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Proposed Counsel to the Debtor and Debtor-in-Possession

**UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF NEW YORK**

In re:

AMSTERDAM HOUSE CONTINUING CARE
 RETIREMENT COMMUNITY, INC.,¹

Debtor.

Chapter 11

Case No. 21-____ (____)

**DEBTOR'S EMERGENCY MOTION FOR ENTRY
 OF INTERIM AND FINAL ORDERS (I) AUTHORIZING
 THE DEBTOR TO (A) MAINTAIN EXISTING INSURANCE POLICIES
 AND PAY ALL INSURANCE OBLIGATIONS ARISING THEREUNDER AND
 (B) RENEW, REVISE, EXTEND, SUPPLEMENT, CHANGE OR ENTER INTO
 NEW INSURANCE POLICIES, AND (II) GRANTING CERTAIN RELATED RELIEF**

The debtor and debtor in possession in the above-captioned chapter 11 case (the “Debtor”) submits this emergency motion (this “Motion”), pursuant to sections 105(a), 363, 1107 and 1108 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for entry of an interim order (the “Proposed Interim Order”) and a final order (the “Proposed Final Order”),

¹ The last four digits of the Debtor’s federal tax identification number are 1764. The Debtor’s mailing address is 300 East Overlook, Port Washington, New York 11050.



substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, (i) authorizing the Debtor to (a) maintain existing Insurance Policies (as defined below) and pay all obligations arising therefrom (collectively, the “Insurance Obligations”), and (b) renew, revise, extend, supplement, change, or enter into new insurance policies as needed in its business judgment, and (ii) granting certain related relief, including scheduling a hearing to consider approval of the Motion on a final basis (the “Final Hearing”). A summary of the facts and circumstances supporting this Motion are set forth in the *Declaration of James Davis in Support of the Debtor’s Chapter 11 Petition and First Day Pleadings* (the “First Day Declaration”),² filed concurrently herewith. In further support of this Motion, the Debtor respectfully states as follows:

STATUS OF THE CASE AND JURISDICTION

1. On the date hereof (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of New York (the “Court”). The Debtor continues to operate and maintain its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No party has requested the appointment of a trustee or examiner in this case, and no statutory committee has been appointed.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the standing order with respect to referral of bankruptcy cases from the United States District Court for the Eastern District of New York dated December 5, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Debtor confirms its consent to the entry of a final order or judgment by the Court in connection with this Motion if it is determined that the

² Capitalized terms used but not defined in this Motion shall have the meanings given to them in the First Day Declaration.

Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

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

4. The statutory and other predicates for the relief requested herein are sections 105, 363, 1107, and 1108 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004.

BACKGROUND OF THE DEBTOR

5. Additional information regarding the Debtor's business, capital structure and the circumstances preceding the Petition Date are set forth in the First Day Declaration, the content of which is incorporated by reference herein.

RELIEF REQUESTED

6. By this Motion, the Debtor requests entry of the Proposed Interim Order and the Proposed Final Order, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, (i) authorizing, but not directing the Debtor to (a) maintain the existing Insurance Policies and pay all obligations arising therefrom, and (b) renew, revise, extend, supplement, change, or enter into new insurance policies as needed in its business judgment, and (ii) granting such other and further relief as may be appropriate.

FACTUAL BACKGROUND

I. The Debtor's Insurance Policies

7. In the ordinary course of business, the Debtor maintains various insurance programs (each, an "Insurance Program") in accordance with its respective insurance policies (collectively, the "Insurance Policies") through several third-party insurance carriers (collectively, the "Insurance Carriers"), including auto insurance, cyber security insurance, property insurance, general liability insurance, directors and officers liability insurance, crime protection insurance and workers' compensation insurance.

8. A schedule of the Insurance Policies is attached hereto as Exhibit C and incorporated herein by reference.³ Continuation of the Insurance Policies is essential to the preservation of the value of the Debtor's business, property, and assets. Moreover, in many cases, the coverage provided by the Insurance Policies is required by the regulations, laws, the UST Guidelines (as defined below) and contracts that govern the Debtor's business operations. For example, pursuant to the Financial Services Advisory Agreement (the "FSAA") with GMSC New York, LLC, a Texas limited liability company and a wholly-owned subsidiary of GMSC, LLC ("Greystone"), under which Greystone provides the Debtor financial advisory services, the Debtor is required to maintain fire and extended coverage insurance, workers' compensation insurance, and automobile insurance, among other policies. Similarly, the Administrative Services Agreement dated as of March 31, 2004 (as amended from time to time, the "Administrative Services Agreement") between the Debtor and Amsterdam Consulting, LLC,⁴ under which Amsterdam Consulting provides the Debtor with administrative, supervisory, fiscal advisory, and consulting services, requires that the Debtor procure and maintain comprehensive general and professional liability insurance. The Marketing Advisory Services Agreement between the Debtor and Greystone dated November 13, 2014 (as amended from time to time, the "Marketing Agreement"), under which Greystone provides marketing services for the independent living units,

³ Concurrently with the filing of this Motion, the Debtor has filed the *Emergency Motion of the Debtor for Interim and Final Orders (I) Authorizing the Debtor to (A) Pay Prepetition Wages, Salaries, Commissions, Employee Benefits, Prepetition Payroll Taxes, and Other Obligations, (B) Maintain Compensation and Benefits Programs and Pay Related Administrative Obligations, (II) Authorizing Applicable Banks and Other Financial Institutions to Honor and Process Related Checks and Transfers, and (III) Granting Related Relief* (the "Wage Motion"). Certain Insurance Policies discussed in this Motion are provided for the benefit of employees of the Debtor, and are therefore addressed concurrently in the Wage Motion.

⁴ Amsterdam Services Corp., an affiliate of the Debtor, was originally party to the Administrative Services Agreement. Amsterdam Consulting assumed all of the obligations under the Administrative Services Agreement pursuant to the Assignment and Assumption Agreement, dated July 14, 2008, between Amsterdam Consulting and Amsterdam Services Corp.

also requires that the Debtor maintain comprehensive general liability insurance, workers' compensation insurance, and any other insurance the parties decide is advisable.

9. The Debtor incurs approximately \$956,241 in annual premiums relating to the Insurance Policies, which are prepaid on either a monthly, quarterly or annual basis. None of the Insurance Policies are financed. As of the Petition Date, the Debtor is current on its payment obligations on account of the Insurance Policies. However, out of an abundance of caution, the Debtor seeks authority to pay any Insurance Obligations that may arise to avoid any disruption or adverse impact to its estate as a result of non-payment.

II. The Debtor's Insurance Brokers

10. In connection with the Insurance Policies, the Debtor obtains services from three insurance brokerages, Arthur J. Gallagher & Co., The Medical Link, and OneGroup NY, Inc. (the "Insurance Brokers"), and has an agreement with Arthur J. Gallagher & Co. The Medical Link and OneGroup NY, Inc. do not directly contract with the Debtor, but are paid directly by the insurance carriers. Further, the Debtor does not currently pay separate brokerage fees to the Insurance Brokers in connection with the Insurance Policies; rather, any brokerage fees are incorporated into the insurance premiums.

BASIS FOR RELIEF

I. Maintaining the Insurance Policies and Paying Obligations Related Thereto is Required by the Bankruptcy Code and the United States Trustee

11. The Insurance Policies are essential to preserve the value of the Debtor's business, property, and assets. Not only are some of the Insurance Policies required by the various regulations and laws that govern the Debtor's business operations, but section 1112(b)(4)(C) of the Bankruptcy Code provides that "failure to maintain appropriate insurance that poses a risk to the estate or to the public," is "cause" for mandatory conversion or dismissal of a chapter 11 case.

11 U.S.C. § 1112(b)(4)(C). Moreover, the *Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees* (the “UST Guidelines”) also require that a debtor “shall maintain” certain types of insurance coverage throughout its chapter 11 case. See UST Guidelines at p. 2.

12. Given this requirement, the Debtor believes that the maintenance of its Insurance Programs, payment of all Insurance Obligations, the renewal, revision, extension, supplementation, or change of existing Insurance Policies as the Debtor deems necessary and appropriate, and the ability to enter into new insurance policies as needed in the Debtor’s business judgment, are necessary to protect and safeguard the Debtor’s ongoing operations and ensure compliance with the UST Guidelines.

II. Payment of the Insurance Obligations Is Permitted as Ordinary Course Expenses

13. Section 105(a) of the Bankruptcy Code provides, in pertinent part, that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

14. Section 363(c) of the Bankruptcy Code provides, in pertinent part:

If the business of the debtor is authorized to be operated under section . . . 1108 . . . of this title and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

11 U.S.C. § 363(c). The Insurance Obligations that the Debtor seeks to pay by this Motion are squarely within the definition of payments made in the ordinary course of business contemplated by section 363(c). Therefore, and in light of the need for the Debtor to preserve the going concern value of its business, the relief requested herein is proper and should be granted.

III. Payment of the Insurance Obligations Is Appropriate Under Sections 363(b) and 105(a) of the Bankruptcy Code

15. To the extent that the Court determines that the payment of the Insurance Obligations is not within the scope of the ordinary course of business of the Debtor, this Court may grant the relief requested herein pursuant to section 363(b) of the Bankruptcy Code. Section 363(b)(1) authorizes the trustee to use property of the estate other than in the ordinary course of business after notice and a hearing. *See* § 363(b)(1). Courts have authorized payment of prepetition obligations under section 363(b) of the Bankruptcy Code where a sound business purpose exists for doing so. *See, e.g., Official Comm. of Unsecured Creditors of LTV Aerospace & Defense Co. v. LTV Corp. (In re Chateaugay Corp.)*, 973 F.2d 141, 143 (2d Cir. 1992) (holding that a court may approve an application under section 363(b) upon a showing of a good business reason for the disposition); *see also Armstrong World Indus., Inc. v. James A. Phillips, Inc., (In re James A. Phillips, Inc.)*, 29 B.R. 391, 397 (Bankr. S.D.N.Y. 1983) (relying on section 363 to allow contractor to pay prepetition claims); *In re Tropical Sportswear Int'l Corp.*, 320 B.R. 15, 20 (Bankr. M.D. Fla. 2005) (“Bankruptcy courts recognize that section 363 is a source for authority to make critical vendor payments, and section 105 is used to fill in the blanks.”).

16. The Debtor has a sound business purpose for paying the Insurance Obligations. Failure to timely pay amounts due under the Insurance Policies will harm the Debtor’s estate as non-payment of premiums may cause an insurance company to terminate coverage. Such termination would (i) cause the Debtor to be out of compliance with the UST Guidelines as well as applicable regulatory requirements to maintain insurance, (ii) place additional strains on the Debtor’s relationships with employees and Residents who benefit from the Debtor’s insurance coverage, and (iii) eviscerate the Debtor’s ability to prevent loss in value from casualty, natural disaster, or another unforeseen event.

IV. This Court May Allow Payment of Insurance Obligations Under the Necessity of Payment Doctrine

17. Courts have authorized payment of prepetition obligations under the doctrine of necessity when payment of certain creditors' prepetition claims is necessary or appropriate to preserve or enhance the value of a debtor's estate for the benefit of all creditors. See *In re Pers. Commc 'ns Devices, LLC*, 588 B.R. 661, 666 (Bankr. E.D.N.Y. 2018) (“[The necessity of payment] rule recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay pre-petition claims where such payment is essential to the continued operation of the debtor,” (quoting *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175–176 (Bankr. S.D.N.Y. 1989)); *In re CoServ, LLC*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (“[I]t is only logical that the bankruptcy court be able to use section 105(a) of the Code to authorize satisfaction of the pre-petition claim in aid of preservation or enhancement of the estate.”); *Mich. Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279 (S.D.N.Y. 1987) (approving lower court order authorizing debtor prior to plan stage of case to pay pre-petition wages, salaries, business expenses, and benefits). Although the “necessity of payment” doctrine has not been codified in the Bankruptcy Code, “courts have used their equitable power under section 105(a) of the Code to authorize the payment of pre-petition claims when such payment is deemed necessary to the survival of a debtor in a chapter 11 reorganization.” *In re Just for Feet, Inc.*, 242 B.R. 821, 824 (D. Del. 199).

18. Furthermore, courts have long recognized that paying some categories of prepetition obligations outside a plan of reorganization is often necessary to realize the paramount purpose of chapter 11, which is to prevent the forced liquidation of the debtor and preserve its potential for financial rehabilitation. See *In re Lehigh & N.E. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (noting that the doctrine of necessity permits “immediate payment of claims of creditors

where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims shall have been paid”); *In re Bos. & Me. Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtor’s continued operation); *In re CoServ*, 273 B.R. at 497 (applying a form of the doctrine of necessity in noting that payment of unsecured prepetition claims is appropriate where such payment is the “only means to effect a substantial enhancement of the estate”). As one court noted, “a *per se* rule proscribing the payment of pre-petition indebtedness may well be too inflexible to permit the effectuation of the rehabilitative purposes of the Code.” *In re Structurlite Plastics Corp.*, 86 B.R. 922, 932 (Bankr. S.D. Ohio 1988).

19. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, a debtor-in-possession is a fiduciary charged with “holding the bankruptcy estate and operating the business for the benefit of [its] creditors and (if the value justifies) equity owners.” *In re CoServ*, 273 B.R. at 497. Inherent in the fiduciary duties of a debtor-in-possession is the obligation to “protect and preserve the estate, including an operating business’s going-concern value,” which, in certain instances, can be fulfilled “only . . . by the preplan satisfaction of a prepetition claim.” *Id.* Indeed, the court in *CoServ* specifically noted that the preplan satisfaction of prepetition claims would be a valid exercise of the debtor’s fiduciary duty when the payment “is the only means to effect a substantial enhancement of the estate” *Id.*

20. The continuation of the Debtor’s Insurance Policies is especially important because if any of the Insurance Programs are discontinued, the Debtor would be exposed to substantial liability, to the detriment of Residents, creditors and all interested parties. In the event of termination of insurance coverage, the Debtor would need to obtain replacement insurance, likely

at a higher price. Thus, in light of the importance of maintaining insurance coverage with respect to its business activities, the Debtor submits that it is in the best interest of its estate to maintain the Insurance Policies and to pay any prepetition amounts determined to be due.

21. In addition, the Debtor should be authorized to renew, revise, extend, supplement, or change existing Insurance Policies, or enter into new insurance policies as needed in the Debtor's business judgment, to ensure that appropriate insurance coverage is maintained during this Chapter 11 Case and that the Debtor is fulfilling its fiduciary duties.

22. Courts in this jurisdiction have approved relief similar to the relief requested in this Motion. *See, e.g., In re Rubie's Costume Company, Inc.*, Case No. 20-71970 (AST) (Bankr. E.D.N.Y. July 6, 2020) [Docket No. 192] (authorizing the debtors to maintain existing insurance policies and pay all obligations arising thereunder); *In re Absolut Facilities Management, LLC* Case No. 19-76260 (AST) (Bankr. E.D.N.Y. Nov. 8, 2019) [Docket No. 231] (same); *In re Orion Healthcorp, Inc.*, Case No. 18-71748 (AST) (Bankr. E.D.N.Y. Apr. 6, 2018) [Docket No. 95] (same); *In re Fed'n Emp. and Guidance Serv., Inc. d/b/a FECS*, Case No. 15-71074 (REG) (Bankr. E.D.N.Y. Apr. 24, 2015) [Docket No. 176] (same); *In re Long Beach Medical Center*, Case No. 14-70593 (AST) (Bankr. E.D.N.Y. Mar. 12, 2014) [Docket No. 77] (same).

V. Cause Exists to Authorize and Direct the Debtor's Financial Institutions to Honor Checks and Electronic Fund Transfers

23. The Debtor also requests that all applicable banks and other financial institutions be authorized to receive, process, honor, and pay all checks presented for payment, and to honor all electronic payment requests made by the Debtor related to the obligations described herein, whether such checks were presented or electronic requests are submitted prior to, on, or after the

Petition Date.⁵ The Debtor represents that it has sufficient availability of funds to pay the amounts described herein by virtue of funds to be made available under the Debtor's proposed access to cash collateral and the budget contemplated thereby. Also, under the Debtor's existing cash management system, the Debtor represents that checks or wire transfer requests can be readily identified as relating to an authorized payment made with respect to the Insurance Policies. Accordingly, all applicable financial institutions should be authorized and directed to receive, process, honor, and pay any and all checks or wire transfer requests with respect to the Insurance Policies.

THE REQUIREMENTS OF BANKRUPTCY RULE 6003 ARE SATISFIED

24. Bankruptcy Rule 6003 empowers the Court to issue an order, within 21 days after the Petition Date, granting a motion to "use . . . property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" if such requested relief "is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003(b). For the reasons discussed above, entry of the Proposed Interim Order is integral to the Debtor's ability to successfully transition into chapter 11. As described above, the termination of the Insurance Policies may strain the Debtor's relationship with its employees and Residents, eviscerate the Debtor's ability to prevent loss in value caused by casualty, natural disaster, or another unforeseen event, thereby causing immediate and irreparable harm to the Debtor's estates and, consequently, other interested parties. Accordingly, the Debtor submits that it has satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

⁵ Concurrently with this Motion, the Debtor has filed the *Emergency Motion for Entry of Interim and Final Orders Authorizing (I) Continued Use of the Debtor's Existing Cash Management System, (II) Maintenance of Existing Bank Accounts, (III) Continued Use of Its Existing Business Forms, and (IV) A Waiver of Certain Deposit and Investment Requirements in 11 U.S.C. § 345(b) and the UST Guidelines* ("Cash Management Motion").

RESERVATION OF RIGHTS

25. Nothing contained herein is intended or should be construed as (a) an admission as to the validity or priority of any claim or lien against the Debtor, (b) a waiver of the Debtor's rights to subsequently dispute such claim or lien on any grounds, (c) a promise or requirement to pay any prepetition claim, (d) an implication or admission that any particular claim is of a type specified or defined in this Motion, the Proposed Interim Order, or the Proposed Final Order, (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code, or (f) a waiver of the Debtor's or any other party in interest's rights under the Bankruptcy Code or any other applicable law.

WAIVER OF BANKRUPTCY RULE 6004(a) AND 6004(h) REQUIREMENTS

26. In addition, by this Motion, the Debtor requests a waiver of any notice requirements under Bankruptcy Rule 6004(a) and any stay of the effectiveness of the order(s) approving this Motion. Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As set forth above, the Debtor requires immediate relief to continue ordinary business operations for the benefit of all parties in interest. Accordingly, the Debtor submits that ample cause exists to justify a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and stay apply.

NOTICE

27. Notice of this Motion will be provided to (i) the Office of the U.S. Trustee of the Eastern District of New York, (ii) the holders of the thirty (30) largest unsecured claims against the Debtor, (iii) UMB Bank, N.A., as Trustee for the 2014 Bonds, (iv) the Member, Amsterdam Continuing Care Health System, Inc., (v) the United States Attorney's Office for the Eastern

District of New York, (vi) the Internal Revenue Service, (vii) the United States Department of Justice, (viii) the New York State Attorney General, (ix) the United States Securities and Exchange Commission, (x) the Insurance Brokers, and (xi) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtor submits that, in light of the nature of the relief requested herein, no other or further notice need be given.

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WHEREFORE, the Debtor respectfully requests that the Court enter the Proposed Interim Order and Proposed Final Order, substantially in the forms attached hereto, granting the relief requested herein and any further relief the Court may deem just and proper.

Dated: June 14, 2021
New York, New York

SIDLEY AUSTIN LLP

/s/ Thomas R. Califano

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– and –

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PROPOSED COUNSEL TO THE DEBTOR AND
DEBTOR IN POSSESSION

Exhibit A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re:

AMSTERDAM HOUSE CONTINUING CARE
RETIREMENT COMMUNITY, INC.,¹

Debtor.

Chapter 11

Case No. 21-____ (____)

**INTERIM ORDER (I) AUTHORIZING THE DEBTOR
TO (A) MAINTAIN EXISTING INSURANCE POLICIES AND
PAY ALL OBLIGATIONS ARISING THEREUNDER, AND (B) RENEW,
REVISE, EXTEND, SUPPLEMENT, CHANGE, OR ENTER INTO NEW
INSURANCE POLICIES, AND (II) GRANTING CERTAIN RELATED RELIEF**

Upon the emergency motion (the “Motion”)² of the debtor in the above-captioned chapter 11 case (the “Debtor”) for entry of an interim order (this “Interim Order”), pursuant to sections 105(a), 363, 1107, and 1108 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, (i) authorizing the Debtor to (a) maintain the existing Insurance Programs and Insurance Policies and pay all Insurance Obligations arising thereunder, (b) renew, revise, extend, supplement, change, or enter into new insurance policies as needed in its business judgment, and (ii) granting related relief; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the standing order with respect to referral of bankruptcy cases from the United States District Court for the Eastern District of New York dated December 5, 2012; and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and this Court being able to issue a final order consistent with Article III of

¹ The last four digits of the Debtor’s federal tax identification number are 1764. The Debtor’s mailing address is 300 East Overlook, Port Washington, New York 11050.

² All capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

the United States Constitution; and venue of this proceeding and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties in interest; and this Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and all objections, if any, to the Motion having been withdrawn, resolved or overruled; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The relief requested in the Motion is GRANTED as set forth herein on an interim basis.

2. The Final Hearing on the Motion shall be held on _____, 2021 at ____:____ prevailing Eastern Time. Any objections or responses to entry of a final order (the "Final Order") on the Motion shall be filed on or before 4:00 p.m. prevailing Eastern Time, on _____, 2021 (the "Objection Deadline") and served on the following parties: (i) the Debtor, Pamela Landman, General Counsel, 300 E. Overlook, Port Washington, NY 11050; (ii) proposed counsel to the Debtor, Sidley Austin LLP, 787 Seventh Avenue, New York, NY 10019 (Attn: Thomas R. Califano, Esq. and William E. Curtin, Esq.), One South Dearborn Street, Chicago, Illinois 60603 (Attn: Jackson T. Garvey, Esq.); (iii) the Office of the United States Trustee for the Eastern District of New York (Central Islip Division), Alfonse M. D'Amato Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722; (iv) counsel to UMB Bank N.A., Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, MA 02111 (Attn: Daniel

Bleck, Esq.); (v) counsel to any statutory committee appointed in these chapter 11 cases; and (vi) any party that has requested notice pursuant to Bankruptcy Rule 2002.

3. The Debtor is authorized to maintain its existing Insurance Programs and Insurance Policies and pay all Insurance Obligations and related reimbursements associated with the Insurance Policies as they become due in the ordinary course of business. The Debtor is also authorized to renew, revise, extend, supplement, change, or enter into new insurance policies as needed in its business judgment subject to the terms of the *Interim Order (I) Authorizing the Debtor to Use the Cash Collateral; (II) Granting Adequate Protection; (III) Scheduling a Final Hearing; And (IV) Granting Related Relief* (the “Cash Collateral Order”).

4. Any payments made hereunder shall be subject to the Cash Collateral Order, including the budget attached thereto.

5. All banks and financial institutions on which checks were drawn or from which electronic payment requests are made for payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtor’s designation of any particular check or electronic payment request as being approved by this Interim Order.

6. To the extent the postpetition payment of Insurance Obligations is made with funds on which the UMB Bank, N.A., as 2014 Bond Trustee, has a first priority lien, the UMB Bank, N.A.’s lien shall automatically attach to any right the Debtor has to a return of such amounts.

7. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed as (a) an admission as to the validity or priority of any claim or lien against the Debtor, (b) a waiver of the Debtor’s right to

subsequently dispute such claim or lien on any grounds, (c) a promise or requirement to pay any prepetition claim, (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or this Interim Order, (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code, or (f) a waiver of the Debtor's or any other party in interest's rights under the Bankruptcy Code or any other applicable law.

8. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b) because the relief granted in this Interim Order is necessary to avoid immediate and irreparable harm to the Debtor's estate.

9. Notice of the Motion shall be deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice or waived.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

11. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

12. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Exhibit B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re:

AMSTERDAM HOUSE CONTINUING CARE
RETIREMENT COMMUNITY, INC.,¹

Debtor.

Chapter 11

Case No. 21-____ (____)

**FINAL ORDER (I) AUTHORIZING THE DEBTOR
TO (A) MAINTAIN EXISTING INSURANCE POLICIES AND
PAY ALL OBLIGATIONS ARISING THEREUNDER, AND (B) RENEW,
REVISE, EXTEND, SUPPLEMENT, CHANGE, OR ENTER INTO NEW
INSURANCE POLICIES, AND (II) GRANTING CERTAIN RELATED RELIEF**

Upon the emergency motion (the “Motion”)² of the debtor and debtor in possession in the above-captioned chapter 11 case (the “Debtor”) for entry of a final order (this “Final Order”), pursuant to sections 105(a), 363, 1107, and 1108 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, (i) authorizing the Debtor to (a) maintain the existing Insurance Programs and Insurance Policies and pay all Insurance Obligations arising thereunder, (b) renew, revise, extend, supplement, change, or enter into new insurance policies as needed in its business judgment, and (ii) granting related relief; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the standing order with respect to referral of bankruptcy cases from the United States District Court for the Eastern District of New York dated December 5, 2012; and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and this Court being able to issue a final order consistent with Article III

¹ The last four digits of the Debtor’s federal tax identification number are 1764. The Debtor’s mailing address is 300 East Overlook, Port Washington, New York 11050.

² All capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion.

of the United States Constitution; and venue of this proceeding and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties in interest; and this Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at an interim hearing and, if necessary, a final hearing, before this Court; and all objections, if any, to the Motion having been withdrawn, resolved or overruled; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The relief requested in the Motion is GRANTED as set forth herein on a final basis.
2. The Debtor is authorized to maintain its existing Insurance Programs and Insurance Policies and pay all Insurance Obligations and related reimbursements associated with the Insurance Policies as they become due in the ordinary course of business. The Debtor is also authorized to renew, revise, extend, supplement, change, or enter into new insurance policies as needed in its business judgment subject to the terms of the *Final Order (I) Authorizing the Debtor to Use the Cash Collateral; (II) Granting Adequate Protection; (III) Scheduling a Final Hearing; And (IV) Granting Related Relief* (the "Cash Collateral Order").
3. Any payments made hereunder shall be subject to the Cash Collateral Order, including the budget attached thereto.
4. All banks and financial institutions on which checks are drawn or from which electronic payment requests are made for payment of the prepetition obligations approved herein

are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtor's designation of any particular check or electronic payment request as being approved by this Final Order.

5. To the extent the postpetition payment of Insurance Obligations is made with funds on which the UMB Bank, N.A., as 2014 Bond Trustee, has a first priority lien, UMB Bank, N.A.'s lien shall automatically attach to any right the Debtor has to a return of such amounts.

6. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed as (a) an admission as to the validity or priority of any claim or lien against the Debtor, (b) a waiver of the Debtor's right to subsequently dispute such claim or lien on any grounds, (c) a promise or requirement to pay any prepetition claim, (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or this Final Order, (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code, or (f) a waiver of the Debtor's or any other party in interest's rights under the Bankruptcy Code or any other applicable law.

7. Notice of the Motion shall be deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are waived by such notice.

8. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry.

9. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

10. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Exhibit C

Insurance Policies

Insurance Policies List

COVERAGE TYPE	CARRIER	POLICY NUMBER	POLICY PERIOD
General and Professional Liability	MedPro - National Fire and Marine Insurance Company	NSC100971	10/24/2020-10/24/2021
General and Professional Liability – 2 nd Layer	MedPro - National Fire and Marine Insurance Company	ENSC100971	10/24/2020-10/24/2021
Worker’s Compensation	MEMIC Indemnity Co.	6103800647	1/1/2021-1/1/2022
Business Auto	Philadelphia Insurance Company	PHPK2197803	10/24/2020-10/24/2021
Cybersecurity	CFC Underwriting Limited	ESI0618642148	6/2/2021-6/2/2022
Crime	Great American Insurance Company	SAA 0245474 09	10/24/2020-10/24/2021
Property	CHUBB Insurance Company	3598-39-24 WBO	10/24/2020-10/24/2021
Directors and Officers Liability	RSUI Indemnity	NPP692024	2/13/2021-2/13/2022
Directors and Officers Liability – Additional Layer	Allied World Assurance Company	03127460	2/13/2021-2/13/2022