, no Purchaser Party shall have any liability or obligation with respect to any environmental liabilities of the Debtors or any environmental liabilities associated with the Assets except to the extent they are Assumed Liabilities set forth in the Transaction Documents.

38. **Actions Against the Purchaser Enjoined.** Except with respect to Permitted Encumbrances and Assumed Liabilities set forth in the Transaction Documents, or as otherwise permitted by the Transaction Documents or this Sale Order, all persons and entities, including, without limitation, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade creditors, litigation claimants, and other creditors, holding Interests of any kind or nature whatsoever against, or in, all or any portion of the Assets, arising under, out of, in connection with, or in any way relating to, the Debtors, the Assets, the operation of the Debtors' business prior to the Closing Date, or the transfer of the Assets to the Purchaser, hereby are forever barred, estopped, and permanently enjoined from asserting against the Purchaser, or any of its affiliates, successors, or assigns, or their property or the Assets, such persons' or entities' Interests in and to the Assets, including, without limitation, the following actions against the Purchaser or its affiliates, or their successors, assets, or properties: (a) commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral, or other proceeding; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or other order; (c) creating, perfecting, or enforcing any Lien or other Claim; (d) asserting any set off, right of subrogation, or recoupment of any kind; (e) commencing or continuing any action, in any manner or place, that does not comply or is inconsistent with the provisions of this Sale Order or other orders of this Court, or the Transaction Documents or actions contemplated or taken in respect thereof; or (f) revoking, terminating, or failing or refusing to transfer or renew any license, permit, or authorization to operate any of the Assets or conduct any of the business operated with the Assets.

### **Other Provisions**

39. **Licenses.** To the extent subsequently agreed by the parties and to the maximum extent permitted by applicable law, and in accordance with the Transaction Documents, the Purchaser (or its designee) shall be authorized, as of the Closing, to operate under any license, permit, registration, and governmental authorization or approval (collectively, the “Licenses”) of the Debtors with respect to the Assets. To the extent subsequently agreed by the parties and to the extent the Purchaser (or its designee) cannot operate under any Licenses in accordance with the previous sentence, such Licenses shall be in effect while the Purchaser (or its designee), with assistance from the Debtors, works promptly and diligently to apply for and secure all necessary government approvals for new issuance of Licenses to the Purchaser (or its designee). To the extent subsequently agreed by the parties, the Debtors shall, at Purchaser’s sole cost, maintain the Licenses in good standing to the fullest extent allowed by applicable law for the Purchaser’s benefit until equivalent new Licenses are issued to the Purchaser (or its designee).

40. **Effective Immediately.** For cause shown, pursuant to Bankruptcy Rules 6004(h), 6006(d), and 7062(g), this Sale Order shall not be stayed and shall be effective immediately upon entry, and the Debtors and the Purchaser are authorized to close the Sale immediately upon entry of this Sale Order. The Debtors and the Purchaser may consummate the Transaction Documents at any time after entry of this Sale Order by waiving any and all closing conditions set forth in the Agreement that have not been satisfied and by proceeding to close the Acquired Asset Sale without any notice to the Court, any pre-petition or postpetition creditor of the Debtors and/or any other party in interest.

41. **Access to Books and Records.** Following the Closing of the Sale, the Debtors shall have, and the Purchaser shall provide, reasonable access to their books and records, to the

extent they are included in the Assets transferred to the Purchaser as part of the Sale as set forth in the Transaction Documents.

42. **Bulk Sales Law.** No bulk sales law or any similar law of any state or other jurisdiction applies in any way to the Sale.

43. **Agreement Approved in Entirety.** The failure specifically to include any particular provision of the Transaction Documents in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Transaction Documents be authorized and approved in its entirety.

44. **Further Assurances.** From time to time, as and when requested, all parties shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as the requesting party may reasonably deem necessary or desirable to consummate the Sale, including such actions as may be necessary to vest, perfect, or confirm or record or otherwise in the Purchaser its right, title, and interest in and to the Assets.

45. **Modifications to Agreement.** The Transaction Documents and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, in a writing signed by such parties, without further order of this Court, provided any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates.

46. **Standing.** The transactions authorized herein shall be of full force and effect, regardless of any Debtors' lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business.

47. **Authorization to Effect Order.** The Debtors are authorized to take all actions necessary to effect the relief granted pursuant to this Sale Order in accordance with the Sale Motion.

48. **Automatic Stay.** The automatic stay pursuant to Bankruptcy Code section 362 is hereby modified, lifted, and annulled with respect to the Debtors and the Purchaser to the extent necessary, without further order of this Court, to (a) allow the Purchaser to deliver any notice provided for in the Transaction Documents and (b) allow the Purchaser to take any and all actions permitted under the Transaction Documents in accordance with the terms and conditions thereof. The Purchaser shall not be required to seek or obtain relief from the automatic stay under Bankruptcy Code section 362 to enforce any of its remedies under the Transaction Documents or any other Sale-related document. The automatic stay imposed by Bankruptcy Code section 362 is modified solely to the extent necessary to implement the preceding sentence, *provided, however*, that this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

49. **No Other Bids/Backup Bid.** Except as set forth immediately below, no further bids or offers for the Assets shall be considered or accepted by the Debtors after the date hereof unless the Sale to the Purchaser is not consummated or otherwise does not occur in accordance with the Transaction Documents or its related documents.

50. **Certain Rights Reserved.** Notwithstanding anything herein to the contrary, the respective rights and duties of the Committee, the Secured Party, and the holders of the Bonds under the Court's Final Order (1) Authorizing Debtors in Possession to Obtain Postpetition Financing; (2) Authorizing Debtors in Possession to Use Cash Collateral; (3) Providing Adequate Protection; and (4) Granting Liens, Security Interests, and Superpriority

Claims [Dkt. #185] (the “DIP Order”) and applicable law, including, without limitation, the Committee’s right to conduct an investigation and bring Challenges against the Secured Party and/or holders of the Bonds in accordance with the DIP Order, shall not be prejudiced or otherwise negatively impacted in any manner by (i) anything contained in this Sale Order or the Transaction Documents, including but not limited to Paragraphs 19 and 20, hereof, (ii) the Closing of the Sale or the subsequent remittance of Sale proceeds, or (iii) any other events or transactions related to the Sale. All of the respective rights of the Committee, the Secured Party, and the holders of the Bonds under the DIP Order and applicable law are hereby expressly reserved under this Sale Order. For purposes of this paragraph 50, the terms “Bonds,” “Challenge,” and “Secured Party” have the meanings provided in the DIP Order.

51. **Other Rights Reserved.** Pursuant to the Stipulation entered into between the Debtors, LEAF Capital, Verdant, and the Successful Bidder (the “Stipulation”), nothing in this Order affects the treatment of LEAF Capital’s and Verdant’s rights, arguments, and defenses related to their agreements with the Debtors, their collateral, the collateral’s value, the priority and extent of their security in the collateral, and/or the Debtors’ disposition of the Collateral, and all rights therein are expressly reserved. The Court further approves the Stipulation and finds that the Stipulation does not preclude the Court from entering this final order on the Sale Motion. The terms of the Stipulation are expressly incorporated into this Sale Order, and to the extent of any conflict between this Sale Order and the Stipulation, the Stipulation shall control.

52. **Order to Govern.** To the extent this Sale Order is inconsistent with any prior order entered or pleading filed in these Chapter 11 Cases, the terms of this Sale Order shall govern. To the extent there are any inconsistencies between the terms of this Sale Order and



the Transaction Documents (including all ancillary documents executed in connection therewith), the terms of this Sale Order shall govern.

53. **Standing.** The Purchaser has standing to seek to enforce the terms of this Sale Order.

54. **Plan.** Upon consummation of the sale of the Assets, the Debtors intend to file a plan of liquidation or reorganization.

55. **Retention of Jurisdiction.** This Court shall retain exclusive jurisdiction with respect to the terms and provisions of this Sale Order and the Transaction Documents.

### End of Order ###

Submitted by:

Buffey E. Klein  
State Bar No. 24032515  
Buffey.Klein@huschblackwell.com  
HUSCH BLACKWELL LLP  
1900 N. Pearl Street, Suite 1800  
Dallas, Texas 75201  
(214) 999-6100; fax (214) 999-6170

Lauren Hayes  
Texas Bar No. 24081961  
Lauren.Hayes@huschblackwell.com  
Amber Fly  
State Bar No. 24101761  
Amber.Fly@huschblackwell.com  
HUSCH BLACKWELL LLP  
111 Congress Avenue, Suite 1400  
Austin, Texas 78701  
(512) 479-9758; fax (512) 479-1101

*Proposed Attorneys for the  
Debtors and Debtors-in-Possession*