

DISTRICT COURT, ROUTT COUNTY, STATE OF COLORADO Routt Combined Court Address: 1955 Shield Drive Unit 200 Steamboat Springs, CO 80487	DATE FILED: June 30, 2024 1:56 PM CASE NUMBER: 2024CV30050
<hr/> Plaintiff: UMB BANK, N.A., a national banking association, solely in its capacities as Bond Trustee and Master Trustee, v. Defendant: COLORADO SENIOR RESIDENCES, INC., a Colorado nonprofit corporation.	<p style="text-align: center;">COURT USE ONLY</p> <hr/> Case Number: 2024CV30050 Division:
ORDER APPOINTING RECEIVER	

The Court, upon review of the Stipulation of the Parties, and being fully advised in the premises, and for other good cause having been shown,

HEREBY FINDS:

A. Jurisdiction and venue are proper. The Court has jurisdiction over this matter and the Borrower. The property that is the subject of the Complaint and the Motion is located in Routt County, Colorado.

B. The allegations set forth in the Complaint and the Motion establish a right to the appointment of a receiver and the relief requested therein. The Borrower has agreed and consented to the relief herein, including, without limitation, all findings set forth in this Order.

C. On or about May 3, 2012, Colorado Health Facilities Authority (the “Issuer”) issued its \$45,110,000 Revenue Bonds (Colorado Senior Residences Project) Series 2012 (the “Bonds”) pursuant to that certain Indenture of Trust (the “Trust Indenture”) dated as of April 1, 2012, by and

between the Trustee and the Issuer to finance the acquisition, construction, and equipping of a senior living and long-term care community in Steamboat Springs, Colorado (the “Project”).

D. The proceeds of the Bonds were loaned to the Borrower pursuant to that certain Loan Agreement (the “Loan Agreement”) dated as of April 1, 2012, by and between the Borrower and the Issuer. Under the terms of the Trust Indenture, the Issuer assigned to the Trustee all of its right, title, and interest in and to, and remedies under, the Loan Agreement.

E. The Borrower’s repayment obligations under the Loan Agreement are evidenced by a promissory note (the “Series 2012 Obligation”) issued under and entitled to the benefit and security of that certain Master Trust Indenture (the “Master Indenture”), as supplemented by that certain Supplemental Indenture Number 1 (together with the Master Indenture, the “Master Trust Indenture”), each dated as of April 1, 2012, and each between the Borrower and the Trustee.

F. Specifically, the Series 2012 Obligation is secured by the Borrower’s Gross Revenues (as defined in the Master Trust Indenture).

G. As additional security for the Series 2012 Obligation, the Borrower granted the Public Trustee for Routt County, Colorado for the benefit of the Trustee a security interest in the property described in that certain Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing (the “Deed of Trust,” and together with the Master Trust Indenture, the Trust Indenture, the Loan Agreement, and all other documents executed in connection with the issuance of the Bonds, the “Bond Documents”) dated as of May 3, 2012 and recorded on May 3, 2012 in the Official Records of Routt County, Colorado as Reception Number 724879. Pursuant to the Bond Documents, the Trustee has a lien against substantially all assets of the Borrower.

H. The Trustee perfected its security interest in the personal property by filing UCC financing statements (the “UCC Financing Statements”) with the Colorado Secretary of State on

May 3, 2012 at filing number 20122012545, assigned on July 23, 2015 at filing number 20152067592 and continued on March 10, 2017, January 5, 2022, and April 7, 2022 at filing numbers 20172022601, 20222001110, and 20222035500, respectively; and on July 23, 2015 at filing number 20152067583, continued on February 4, 2020 at filing number 20202011608.

I. Events of Default have occurred and are continuing under the Bond Documents as a result of the Borrower's failure to make the required monthly installment of principal and interest on the Bonds due from July 31, 2015 through the date of the Complaint.

J. Additional Events of Default have also occurred and are continuing under Section 4.23 of the Master Indenture as a result of the Borrower's failure to meet the Cumulative Cash from Operations requirement (as defined therein) for each fiscal quarter from March 31, 2023 through the date of this Complaint.

K. Effective September 30, 2018, the Borrower and the Trustee, at the direction of the holders of a majority in the principal amount of the Bonds, entered into a forbearance agreement (the "Original Forbearance Agreement") which provided that the Trustee would forbear from exercising remedies provided that the Borrower meet certain additional covenants and comply with an agreed upon budget which Original Forbearance Agreement was subsequently amended at various times.

L. On October 31, 2021, the Original Forbearance Agreement was amended and restated pursuant to that certain Amended and Restated Forbearance Agreement dated October 31, 2021, which was subsequently amended by the First Amendment to Amended and Restated Forbearance Agreement dated April 13, 2023 and Second Amendment to Amended and Restated Forbearance Agreement dated August 18, 2023.

M. Pursuant to the First Amendment to Amended and Restated Forbearance Agreement, the Borrower agreed to engage a broker and market the Project for sale. Such marketing process was focused on a sale of the Project in its current use and did not contemplate or solicit offers for an alternative use. Unfortunately such marketing process failed to produce a buyer acceptable to the Trustee acting at the direction of a majority of the bondholders.

N. Given the lack of success on the prior marketing process and according to the following terms set forth in the Deed of Trust, the Trustee is entitled, among other remedies, to have a receiver appointed for all of its collateral (the “Property”):

The Trustee shall as a matter of right be entitled to the appointment of a receiver or receivers for all or any part of the Deed of Trust Collateral by *ex parte* application, without notice, the right to such notice being expressly waived by the Grantor, whether such receivership be incident to a proposed sale (or sales) of such Deed of Trust Collateral or otherwise, and without regard to the value of the Deed of Trust Collateral or the solvency of any Person or Persons liable for the payment of the Secured Indebtedness, and the Grantor does hereby irrevocably consent to the appointment of such receiver or receivers, waives notice of such appointment, of any request therefor or hearing in connection therewith, and any and all defenses to such appointment, agrees not to oppose any application therefor by the Master Trustee and agrees that such appointment shall in no manner impair, prejudice or otherwise affect the rights of the Master Trustee to application of Rents as provided in this Deed of Trust. Nothing herein is to be construed to deprive the Master Trustee of any other right, remedy or privilege it may have under the law to have a receiver appointed. Any money advanced by the Master Trustee in connection with any such receivership shall be a demand obligation (which obligation the Grantor hereby promises to pay) owing by the Grantor to the Master Trustee pursuant to this Deed of Trust.

O. In addition to the above-described remedies, the Trustee is entitled to all the rights and remedies under the applicable provisions of the Uniform Commercial Code pursuant to the Bond Documents and the UCC Financing Statements.

P. The Trustee has performed all conditions precedent to the bringing of this action.

Q. The Trustee's representatives have conferred with the Borrower's representatives concerning the appointment of a receiver. The Borrower consents to the requested relief for the appointment of a receiver subject to the conditions provided below in paragraphs 28(i) and 31 through 33.

R. As of May 29, 2024, the outstanding principal balance due and owing with respect of the Bonds and Series 2012 Obligation is \$44,705,000.00, and the accrued and unpaid interest is \$23,747,224.95, totaling aggregate outstanding amount of principal and accrued interest due in respect of all the Bonds and the Series 2012 Obligation of \$68,452,224.95, plus accrued and accruing interest, attorneys' fees, costs, and other expenses (the "Indebtedness").

Appointment of the Receiver

S. Based on the facts set forth in the Complaint and the Motion, C.R.C.P. 65 and 66 and the case law thereunder, and the equitable powers of this Court, the Trustee is entitled to entry of this Order and appointment of a receiver. The appointment of a receiver will not disserve the public interest and the equities favor the appointment of a receiver. The appointment of a receiver will preserve the Property.

T. Cordes & Company, LLC, through and by Bellann Raile, whose business address is 7979 E Tufts Avenue, #820, Denver, Colorado 80237, has sufficient experience and is qualified and suitable to be appointed as receiver.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

Appointment of Receiver and Notice of Receivership

1. Cordes & Company, LLC, through and by Bellann Raile (the "Receiver") is hereby appointed as general receiver over the Receivership Property (as defined below), wherever situated, for a period commencing on the date of this Order and ending upon termination of such

appointment by further order of this Court. Bellann Raile shall serve as the primary agent for the Receiver under this Order.

2. The Trustee and the Receiver shall provide notice of this Order and other matters as required by C.R.C.P. 66(d)(3).

3. Within seven (7) days after entry of this Order, the Receiver shall execute and file an Oath of Receiver with this Court accepting the appointment and agreeing to fully and faithfully exercise all powers and discharges under this Order, any subsequent directives of this Court, and applicable law.

The Receivership Property, Receiver's Powers and Duties, and Cooperation

4. The "Receivership Property" shall consist of all tangible and intangible assets of the Borrower, including, without limitation, the Property and all accounts, accounts receivable, chattel paper, deposit accounts, documents, electronic records, equipment, general intangibles, goods, instruments, inventory, investment property, permits, licenses, rental payments, lease payments, insurance payments, condemnation awards, bank accounts, security deposits, records, customer lists, files, reports, studies, options, contracts, leases, occupancy agreements, security and other deposits, agreements, checks, drafts, notes, fixtures, furniture, furnishings, software, computers, computer servers, websites, financial documents, appliances, supplies, construction materials, and other things and articles of and proceeds of any and all types and kinds used or associated with the foregoing. The Receiver shall take and have complete and exclusive control, possession, and custody of the Receivership Property. The Receivership Property shall exclude all funds held by the Trustee under the Bond Documents.

5. The Receiver is hereby directed and empowered to take or to continue to take from the Borrower, its officers, directors, managers, agents, attorneys, accountants, representatives, and

employees (and all persons in active concert and participation with such persons) immediate possession of the Receivership Property. The Receiver is further empowered to exclude the Borrower, its officers, directors, managers, agents, attorneys, accountants, and employees from such possession; and all such persons are (a) enjoined from in any manner disturbing the Receiver's possession or control of the Receivership Property or any other property that is the subject of this Order; (b) prohibited and restrained from disposing of, dissipating, mishandling, or misappropriating any Receivership Property; (c) prohibited and restrained from collecting any rents or other sums due to the Borrower with respect to the Receivership Property; and (d) ordered to deliver over to the Receiver all of the Receivership Property. The Receiver shall operate the Receivership Property at the level that the Receiver reasonably deems appropriate, which may be at a limited service level or may include suspension of operations, and collect the rents, revenues, income, profits, and other benefits from the operation and management of the Receivership Property, all of which shall be held and disbursed pursuant to this Order.

6. The Receiver shall have all of the authority, powers, and duties usually or customarily held by receivers and reasonably necessary to accomplish its purposes, including, without limitation, the following without further order of this Court, except as expressly stated below:

- a. to enter upon, take possession of, and assume control of the Receivership Property and all books, records, and personal property owned by the Borrower and used to conduct the business of the Receivership Property including without limitation computers, computer records, and software systems, and similar records and computer systems used to conduct the business of the Receivership Property;
- b. to collect, control, manage, conserve, and protect the Receivership Property;

- c. to retain security personnel as necessary to secure the Receivership Property;
- d. to incur and pay reasonable and necessary expenses incidental to the Receiver's exercise of the powers or otherwise in the performance of the Receiver's duties, including but not limited to expenses for agents, managers, attorneys, and/or consultants;
- e. to assert rights, claims, causes of action, or defenses that relate to the Receivership Property viewed necessary or advantageous for the preservation or maximization of the Receivership Property;
- f. to collect any information as to the assets, liabilities, equity in, business of, and intellectual property of the Borrower;
- g. to operate and conduct the Borrower's business and any business constituting Receivership Property in the ordinary course of business, including using, selling, or leasing property of the Borrower or otherwise constituting Receivership Property, subject to the Approved Budget (defined herein), incurring and paying expenses of the Borrower's business or other Receivership Property, and hiring, firing, or retaining employees and appointing officers to act on behalf of the Borrower;
- h. to use, improve, sell, or lease the Receivership Property other than in the ordinary course of business; *provided* that the Receiver may sell trucks, trailers, equipment, intellectual property, general intangibles and inventory outside of the ordinary course of business without notice, a hearing, and order of the Court; further, the Receiver may abandon any Receivership Property which the Receiver determines

to be not beneficial or burdensome and shall designate such property that is abandoned in the reporting filed by the Receiver;

- i. to continue, modify, cancel, reject, renegotiate, terminate, or enter into any and all agreements that affect or are otherwise necessary or advantageous to the Receivership Property and/or the Borrower's business;
- j. to enter into, modify, cancel, reject, renegotiate, or terminate agreements with creditors of the Borrower to resolve debts previously incurred by the Borrower;
- k. to enforce or cause the Borrower to enforce payment obligations owed to the Borrower, including, but not limited to, promissory notes, mortgages, contracts, and accounts, and the Receiver may in its own name or in the name of the Borrower or any of them initiate any legal proceedings viewed necessary to enforce such payment obligations, including, but not limited to, seeking of equitable relief;
- l. to apply the Borrower's endorsement to any instrument, form, or document in the course of its management of the Receivership Property and execute in the name of the Borrower any and all reports and other documents required to be executed in connection with the performance of the Receiver's obligations pursuant to this Order and under applicable law (with notice to the Borrower in each case), including, but not limited to, documents to transfer, assign, and/or convey title to trucks, trailers, inventory, intellectual property, general intangibles, and equipment;
- m. to pay prior obligations incurred on behalf of the Borrower or its agents or any other person or entity charged with the responsibility of maintaining and operating the Receivership Property, if such obligations are deemed by the Receiver to be

necessary or advisable for the continued operation of the Borrower and/or maximizing the value of the Receivership Property;

- n. to terminate, employ, or continue the employment of any or all of the Borrower's employees, directors, officers, board members, agents, representatives, counsel, and consultants who the Receiver deems reasonably necessary to assist in the operation, liquidation, or sale of the Receivership Property under such terms and conditions as the Receiver deems advisable, and in doing so the Receiver shall not be bound by the Borrower's current employment contracts or employment practices, policies, or benefits;
- o. to hire agents, managers, attorneys, and/or consultants as the Receiver believes are reasonably necessary to perform its duties as receiver, including, without limitation, counsel to aid the Receiver and provide it counsel in connection with its duties as Receiver, and to pay its counsel at the customary hourly rates on a monthly basis for the legal services rendered in connection therewith including any reasonable fees incurred prior to the entry of this order;
- p. to employ contractors, as the Receiver deems appropriate, to assist the Receiver in management and repair of the Receivership Property, including to assess the condition of the Receivership Property and to determine appropriate repairs thereto;
- q. to operate, or cease operations of, any and all of the business affairs of the Borrower with respect to the Receivership Property, either directly or indirectly through the employees and agents hired by the Receiver and acting under the Receiver's direction and control, as the Receiver deems prudent;

- r. to compel any person or entity, including, without limitation, the Borrower, by subpoena pursuant to the Colorado Rules of Civil Procedure, to give testimony or to produce and permit inspection and copying of designated books, documents, electronically stored information, or tangible things with respect to the Receivership Property or any other matter that may affect the administration of the receivership;
- s. to take possession of all deposit accounts, checking accounts, and bank accounts, including any and all merchant or credit card accounts, containing funds associated with the Receivership Property, to open new bank accounts in the name of the receivership estate for use by the Receiver or its designee, and/or to use existing deposit and checking accounts that the Borrower currently maintains and rename such accounts to reflect the interest of the Receivership Property;
- t. to receive and open all mail for and on behalf of the Borrower and access and obtain keys for all post office boxes for the Borrower;
- u. to obtain and/or maintain appropriate insurance coverages for the Receivership Property and for itself as the Receiver;
- v. to institute such legal actions as the Receiver deems necessary to: (i) collect accounts and debts, and enforce other agreements relating to the Receivership Property, (ii) recover possession of the Receivership Property and deposits from persons who may now or in the future be wrongfully possessing any of the Receivership Property, and (iii) enforce all rights of action and claims for recovery arising out of or related to the Receivership Property or its operations, including,

without limitation, seeking substitution as the real party in interest in pending or future causes of action;

- w. to issue receiver certificates for the purpose of preserving and maintaining the Receivership Property and payment of insurance, without further approval of this Court, in exchange for funds advanced by third parties during the term of the receivership, which receiver certificates shall bear interest at a rate of up to 18% per annum and which receiver certificates shall be a lien and security interest and a priority claim upon the Receivership Property; *provided* that if multiple receiver certificates are issued, each receiver certificate shall be of equal lien and claim priority (*i.e.*, all receiver certificates will be *pari passu*); *provided further* that the Trustee shall have first right (but no obligation) to fund any and all receiver certificates;
- x. to collect any revenue and income from the Receivership Property; and
- y. to take any other action that is customarily taken by receivers in the State of Colorado.

7. The Receiver shall have no responsibility to administer any pension, profit sharing, 401(k), retirement, health insurance, dental insurance, flexible spending account, or other employee benefit plan. However, the Receiver shall direct the manager of the Property and advise such employees or affected persons with adequate notice of at least 30 days to wind down all such plans and programs as part of the Wind-Down Process (as defined below).

8. The Receiver shall take commercially reasonable measures to protect all personally identifiable information and protected health information of the residents and employees.

9. Christian Living Services d/ba/ Cappella Living Solutions (“CLS”) shall continue to manage all of the ordinary course operations of the Project, subject to and consistent with the terms and conditions of CLS’s current contract with the Defendant. CLS shall report to and take direction from the Receiver regarding the Project and any matters related thereto. In accordance with CLS’s contract, CLS shall regularly provide weekly updates and reports relating to management or operation of the Project to the Trustee and the Receiver and shall provide any documents or information relating to management or operation of the Project not contained in such regular updates or reports within three (3) business days following written request. Any decisions relating to the management and operations of the Project outside the ordinary course of business shall be made by the Receiver, except (i) if, at any time, the Receiver intends to replace CLS with another manager, the Receiver must obtain the consent of the Trustee.

10. The Receiver shall be entitled to operate the Project pursuant to all licenses, permits, and governmental approvals issued to the Borrower, including without limitation, business licenses, Colorado Department of Public Health and Environment (the “Department”) licenses and certificates of authority, and such other permits, licenses, and rights obtained from any governmental, quasi-governmental, or private entity whatsoever. The Receiver may apply for, obtain, and pay any reasonable fees for any necessary license, permit, or other governmental approval relating to the Borrower, the Receivership Estate, or the operation of either of the foregoing, and confirm the existence of, and do all things necessary to protect and maintain, any such licenses, permits, or governmental approvals.

11. Notwithstanding anything to the contrary contained in this Order, the Receiver shall not take any action with regard to ownership, operation, control, storage, generation, or disposal of (a) any substance deemed a “hazardous substance,” “pollutant,” “contaminant,” or similar

substance under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675, the Conservation and Recovery Act of 1976, the Solid Waste Amendments of 1984, the Superfund Amendments and Reauthorization Act of 1986, and any other amendments; or (b) any other chemical, toxin, pollutant, or substance defined as hazardous or dangerous to human health under any other federal, state, or local law, regulation, rule, or ordinance, including, without limitation thereto, petroleum, crude oil, or any fraction thereof (collectively, “Hazardous Substances”), without first applying for and obtaining an order of this Court specifically setting forth the action or actions proposed to be taken by the Receiver. Without first applying for and obtaining such an order of this Court, the Receiver shall have no ownership, control, authority, or power (and the Receiver shall not have any obligation to exercise ownership, control, authority, or power) over the operation, storage, generation, or disposal of any Hazardous Substances. All decisions relating to the ownership, operation, control, storage, generation, and disposal of any Hazardous Substances shall be resolved by this Court.

12. The Receiver is hereby granted authority to access, obtain, and utilize all electronic login and password information for the Borrower from any third party (including, without limitation, financial accounting systems, electronic payment platforms, email systems, utility providers, banking institutions, and payroll processing services). This Order may be presented to any person, entity, or governmental agency as evidence of the Receiver’s authority under this section, and any and all third parties shall comply with any request of the Receiver and/or its designee to provide physical and electronic access to the Borrower’s mail and/or accounts.

13. All rents, issues, profits, revenues, income, and other payments that are now or hereafter become due with respect to all or any portion of the Receivership Property, whether pursuant to oral or written agreements, shall be remitted by the account of the Borrower directly

to the Receiver. The Receiver is authorized and directed to demand, collect, and receive all proceeds from the operation of the Receivership Property, including, without limitation, all receivables, accounts, profits, rents, charges, or fees now due and unpaid or hereafter to become due.

14. Upon request of the Receiver, the Borrower is ordered to direct any person or entity liable for any payments to be paid to the Borrower to direct said payment to the Receiver. Such direction shall be in writing and approved by the Receiver. Upon receipt of a copy of this Order, any and all third parties who are obligated to pay the Borrower any amounts are hereby directed to make such payment directly the Receiver. Notwithstanding the foregoing, should any third party obligated to make payments to the Borrower direct those payments to the Borrower rather than the Receiver, such payments shall be deemed to have been made payable to Receiver, and such payments shall be immediately turned over to the Receiver's custody and control by any person or party receiving the same on behalf of Receiver.

15. In order to exercise the authority conferred upon it under this Order, the Receiver is hereby vested with the standing and all power and authority (but without the liability of or associated with, or obligation to act) that would or could be wielded by the officers, directors, members, managers, or agents of the Borrower, including, without limitation, the power and authority to (a) execute documents, instruments, and resolutions in connection with any sale or finance transaction; and (b) have and obtain access to employee records, reports, financial and accounting systems, communications, and other work product.

16. The Receiver may send notice to the creditors of the Borrower of this Order and set a bar date no less than thirty (30) days after the date hereof by which creditors shall file claims with the Receiver to preserve their right to assert claims against the Receivership Property or the

receivership estate. If the Receiver determines there is a reasonable likelihood that funds will be available for distribution to creditors after payment of the Indebtedness and a claims process would assist the Receiver in disbursing funds, the Receiver shall file and serve a proposed claims procedure to all persons entitled to receive service in the action and any other creditor whose claim or claims would be affected by any such procedure (the “Proposed Claims Procedures”). If no objection is filed or otherwise received within twenty-one (21) days after the service of the Proposed Claims Procedures, the Court may enter an order approving the Proposed Claims Procedures.

17. In the event that there are insufficient funds to repay any receivership expenses as contemplated above, the Receiver shall have a lien encumbering the Receivership Property having a priority immediately senior to that of any other lien on or security interest in the Receivership Property and equal to those of any receiver certificates issued pursuant to paragraph 6(w) above. The Receiver is hereby authorized to execute and record, in the Clerk and Recorder’s Office for any county in which real property of the Borrower is located, Certificates of Lien and file UCC financing statements with the Colorado Secretary of State putting third parties on notice of such liens. Any such lien may be released of record by a (a) Certificate of Release of Lien executed by the Receiver and recorded in the county where such Certificate of Lien was previously recorded, or (b) UCC termination statement filed with the Colorado Secretary of State, as appropriate. The Receiver shall be entitled to all costs and expenses associated with enforcing such lien and such amount shall be secured by such lien.

18. The Borrower and all persons in active concert and participation with them, including its officers, directors, managers, employees, agents, accountants, and banks, shall be and are hereby ordered:

- a. to deliver immediately to the Receiver or its agents all Receivership Property, including without limitation, any and all income, rents, revenues, issues, payments and profits, and any and all personal property used or associated with the Receivership Property, regardless of where such property is located, including, without limitation, accounts, accounts receivable, chattel paper, deposit accounts, documents, equipment, general intangibles, goods, instruments, inventory, investment property, permits, licenses, rental payments, lease payments, insurance payments, condemnation awards, bank accounts, security deposits, records, customer lists, files, reports, studies, options, contracts, leases, occupancy agreements, agreements, checks, drafts, notes, fixtures, furniture, furnishings, software, computers, computer servers, websites, financial documents, appliances, supplies, construction materials, and other things and articles of any and all types and kinds used or associated with the Receivership Property;
- b. to continue to deliver immediately to the Receiver all collections on accounts receivable and credit card receivables, security deposits, lease payments, rental payments, other collections, books, rent rolls and other records relating to the operation, maintenance, and management of the Receivership Property, and to permit the Receiver to carry out its duties hereunder without interference;
- c. when necessary or when requested, to explain the operation, maintenance, and management of the Receivership Property and/or the Borrower' business to the Receiver or its agents; and
- d. to safeguard and preserve against destruction all business records and documents relating to the Receivership Property and the Borrower's business in whatever

form, including, without limitation, all electronic records, e-mails, and hard-copy documents until delivered to the Receiver.

19. The Receiver is immediately vested with (and the Borrower shall immediately deliver) the books and records with respect to the operation of the Receivership Property, including, without limitation, any and all information related to: (a) amounts paid by obligors of the Borrower; (b) liens, encumbrances, and other interests against or affecting the Receivership Property and/or other property; (c) property taxes owed by the Borrower; (d) all types of insurance affecting the Receivership Property and/or other property; (e) plans, specifications, surveys, and drawings, if any, relating to the Receivership Property; (f) keys and/or access codes to the Receivership Property and any units therein; (g) all computers, computer systems, software necessary to review, understand, print, and deal with computerized records, and all access codes/passwords associated therewith; (h) all operating statements of the Borrower; (i) all maintenance manuals for any equipment located at the Receivership Property; (j) all repair and maintenance records for the Receivership Property; and (k) all other aspects of the Receivership Property, including operating agreements and amendments thereto, and other property and the operation and management thereof (collectively, the “Books and Records”). The Receiver is authorized to recover, without further order of this Court, Books and Records in the possession of third parties, including, without limitation, internet and cloud hosting services and website/domain hosting services.

20. Except as may be expressly authorized by this Court hereafter, upon notice and a hearing, the Borrower, its officers, directors, managers, agents, employees, representatives, or anyone claiming under, by, or through them are enjoined from:

- a. other than under the supervision of the Receiver, collecting any rents, revenues, accounts, issues, and profits from the Receivership Property or withdrawing funds from any bank or other depository account relating to the Receivership Property and/or the Borrower's business;
- b. terminating or causing to be terminated, or modifying any license, permit, lease, contract, or agreement relating to the Receivership Property or the operation of the Borrower's business; and/or
- c. otherwise interfering with the operation of the Receivership Property, the Borrower's business, or the Receiver's discharge of its duties hereunder.

21. Any creditors of the Borrower (the "Creditors") that are in the possession of, or have taken any action to seize any books, records, or other assets constituting Receivership Property, and all persons in active participation with such creditors, including, without limitation, such creditors' officers, managers, members, employees, agents, representatives, attorneys, accountants, banks, contractors, subcontractors, and all who claim under, by, or through them (the "Creditors' Representatives") are, upon written notice by the Receiver of this Order, hereby ordered to deliver immediately to the Receiver all of the Receivership Property in such creditors' or Creditors' Representatives' possession, and to cooperate fully with the Receiver in connection with such turnover. Any claims against the Borrower shall not be used as a defense to turning over Receivership Property as set forth in this paragraph. The Receiver may request supplemental authority from this Court upon proper motion, if necessary, to obtain the cooperation of such Creditors or Creditors' Representatives or any other foregoing persons acting on behalf of or for such Creditors to comply fully and completely with this Order.

22. All persons having notice of this Order are hereby restrained and enjoined until further order of this Court from interfering with the Receiver's possession of the Receivership Property, or from taking actions that adversely affect the ability of the Receiver from performing the obligations imposed on it pursuant to this Order, including, without limitation, from discounting, altering, interfering with, or terminating the supply of goods or services as may be required by the Receiver; provided in each case that the normal prices or charges for all such goods or services received after the entry of this Order shall be paid by the Receiver in accordance with the ordinary course of business of the receivership estate and such supplier, or other practices as may be agreed upon by the Receiver and the supplier or as may be ordered by this Court.

23. If the Receiver determines, after reasonable inquiry, that a person or entity is in violation of the turnover provisions set forth in this Order, the Receiver is instructed to give written notice thereof to the person or entity violating such provisions, with a copy of this Order attached, demanding turnover of such Receivership Property. If the person or entity in possession fails or refuses to turnover the Receivership Property after receiving notice, the Receiver shall file a request for an order to show cause with this Court.

24. The Receiver may utilize the tax identification numbers associated with the Borrower during the receivership to the extent permitted by law, or the Receiver may obtain new tax identification numbers. The Borrower shall provide the Receiver with all the tax identification numbers utilized in connection with the operation of the Receivership Property.

25. By making this request for the appointment of the Receiver, the Trustee does not render itself liable for the costs and expenses of the Receiver, and the Trustee shall not be required to advance funds to the Receiver to meet the working capital needs of the Borrower's business or for any other purpose.

26. The Receiver is authorized to pay all expenses incurred in the ordinary course of business of the Project that are incurred in the first thirty days after the entry of this Order, provided that such expenses are consistent with expense incurred in the prior twelve months of operations. Within thirty days after the entry of this Order, the Receiver shall provide the Parties with an initial cash flow budget and the Trustee shall have the right to approve such budget (such budget approved by the Trustee, the “Approved Budget”). The Approved Budget shall include detailed operating assumptions, projected receipts, disbursements, entrance fee collections, entrance fee refunds, cash balances, and accounts receivable information. Absent further order of the Court, CLS and the Receiver shall pay only those amounts as permitted by the Approved Budget.

27. Should it become necessary for the Receiver or any party to petition this Court for a clarification of the provisions of this Order, or to request other powers as the circumstances may then dictate are necessary, it is ordered that receipt of notice five (5) days in advance of such a petition shall be sufficient notice. Any notice required hereunder shall be deemed served on the date it is received via overnight mail to counsel of record for any party, or directly to any party not represented by counsel.

The Sale Process

28. The Receiver is authorized and shall take the following actions in connection with the sale of the Property (collectively, the “Sale Process”):

- a. Engage an investment banker or broker (“Broker”) with respect to the Sale Process, upon terms and conditions acceptable to the Trustee;
- b. With the assistance of such Broker, establish a data room, which will include a form asset purchase agreement in a form acceptable to the Trustee (“Form APA”), to permit potential bidders for the Property to conduct due diligence, including

providing such potential bidders access to the Property upon reasonable notice and within the discretion of the Receiver;

- c. Establish a date acceptable to the Trustee, which date shall be no later than 90 days after the selection of the Broker, ("Bid Deadline") as the last date for parties to submit a Qualified Bid (as defined below) for the purchase of the Property;
- d. With the assistance of the Broker, and the consent of the Trustee, at any time prior to a winning bid being designated as such at the Auction (as defined below), select an entity to serve as a stalking-horse bidder ("Stalking Horse Bidder") for the purchase of the Property, pursuant to the terms of an executed asset purchase agreement (subject to the consent of the Trustee) (the "Stalking Horse APA") which may include a break-up fee in favor of the Stalking Horse Bidder acceptable to the Trustee (the "Break-Up Fee") and require an initial bid increments at the Auction not to exceed \$100,000 (the "Initial Bid Increment");
- e. Establish requirements that potential bidders must include in their bids in order to participate in the Auction (a bid meeting such requirements is termed a "Qualified Bid"), including (i) that such bids are submitted by the Bid Deadline; (ii) that such bid be on substantially the same terms as set forth in the Form APA by including a word version of the bid in the same form as the Form APA; (iii) that such bid include a redline comparison between the bid and the Form APA; (iv) that the bid be accompanied by a deposit of not less than ten percent (10%) of the purchase price set forth in the bid (unless a lesser amount is agreed to by the Receiver, with the consent of the Trustee); (v) in the event a Stalking Horse Bid is selected more than seven (7) days prior to the Bid Deadline, that the bid include a redline

comparison between the bid and the Stalking Horse APA (in which case a redline between the bid and the Form APA shall not be required); and (vi) if a Stalking Horse Bid is selected at any time before the Bid Deadline, that the purchase price set forth in such bid be in at least the amount of the purchase prices set forth in the Stalking Horse APA, plus the Break Up Fee, plus the Initial Bid Increment;

- f. In the event more than one Qualified Bid is received, with the assistance of the Broker, conduct an auction of the Property (the “Auction”) not later than one week after the Bid Deadline, to be held in a manner (including the bid procedures that will govern the bidding process at the Auction), place and time recommended by the Broker, all as consented to by the Trustee;
 - g. Execute an asset purchase agreement with the winning bidder at the Auction on terms set forth in the winning bid and as consented to by the Trustee (the “Final APA”);
 - h. Upon conclusion of the Auction, but prior to a closing on the Final APA and the transaction for transfer and sale of the Property, file a report with this Court indicating the results of the Auction, the identity of the successful bidder, the identity of a back-up bidder, if any, and the final and highest bid price; and
 - i. In the event that the buyer of the Project intends the Project to be converted into a multifamily housing project, request that the buyer offer existing independent living Residents an option to lease their units on commercially reasonable terms no less favorable than other tenants.
29. The Receiver shall be required to request an order of this Court following a hearing before this Court (the “Sale Hearing”) to consummate the sale of the Property as set forth in the

Final APA. The order approving the sale to the winner of the Auction shall specify: (i) that such sale constitutes the Trustee's powers of sale as set forth in the Bond Documents and is the equivalent of a foreclosure or deed in lieu of foreclosure; (ii) that such sale is free and clear of all claims, liens and interests; (iii) that any liens on the Property that are sold shall attach to the sale proceeds in the same order of priority as they existed on the Property prior to the sale; and (iv) that, except for (A) unpaid expenses of the Receiver, including any amounts owed to the Receiver, (B) amounts reserved by the Receiver as security for any parties asserting a lien senior to that of the Trustee until such time as a court of competent jurisdiction determines the priority between such liens, (C) amounts necessary to pay taxes owed on any Property solely to the extent such amounts are senior to the liens of the Trustee, (D) amounts owed to the Broker, if not otherwise paid, (E) the amount of the Break-Up Fee owed to the Stalking Horse Bidder, if any, (F) an amount agreed to by the Trustee and the Receiver as sufficient to pay for the Wind-Down Process and the winddown of the receivership, and (G) other amounts agreed to by the Trustee (the aggregate of the items (A)- (G) are hereafter referred to as the "Set Aside Amounts"), all proceeds shall be paid directly to the Trustee at closing.

30. The Trustee shall have the right to "credit bid" all or any portion of the secured obligations under the Bond Documents (including by accepting some or all of the collateral thereunder in satisfaction of some or all of the secured obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of such collateral at any sale, foreclosure or acceptance of collateral in lieu of debt, including at any Auction, free and clear of all liens, claims and encumbrances to the extent permitted by applicable law. Provided however, if the Trustee does submit a credit bid, any such credit bid must provide assurances that the Set Aside Amounts will

be available for such purposes to the extent such amounts are not otherwise on hand with the Receiver in readily available funds. In addition, the Trustee may assign such “credit bid” rights (subject to the requirements set forth in the preceding sentence) to a third-party, including but not limited to for use at a foreclosure sale or Auction of the Property, for consideration determined acceptable to the Trustee in its sole discretion.

31. For the avoidance of doubt, the purchaser under the Final APA shall be prohibited from using any rights or goodwill related to the tradenames “Casey’s Pond,” “Doak Walker House,” any derivative or form of such names, any mark associated with such names, or any derivative or form thereof.

The Wind-Down Process

32. Notwithstanding anything to the contrary elsewhere in the Order, the Receiver shall be responsible for the wind-down of the Borrower’s operations at the Property to the extent necessitated by the Sale Process, including without limitation, the transition of residents (collectively, the “Wind-Down Process”) and shall prepare a budget for transition and closure, as necessary, for the Trustee’s approval.

33. Notwithstanding anything to the contrary elsewhere in the Order, the Receiver is authorized and shall take the following actions in connection with the Wind-Down Process:

- a. The Receiver shall satisfy entrance fee refund obligations in full of the residents residing in the facility (the “Residents”) in accordance with the applicable resident contracts, including but not limited to those amounts provided in the attached **Exhibit 1**, and such payment shall be made solely from an entrance fee escrow account held by the Trustee (with a current balance of \$1,847,403.70) and proceeds of any sale of the Project pursuant the Sale Process.

- b. The Receiver shall provide the Residents no less than 90 days' notice to relocate from the Project.
- c. Each Resident shall receive one moving expense reimbursement of up to \$5,000.00 provided by (i) the applicable receiving community, (ii) the Borrower's funds administered by the Receiver, or (iii) some combination thereof.
- d. The Receiver shall provide the Borrower's employees no less than 60 days' termination notice.
- e. The Receiver shall retain CLS to manage the property and if necessary, may retain CLS to transition the Residents as necessitated by the Sale Process.
- f. The Receiver shall offer all motor vehicles owned by the Borrower as donations to Routt County Senior Services following the Wind-Down Process.
- g. The Trustee shall fund, and the Receiver shall pay, within 30 days of receipt of invoices therefor, the reasonable professional fees and expenses of Bracewell LLP as counsel for the Borrower, incurred prior to the appointment of the Receiver, and which invoices may be redacted to protect attorney-client privilege, in an amount not to exceed \$47,051.25.
- h. The Trustee shall fund, and the Receiver shall pay, within 30 days of receipt of invoices therefor, the reasonable professional fees and expenses of Onsager Fletcher Johnson Palmer LLC as local counsel for the Borrower in this proceeding, incurred prior the appointment of the Receiver, which invoices may be redacted to protect attorney-client privilege, in an amount not to exceed \$3,500.
- i. The Receiver shall fund the reasonable and necessary professional fees and expenses of Bracewell LLP as lead counsel and Onsager Fletcher Johnson Palmer

LLC as local counsel for the Borrower incurred after the appointment of the Receiver in an amount not to exceed \$25,000, which shall cover monitorship and participation in this receivership action and any winddown of the corporate entity after the sale of the Project contemplated hereby.

- j. The Receiver shall offer to return all donations given to the Borrower after October 1, 2023, to the applicable donating parties.
- k. The Receiver shall offer to return all artwork donated by David Street and Karen Street to Karen Street or otherwise dispose of such artwork in coordination with Karen Street.
- l. The Receiver shall transfer all photos, busts, or other memorabilia of Doak Walker to a designee selected by the Borrower's board.

34. Notwithstanding the foregoing language in this Order, the Colorado Department of Public Health and Environment (hereinafter, the "Department") is the Colorado licensing authority for assisted living residences and nursing facilities. Pursuant to C.R.S. § 25-1.5-103, the Department is authorized to protect the health, safety, and welfare of residents/patients residing at both Casey's Pond Senior Living, the licensed assisted living residence, and Casey's Pond Senior Living LTC, the licensed nursing facility (hereinafter, collectively referred to as the "Facilities"). The Department is further authorized to inspect, survey, investigate complaints, and monitor the care and services provided to residents/patients at any time as set forth at 6 Colo. Code Regs. 1011-1:2-2.10. The Department continues to recognize Colorado Senior Resources as the licensee of the Facilities (the "Licensee"). The Receiver shall not exclude the Licensee or the Department from access to and operation of the Facilities. In the event the Licensee or Receiver seek a change of ownership they shall work cooperatively with the Department as set forth at 6 Colo. Code Regs.

1011-1:2-2.6. If any change in Facilities' administrator or management company is intended, the Licensee or Receiver shall notify the Department 30 days in advance in compliance with Colo. Code Regs. 1011-1:2-2.9.6(A)(2). Additionally, the Receiver shall notify the Department of any communications to the residents/patients or staff regarding the closure or sale of the Facility within 48 hours of the notification to residents/patients or staff. 6 Colo. Code Regs. 1011-1:7-11.16.

35. The Receiver shall promptly provide accurate information to the Department regarding the transfer and discharge of residents to ensure that the residents receive appropriate care and services at all times, and are transferred and discharged in a safe and orderly manner. By this Order, the Receiver provides assurances to the Department that it shall ensure continuity of care for the residents/patients of the Facilities as set forth in the Wind-Down Process. The Receiver shall take reasonable measures to avoid transfer trauma during the process of closure of the Facilities.

Receiver's Compensation

36. The Receiver may not incur out-of-the-ordinary operating expenses, or pay any expenses existing as of the date hereof, outside the Approved Budget and without prior written approval of the Trustee, or as approved, after due notice, by this Court.

37. The Receiver may pay itself monthly as compensation for its services as Receiver (including time spent prior to the entry of this Order) at the rate of \$375 per hour for Ms. Raile and in accordance with Fee Schedule attached hereto as **Exhibit 2** for other staff of the Receiver, and reimburse itself for reasonable and necessary expenses incurred, in each case in the priority set forth in this Order and subject to the terms of the Approved Budget. The Receiver's rate as set forth herein is deemed reasonable, appropriate, and in the best interest of the receivership estate herein. Such amounts shall be paid from the Receivership Property or its proceeds.

Reporting

38. At the end each full month following entry of this Order, the Receiver shall file with the Court and serve on parties of record in this action a full and complete report, under oath, concerning the Receiver's activity, including, without limitation, detailing receipts, disbursements and transactions concerning the Receivership Property, and the payment of the Receiver's compensation earned during that month and reimbursement of expenses made during that month.

39. On the first Wednesday after the end of the two (2) week calendar week period following the date of entry of this Order, and every other Wednesday thereafter, the Receiver shall deliver to the Trustee financial statements, including cash flow statements and an analysis of expenses incurred and paid as compared to the Approved Budget.

40. Upon reasonable request, the Receiver shall further provide the Trustee with information relating to the Receiver's management and operation of the Receivership Property or otherwise relating to the Receivership Property.

Miscellaneous

41. The Receiver shall take any and all actions the Receiver deems reasonable and appropriate to prevent waste and to preserve, secure, manage, maintain and safeguard the Receivership Property and all other forms of property to which the Receiver is entitled to take possession and control under this Order, including, but not limited to, changing locks or access codes.

42. The Receiver serves herein, and discharges all its duties under this Order, as an officer of this Court, solely in a representative capacity, and not in an individual capacity, and does not, in being appointed as the Receiver or by acting as the Receiver hereunder, thereby become personally liable to any person or governmental entity under any law, statute, rule, regulation, or

other doctrine of law or equity. All Creditors, current or former employees, and all other persons and entities dealing with the Receiver shall look only to the Receivership Property and not the Receiver or its officers, directors, employees, attorneys, agents, or any property manager and others acting under its control, for the satisfaction of any and all claims against and obligations and liabilities of the Borrower, the Receiver, or the Receivership Property. The Receiver, and its agents and others acting under its control, shall have no personal liability in connection with their conduct in the course of this receivership, except for claims due to their gross negligence, gross or willful misconduct, malicious acts, and/or failures to comply with the orders of this Court.

43. The Sheriff's Office or other law enforcement officers in the county where the Receivership Property may be found are authorized and empowered to enforce the terms of this Order in the form of peace-keeping duties.

44. The Receiver shall allow the Trustee and its agents access to the Receivership Property at all reasonable times.

45. This Order is not intended to create a taxable entity. The Receiver shall not be responsible for the preparation of any tax returns for the Borrower, its members, or any of their respective affiliates. The Receiver is authorized to pay all current and past due real estate taxes, personal property taxes and, any other taxes and assessments against any of the Receivership Property, but subject to approval in the event net operating income from the Receivership Property is not sufficient to pay such taxes and assessments at any given time. The Receiver shall have no obligation to prepare or file state, federal, or any other tax returns or other tax-related documents on behalf of the Borrower; *provided, however*, that the Receiver shall, as necessary, file grantor tax returns for the receivership estate detailing the receipts and disbursements of the receivership estate.

46. Other than the claims already asserted by the Trustee in this action, no person or entity shall file suit against the Receiver in its capacity as Receiver, against the Borrower, or against the Receivership Property, unless otherwise authorized in advance by this Court. All pending litigation by and against the Borrower, other than the current action by the Trustee, is immediately and automatically stayed for a period of 90 days from the date of entry of this Order. The Receiver may request an extension of the initial 90 day stay of the litigation that is pending prior to its appointment, until after an orderly wind-up is completed.

47. The Receiver may undertake all actions specifically set forth in any order of the Court, as well as to exercise the usual and customary powers accorded to a receiver under Colorado law (except as otherwise limited by the order of the Court or any subsequent order of the Court).

48. The Receiver may resign and request with notice to the Trustee and the Borrower entry of an order approving the Receiver's resignation and discharging the Receiver; *provided, however*, that no such resignation may take effect unless and until a substitute receiver recommended by the Trustee is duly appointed for the Receivership Property.

49. Except as otherwise expressly set forth in this Order, nothing contained in this Order shall be construed as obligating the Receiver to advance its own funds in order to pay the costs and expenses of the receivership that have been approved by the Trustee and/or the Court.

50. The Trustee and/or the Receiver may from time to time file a motion, with notice and opportunity for hearing, requesting that the Court enter additional orders to supplement, clarify, or amend this Order.

51. The Receiver may apply at any time to the Court, with notice to all other parties in this case, for further instruction and for further power necessary to enable the Receiver to fulfill its duties.

52. Court approval of any motion or requests for authorization filed by the Receiver shall be given as a matter of course, unless any party objects in writing to the request for Court approval within five (5) days after the service by the Receiver of written notice of such request upon anyone entering an appearance in this action. Service of motions by electronic transmission is acceptable.

53. The entry of the Order appointing the Receiver shall not in any manner prejudice any of the other rights and remedies of the Trustee under the Bond Documents and/or applicable law.

54. At any time “approval” or “acceptable to the Trustee” shall be required with respect to any action authorized in this Order, such action shall be authorized only if and when the Receiver receives either the written consent of the Trustee to such action (which written consent may be delivered electronically) or when the Receiver obtains entry of a further Court order.

55. Any computation of time for purposes of this order shall be governed by C.R.C.P. 6.

56. The Receiver shall continue in possession of the Receivership Property until discharged by the Court. Upon the winding up of the receivership in cooperation with the Trustee or otherwise at the direction of the Court, the Receiver shall file its final report. If no objection to the final report and motion for discharge have been delivered to the Court, the Receiver, and other parties having entered their appearance in this action by first class mail to such address as is reflected in the Court records within twenty-one (21) days after the final report and motion for discharge are filed with the Court, the final report shall be accepted by the Court, and the Court shall enter an order terminating the receivership and discharging the Receiver.

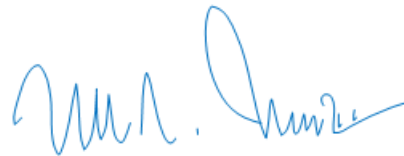
57. This Court shall have exclusive jurisdiction over the Receivership Property and the Receiver appointed hereunder.

58. All actions by any creditor, claimant, party in interest, governmental agency, and all other persons or entities seeking relief against the Receiver, the Receivership Property, or the receivership estate are stayed and may not be pursued without first seeking and obtaining leave from this Court. Any such action must be brought in this Court.

59. This Order shall be effective immediately upon entry and shall continue in effect until terminated or modified by further order of this Court.

Dated this 30th day of June, 2024.

BY THE COURT:



Michael A. O'Hara, III
District Court Judge