

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

In re:

Northwest Senior Housing Corporation, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-30659 (MVL)

(Jointly Administered)

**PLAN OF REORGANIZATION OF THE TRUSTEE AND DIP LENDER DATED
NOVEMBER 2, 2022**

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Dated: November 2, 2022

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation (2669). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.



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INTRODUCTION²

On April 14, 2022, Edgemere and SQLC commenced their Chapter 11 Cases, seeking relief under Chapter 11 of the Bankruptcy Code. Based upon a Bankruptcy Court order dated October 13, 2022, the Plan Sponsors have been granted authority to file a proposed plan of reorganization. The Plan Sponsors propose this Plan pursuant to Bankruptcy Code sections 1125 and 1129 for the resolution of outstanding Claims against, and Interests in, the Debtors.

Reference is made to the Disclosure Statement for a discussion of the Debtors' history and assets, a summary and analysis of this Plan, and certain related matters, including the Distributions to be made under this Plan and the risk factors relating to consummation of this Plan. No materials other than the Disclosure Statement, this Plan, the Plan Supplement, and any and all exhibits and/or schedules attached thereto or hereto have been authorized by the Plan Sponsors for use in soliciting votes of acceptance with respect to this Plan.

Copies of this Plan and the Disclosure Statement and all other documents related to the Chapter 11 Cases are available for review without charge, on the website for the Chapter 11 Cases at: <https://kccllc.net/edgemere>.

This Plan will implement the Sale Transaction, pursuant to which substantially all of the Debtors' assets will be sold to a Purchaser who will continue running the Community as a going concern. An initial Purchaser has been selected by the Plan Sponsors and the parties have agreed to an Asset Purchase Agreement, with the initial Purchaser's offer subject to higher and better bids, including through a potential Auction, pursuant to bidding and sale procedures to be filed with the Bankruptcy Court. The initial Purchaser has offered to purchase the Community for \$48.5 million, subject to certain adjustments set forth in the Asset Purchase Agreement. The remaining assets of the Estates shall be transferred to a Litigation Trust to be liquidated for the benefit of creditors.

Consultants have concluded that the Community cannot continue to operate solely as an entrance fee community. An entrance fee model, in the opinion of such consultants, is not feasible and will exacerbate the financial struggles of Edgemere. Accordingly, the Asset Purchase Agreement contemplates the conversion of the Community to a rental model. Pursuant to the Asset Purchase Agreement, all entrance-fee Residency Agreements will be rejected, with all Current Residents being offered a new monthly rental agreement which shall provide similar services to Current Residents as provided prior to the Closing Date.

This Plan will also establish a Litigation Trust, into which all assets of the Debtors not purchased through the Sale Transaction, including the Landlord Litigation and other Retained Causes of Action, will be transferred. The Litigation Trustee will prosecute and liquidate the Litigation Trust Assets, with the proceeds from such liquidation distributed on a Pro Rata basis to Holders of Allowed General Unsecured Claims, including Residents, pursuant to the terms and conditions of this Plan and the Litigation Trust Agreement.

² Capitalized terms used but not defined shall have the meanings ascribed to them in Section 1.A or Section 8 of this Plan.

ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THIS PLAN ARE ENCOURAGED TO READ THIS PLAN AND THE DISCLOSURE STATEMENT FILED CONTEMPORANEOUSLY HERewith IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THIS PLAN.

SECTION 1. DEFINITIONS AND INTERPRETATION

A. Definitions.

The following terms used herein shall have the respective meanings below:

1.1 “*2015 Bond Documents*” means the 2015 Bond Indenture and any bonds, loan agreement, mortgage, security agreement, document, agreement, or instrument executed or delivered in connection with the issuance of the Series 2015 Bonds, including the 2015 Loan Agreement.

1.2 “*2015 Bond Indenture*” means that certain Indenture of Trust, dated May 1, 2015, by and between the Issuer and the Bank of New York Mellon Trust Company, National Association, as initial bond trustee, pursuant to which the Series 2015 Bonds were issued.

1.3 “*2015 Loan Agreement*” means that certain Loan Agreement, dated May 1, 2015, by and between the Issuer and Edgemere, pursuant to which the Issuer loaned the proceeds of the Series 2015 Bonds to Edgemere.

1.4 “*2017 Bond Documents*” means the 2017 Bond Indenture, and any bonds, loan agreement, mortgage, security agreement, document, agreement, or instrument executed or delivered in connection with the issuance of the Series 2017 Bonds, including the 2017 Loan Agreement.

1.5 “*2017 Bond Indenture*” means that certain Indenture of Trust, dated March 1, 2017, between the Issuer and Bank of New York Mellon Trust Company, National Association, as initial bond trustee, pursuant to which the Series 2017 Bonds were issued.

1.6 “*2017 Loan Agreement*” means that certain Loan Agreement, dated March 1, 2017, by and between the Issuer and Edgemere, pursuant to which the Issuer loaned the proceeds of the Series 2017 Bonds to Edgemere.

1.7 “*Administrative Claim*” means any Claim against any Debtor for costs and expenses of administration of the Chapter 11 Cases pursuant to Bankruptcy Code sections 503(b), 507(a)(2), or 507(b), including: (i) the actual and necessary costs and expenses incurred on or after the Petition Date until and including the Effective Date, of preserving the Estates and operating the Debtors’ businesses; (ii) Allowed Professional Claims; (iii) all Allowed requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to Bankruptcy Code sections 503(b)(3), (4), and (5); and (iv) all fees and charges assessed pursuant to 28 U.S.C. § 1930(a)(6).

1.8 “*Administrative Claims Bar Date*” means the date by which Administrative Claims must be filed, which shall be set by separate order of the Court pursuant to a separate motion.

1.9 “*Affiliate*” means, with respect to any Entity, an “affiliate” as defined in Bankruptcy Code section 101(2) as if such entity were a debtor.

1.10 “*Allowed*” means with respect to Claims: (i) any Claim, proof of which is timely filed by the applicable Bar Date; (ii) any Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed, and for which no Proof of Claim has been timely filed; or (iii) any Claim Allowed pursuant to this Plan or a Final Order of the Bankruptcy Court; provided, that with respect to any Claim described in clauses (i) and (ii) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time, as may be extended by the Bankruptcy Court from time to time, fixed by this Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed by a Final Order. Any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed, and for which no Proof of Claim is or has been timely filed, is not considered Allowed and shall be expunged without further action by the Litigation Trustee and without further notice to any party or action, approval, or order of the Bankruptcy Court. An Allowed Claim (i) includes a Disputed Claim to the extent such Disputed Claim becomes Allowed after the Effective Date and (ii) shall be net of any valid setoff exercised with respect to such Claim pursuant to the provisions of the Bankruptcy Code and applicable law; provided, however, such setoff shall not otherwise be applicable to the amounts owed with respect to the Original Bonds. Unless otherwise specified in this Plan, Bankruptcy Code section 506(b), or by Final Order of the Bankruptcy Court, “Allowed” Claims shall not, for purposes of Distributions under this Plan, include interest on such Claim accruing from and after the Petition Date. For the avoidance of doubt, the Trustee shall hold an Allowed Claim in an amount of \$111,728,919.22 as of the Petition Date, plus unliquidated, accrued, and unpaid fees and expenses of the Trustee and its professionals incurred through the Petition Date.

1.11 “*Asset Purchase Agreement*” means that certain agreement, substantially in the form attached hereto in Exhibit 1, between Edgemere and Bay 9 Holdings LLC or its designee for a sale of substantially all the Debtors’ Assets.

1.12 “*Assets*” means all interests, legal or equitable, in property, real, personal, tangible and intangible, of the Debtors as defined in Bankruptcy Code section 541(a)

1.13 “*Assumption Notice*” shall have the meaning set forth in Article 5

1.14 “*Auction*” has the meaning set forth in the Bidding Procedures Order.

1.15 “*Avoidance Actions*” means all actions, causes of action, suits, choses in action, and claims of the Debtors and/or the Estates against any entity or Person, whether direct, indirect, derivative, or otherwise arising under Bankruptcy Code section 510 or to avoid a transfer of property or recover property pursuant to Bankruptcy Code sections 542 through 550 or applicable non-bankruptcy law.

1.16 “*Ballot*” means the ballots upon which holders of Impaired Claims entitled to vote to accept or reject this Plan may indicate their acceptance or rejection in accordance with applicable rules and instructions regarding voting.

1.17 “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532.

1.18 “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, having jurisdiction over the Chapter 11 Cases or, if the Bankruptcy Court ceases to exercise jurisdiction over the Chapter 11 Cases, such court or adjunct thereof that exercises jurisdiction over the Chapter 11 Cases in lieu of the United States Bankruptcy Court for the Northern District of Texas.

1.19 “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure, as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time.

1.20 “*Bar Date(s)*” means the Claims Bar Date, the Governmental Bar Date, or the Rejection Damages Bar Date, as applicable; and “*Bar Dates*” means a collective reference to the Claims Bar Date, the Governmental Bar Date, and the Rejection Damages Bar Date.

1.21 “*Bar Date Order*” means, collectively, the Bankruptcy Court’s Order (I) Establishing Bar Dates, (II) Approving Form and Manner of Notice Thereof, and (III) Approving Procedures for Filing Proofs of Claims [Docket No. 325] and Order (I) Establishing Bar Dates, (II) Approving Form and Manner of Notice Thereof, and (III) Approving Procedures for Filing Proofs of Claims [Docket No. 386].

1.22 “*Bid Deadline*” has the meaning set forth in the Bidding Procedures Order.

1.23 “*Bidding Procedures Order*” means the Bankruptcy Court’s order establishing the sale procedures with respect to the Sale Transaction.

1.24 “*Bond Claims*” means the Series 2015 Bond Claims and the Series 2017 Bond Claims.

1.25 “*Bond Deficiency Claim*” means the Bond Claims minus the amount paid to the Trustee pursuant to the Sale Transaction.

1.26 “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” as defined in Bankruptcy Rule 9006(a).

1.27 “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

1.28 “*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case now owned or hereafter acquired by the Debtors and/or their Estates, and in each case, whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition

Date or during the course of the Chapter 11 Cases, including through the Effective Date, including the Landlord Litigation and other Retained Causes of Action.

1.29 “*Chapter 11*” means chapter 11 of the Bankruptcy Code.

1.30 “*Chapter 11 Cases*” means (i) when used with reference to a particular Debtor, the case under chapter 11 of the Bankruptcy Code commenced by such Debtor in the Bankruptcy Court, and (ii) when used with reference to both Debtors, the cases under chapter 11 of the Bankruptcy Code commenced by the Debtors in the Bankruptcy Court being jointly administered under Case No. 22-30659.

1.31 “*Claim*” means a “claim,” as that term is defined in Bankruptcy Code section 101(5).

1.32 “*Claims Bar Date*” means July 21, 2022 at 4:00 Prevailing Central Time, the general bar date by which entities, other than Governmental Units, shall file Proofs of Claim.

1.33 “*Class*” means a category of holders of Claims or Interests as set forth in Section 3 hereof pursuant to Bankruptcy Code section 1122(a).

1.34 “*Closing*” means the closing on the transactions contemplated by the Sale Transaction pursuant to the Asset Purchase Agreement.

1.35 “*Closing Date*” has the meaning given to such term in the Asset Purchase Agreement.

1.36 “*Closing*” means the closing on the transactions contemplated by the Sale Transaction pursuant to the Asset Purchase Agreement.

1.37 “*Closing Date*” has the meaning given to such term in the Asset Purchase Agreement.

1.38 “*Committee*” means the official committee of creditors appointed by the U.S. Trustee in the Chapter 11 Cases pursuant to Bankruptcy Code section 1102 [Docket Nos. 135 and 150].

1.39 “*Community*” means the continuing care retirement community, located in Dallas, Texas, known as “Edgemere.”

1.40 “*Confirmation Date*” means the date on which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases within the meaning of Bankruptcy Rules 5003 and 9021.

1.41 “*Confirmation Hearing*” means the hearing(s) before the Bankruptcy Court under Bankruptcy Code section 1128 at which the Plan Sponsors seek entry of the Confirmation Order, as such hearing(s) may be adjourned or continued from time to time.

1.42 “*Confirmation Order*” means the Bankruptcy Court order confirming this Plan pursuant to Bankruptcy Code section 1129.

1.43 “*Contract Objection*” shall have the meaning set forth in Article 5.

1.44 “*Cure Schedule Notice*” shall have the meaning set forth in Article VIII(C)“*Cure Schedule Notice*” shall have the meaning set forth in Article VIII(C)“*Cure and Possible Assumption and Assignment Notice*” shall have the meaning set forth in Article 5.

1.45 “*Cure Objection*” shall have the meaning set forth in Article 5.

1.46 “*Current Resident*” means a Resident that currently resides at the Community pursuant to a Residency Agreement.

1.47 “*Debtors*” means, collectively, Edgemere and SQLC.

1.48 “*Diminution Claim*” means the Trustee’s claim for Diminution as defined in and arising under the DIP Orders.

1.49 “*DIP Credit Agreement*” means that certain Priming Superpriority Debtor-in-Possession Credit Agreement between the Debtors and the DIP Lender, together with any amendments, modifications or supplements thereto, which was approved pursuant to the DIP Orders.

1.50 “*DIP Facility Claims*” means a Claim held by the DIP Lender for all debts, indebtedness, obligations, covenants, and duties of payment and performance arising under or relating to the DIP Credit Agreement or the DIP Orders, including any and all accrued but unpaid interest and any unpaid fees or charges arising under the DIP Credit Agreement.

1.51 “*DIP Lender*” means the lender under the DIP Credit Agreement.

1.52 “*DIP Orders*” means the *Bankruptcy Court’s First Interim Order (1) Authorizing Debtors in Possession to Obtain Post-Petition Financing; (2) Authorizing the Debtors in Possession to Use Cash Collateral; (3) Providing Adequate Protection; (4) Granting Liens, Security Interests and Superpriority Claims; and (5) Scheduling a Final Hearing* [Docket No. 112]; *Second Interim Order (1) Authorizing Debtors in Possession to Obtain Post-Petition Financing; (2) Authorizing the Debtors in Possession to Use Cash Collateral; (3) Providing Adequate Protection; (4) Granting Liens, Security Interests and Superpriority Claims; and (5) Scheduling a Final Hearing* [Docket No. 228]; *Third Interim Order (1) Authorizing Debtors in Possession to Obtain Post-Petition Financing; (2) Authorizing the Debtors in Possession to Use Cash Collateral; (3) Providing Adequate Protection; (4) Granting Liens, Security Interests and Superpriority Claims; and (5) Scheduling a Final Hearing* [Docket No. 350]; bridge orders extending the deadline in paragraph 22(ii) of the Third Interim DIP Order [Docket Nos. 398 and 415]; and *Final Order (1) Authorizing Debtors in Possession to Obtain Post-Petition Financing; (2) Authorizing the Debtors in Possession to Use Cash Collateral; (3) Providing Adequate Protection; and (4) Granting Liens, Security Interests and Superpriority Claims* [Docket No. 421] (as may be amended, modified or supplemented).

1.53 “*Disclosure Statement*” means the Disclosure Statement, as may be modified or amended, accompanying and describing this Plan.

1.54 “*Disclosure Statement Motion*” means the Bankruptcy Court’s order approving the Disclosure Statement.

1.55 “*Disputed*” means, with respect to any Claim or Interest, or any portion thereof that is not yet Allowed, including (i) any Claim evidenced by a Proof of Claim that, on its face, is contingent or unliquidated; (ii) any Claim that is subject to an objection filed by the Claims Objection Deadline or a request for estimation, in each case that has not been withdrawn, resolved, or ruled on by a Final Order of the Bankruptcy Court; (iii) any Claim or Interest scheduled by the Debtors as contingent, unliquidated or disputed, (iv) any Claim or Interest evidenced by a Proof of Claim which amends a Claim or Interest scheduled by the Debtors as contingent, unliquidated or disputed, and (v) any Claim or Interest that is not an Allowed Claim or Allowed Interest or a Disallowed Claim or a Disallowed Interest; provided, however, that Resident Claims are not Disputed on account of being scheduled by the Debtors as contingent or unliquidated and the Bond Claims are not Disputed notwithstanding any pending challenges or claims.

1.56 “*Distribution*” means Cash, property, interests in property or other value distributed to holders of Allowed Claims, or their designated agents, under this Plan.

1.57 “*Distribution Record Date*” means, other than with respect to public securities cancelled by this Plan, the Effective Date or such other date as may be designated in the Confirmation Order.

1.58 “*Edgemere*” means Northwest Senior Housing Corporation.

1.59 “*Effective Date*” means the date which is the first Business Day on which the conditions set forth in Section 9 of this Plan have been satisfied or waived.

1.60 “*Entity*” shall have the meaning set forth in Bankruptcy Code section 101(15).

1.61 “*Entrance Fee Escrow*” means the escrow account holding entrance fees received from Residents on or after September 27, 2021, which account is maintained by Regions Bank, as escrow agent, on behalf of such Residents pursuant to the Escrow Agreement.

1.62 “*Entrance Fee Escrow Order*” means the Bankruptcy Court’s Final Order (I) Authorizing the Debtors to Continue (A) Escrowing Entrance Fees in the Ordinary Course and (B) Refunding Certain Entrance Fees During the Chapter 11 Case and (II) Granting Related Relief [Docket No. 393].

1.63 “*Escrow Agreement*” means that certain Escrow Agreement, dated September 27, 2021, by and among Edgemere, the Trustee, and Regions Bank, as escrow agent.

1.64 “*Estates*” means the estates of the Debtors created by the Chapter 11 Cases pursuant to Bankruptcy Code section 541.

1.65 “*Exculpated Party*” means each of: (i) the Purchaser, (ii) the Plan Sponsors (iii) the Issuer, (iv) the Committee and the members of the Committee and (v) with respect to each of the foregoing Entities in clauses (i) through (iv), such Entity and its current and former predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former officers, directors, principals, shareholders, members, partners, managers, employees, attorneys, advisors, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals.

1.66 “*Executory Contract*” means all contracts and leases to which any Debtor is a party that is subject to assumption or rejection under Bankruptcy Code section 365.

1.67 “*Final Order*” means an order or judgment of the Bankruptcy Court entered by the Clerk of the Bankruptcy Court on the docket in the Chapter 11 Cases that has not been reversed, vacated, or stayed and as to which (i) the time to appeal, petition for certiorari, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for a new trial, reargument, or rehearing shall then be pending and stayed, or (ii) if an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought and a stay of the order or judgment has been granted, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, to petition for certiorari, or to move for a new trial, reargument, or rehearing shall have expired; provided, however, that the possibility that a motion under Rules 59 or 60 of the Federal Rules of Civil Procedure, or Bankruptcy Rules 9023 or 9024, may be filed relating to such order shall not cause such order to not be a Final Order.

1.68 “*General Unsecured Claim*” means any Claim, other than Administrative Claims, Secured Claims, Other Priority Claims, Priority Tax Claims, DIP Facility Claims, and Bond Claims (other than the Bond Deficiency Claim).

1.69 “*Ground Lease*” means that certain Ground Lease, dated November 5, 1999, by and between Edgemere and the Landlord.

1.70 “*Governmental Bar Date*” means October 11, 2022 at 4:00 prevailing Central Time, the date by which Governmental Units must file Proofs of Claims.

1.71 “*Government Unit*” means a “governmental unit” as defined in Bankruptcy Code section 101(27).

1.72 “*Impaired*” means, with respect to a Claim, that such Class of Claims is “impaired” within the meaning of Bankruptcy Code section 1124.

1.73 “*Insurance Policies*” means, collectively, all of the Debtors’ insurance policies.

1.74 “*Interest*” means any membership interest in any Debtor, whether or not transferable, or any option, warrant, or right, contractual or otherwise, to acquire any such interest.

1.75 “*Issuer*” means the Tarrant County Cultural Education Facilities Finance Corporation.

1.76 “*KCC*” means Kurtzman Carson Consultants LLC.

1.77 “*Landlord*” means Intercity Investment Properties, Inc.

1.78 “*Landlord Litigation*” means that certain adversary proceeding commenced in the Bankruptcy Court on April 14, 2022 (Adv. No. 22-03040-mvl) and captioned *Northwest Senior Housing Corporation v. Intercity Investment Properties, Inc., et al.*

1.79 “*Lien*” means “lien,” as defined in Bankruptcy Code section 101(37).

1.80 “*Lifespace*” means Lifespace Communities, Inc.

1.81 “*Litigation Trust*” means the trust described in Section 4 of this Plan.

1.82 “*Litigation Trust Agreement*” means the agreement between the Plan Sponsors, the Debtors and the Litigation Trustee to be entered into as of the Effective Date, substantially in form set forth in the Plan Supplement, as it may be amended from time to time in accordance with its terms.

1.83 “*Litigation Trust Assets*” means from and after the Effective Date (i) all legal and equitable interests of the Debtors in Retained Causes of Action, including the Landlord Litigation, and Avoidance Actions, and the proceeds thereof; (ii) all legal and equitable defenses or counterclaims of the Debtors to Claims; and (iii) any other Assets to be vested in the Litigation Trust pursuant to this Plan and the Litigation Trust Agreement, including any Assets that are not sold under the Asset Purchase Agreement.

1.84 “*Litigation Trust Expenses*” means reasonable and documented out-of-pocket fees, costs and expenses incurred by the Litigation Trust or the Litigation Trustee (or any professional or other Person retained by the Litigation Trustee in administering the Litigation Trust) on or after the Effective Date in connection with any of their responsive duties under this Plan and the Litigation Trust Agreement, including any administrative fees, attorneys’ fees and expenses, insurance fees, taxes and escrow expenses, all as further set forth in the Litigation Trust Agreement.

1.85 “*Litigation Trust Interests*” means an uncertificated interest in the Litigation Trust representing the rights of holders of Allowed General Unsecured Claims.

1.86 “*Litigation Trust Proceeds*” means any Cash proceeds to be distributed to the holders of the Litigation Trust Interests pursuant to the terms of the Litigation Trust Agreement.

1.87 “*Litigation Trust Oversight Committee*” means three (3) Persons identified in the Plan Supplement that shall provide oversight and direction to the Litigation Trustee in accordance with the terms of the Litigation Trust Agreement.

1.88 “*Litigation Trustee*” means the Person identified as such in the Plan Supplement or other filing with the Bankruptcy Court, and retained as of the Effective Date pursuant to the terms of the Litigation Trust Agreement, as the fiduciary responsible for implementing the applicable provisions of this Plan and the Litigation Trust Agreement.

1.89 “*Local Rules*” means the Local Rules of Bankruptcy Practice and Procedure of the Bankruptcy Court, or any other court having jurisdiction over the Chapter 11 Cases.

1.90 “*Master Trustee*” means UMB Bank, N.A. as successor master trustee under the Original Master Indenture.

1.91 “*Notice of Auction Results*” shall have the meaning set forth in Article I(C)(2)(b) “*Net Sale Proceeds*” means the sale proceeds of the Sale Transaction, less any less customary transaction fees and expenses.

1.92 “*Non-Released Parties*” means Lifespace and the Debtors and their respective current and former predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former officers, directors, principals, shareholders, members, partners, managers, employees, attorneys, advisors, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals, each of which are not and shall not be deemed a Released Party under this Plan.

1.93 “*Non-Resident Contract Counterparty*” shall have the meaning set forth in Article 5.

1.94 “*Notice Parties*” shall have the meaning set forth in Article 5.

1.95 “*Obligated Group*” means Edgemere and SQLC.

1.96 “*Original Bonds*” means, collectively, the Series 2015 Bonds and the Series 2017 Bonds.

1.97 “*Original Bond Documents*” means, collectively the 2015 Bond Documents and the 2017 Bond Documents.

1.98 “*Original Master Indenture*” means that certain Amended and Restated Master Trust Indenture, Deed of Trust and Security Agreement, dated November 15, 1999 and effective as of April 1, 2006, by and between the Obligated Group and JP Morgan Chase Bank, National Association, as initial master trustee and UMB Bank, N.A., as successor Master Trustee, as supplemented by that certain Supplemental Indenture Number 6, dated March 1, 2017.

1.99 “*Other Priority Claim*” means any Claim, other than an Administrative Claim, a Priority Tax Claim, or the DIP Facility Claims, which is entitled to priority under Bankruptcy Code section 507(a).

1.100 “*Other Secured Claim*” means any Secured Claim other than a Bond Claim.

1.101 “*Person*” means an individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, estate, unincorporated organization, governmental unit, government (or agency or political subdivision thereof), or other entity.

1.102 “*Petition Date*” means April 14, 2022, the date on which the Debtors filed their voluntary petitions for relief commencing the Chapter 11 Cases.

1.103 “*Plan*” means this Plan of Reorganization, dated November 2, 2022, including all exhibits, supplements, appendices, and schedules thereto, either in its present form or as the same may be amended, supplemented, or modified from time to time.

1.104 “*Plan Sponsors*” means the Trustee and the DIP Lender.

1.105 “*Plan Supplement*” means the compilation of documents and forms of documents, schedules, and exhibits to this Plan, to be filed prior to the Confirmation Hearing, as amended, supplemented, or modified from time to time in accordance with the terms hereof, the Bankruptcy Code, and the Bankruptcy Rules.

1.106 “*Priority Tax Claim*” means any Claim of a governmental unit of a kind entitled to priority under Bankruptcy Code section 507(a)(8).

1.107 “*Pro Rata*” means, with respect to any Claim, the proportion that the amount of a Claim in a particular Class or Classes bears to the aggregate amount of all Claims in such Class or Classes, unless this Plan otherwise provides.

1.108 “*Professionals*” means all professionals employed in these Chapter 11 Cases pursuant to Bankruptcy Code sections 327, 328, and 1103.

1.109 “*Professional Claim*” means a Claim of a Professional for compensation and/or reimbursement of expenses incurred by such Professional through and including the Effective Date.

1.110 “*Proposed Assumed Contracts*” shall have the meaning given to such term in Article 5.

1.111 “*Purchaser*” means Bay 9 Holdings LLC or its designee, or the purchaser designated by the Plan Sponsors as the prevailing bidder at the Auction, if any.

1.112 “*Proof of Claim*” means a proof of Claim filed against any Debtor in the Chapter 11 Cases.

1.113 “*Qualified Bid*” has the meaning set forth in the Bidding Procedures Order.

1.114 “*Reinstate*,” “*Reinstated*,” or “*Reinstatement*” means with respect to Claims and Interests, that the Claim or Interest shall be rendered Unimpaired in accordance with Bankruptcy Code section 1124.

1.115 “*Rejection Claims*” means any Claim arising from or relating to, the rejection of an Executory Contract or Unexpired Lease pursuant to Bankruptcy Code section 365(a) by any of the Debtors, as limited, in the case of a rejected Unexpired Lease, by Bankruptcy Code section 502(b)(6).

1.116 “*Rejection Damages Bar Date*” means the date by which Rejection Claims must be filed, which shall be the latest of: (i) the General Bar Date, (ii) thirty (30) days after the date of the entry of any order authorizing the rejection of the Executory Contract or Unexpired Lease, or (iii) thirty (30) days after the effective date of rejection of such Executory Contract or Unexpired Lease, including pursuant to Bankruptcy Code section 365(d)(4).

1.117 “*Released Parties*” means (i) the Committee, (ii) the Purchaser, (iii) the Issuer, (iv) the Plan Sponsors, (v) the holders of the Original Bonds and (vi) with respect to each of the foregoing Entities in clauses (i) through (v), such Entity and its current and former predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former officers, directors, principals, shareholders, members, partners, managers, employees, attorneys, advisors, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals. For the avoidance of doubt, the Non-Released Parties are not and shall not be deemed a Released Party under this Plan.

1.118 “*Releasing Party*” means each holder of a Claim who has not chosen, by marking the appropriate box on the Ballot, to opt out of the “Releases by Holders of Claims” provided for in Section 8.3 of this Plan.

1.119 “*Residency Agreements*” means those certain agreements entered into by and between the Residents and the Debtors, including all assisted living residency agreements, life care agreements, skilled nursing residency agreements, memory care agreements, and any additional documents related thereto, including any amendments, supplements, or addendums.

1.120 “*Resident*” means a current or former resident of the Community who is or was a party to a Residency Agreement.

1.121 “*Retained Causes of Action*” means the Causes of Action, including the Landlord Litigation, that the Debtors or their Estates may hold and specifically retain that the Litigation Trustee may prosecute post Effective Date. For the avoidance of doubt, Retained Causes of Action shall not include any Claims or Causes of Action against any Released Parties.

1.122 “*Sale Transaction*” means the transactions associated with the sale of substantially all of the Debtors’ Assets, which transactions are described in the Asset Purchase Agreement.

1.123 “*Schedules*” means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs, if any, filed by a Debtor pursuant to Bankruptcy Code section 521 and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified, or supplemented from time to time.

1.124 “*Secured Claim*” means any Claim against any Debtor: (i) secured by a Lien on property in which an Estate has an interest, which Lien is valid, perfected and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to Bankruptcy Code section 553, to the extent of the value of the creditor’s interest in an Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (ii) Allowed as such pursuant to this Plan.

1.125 “*Series 2015 Bonds*” means, collectively, the Series 2015A Bonds and the Series 2015B Bonds.

1.126 “*Series 2015 Bond Claims*” means any and all Claims in respect of the Series 2015 Bonds.

1.127 “*Series 2015A Bonds*” means the Retirement Facility Revenue Bonds (Northwest Senior Housing Corporation – Edgemere Project) Series 2015A, in the original aggregate principal amount of \$53,600,000 issued pursuant to the 2015 Bond Indenture.

1.128 “*Series 2015B Bonds*” means the Retirement Facility Revenue Bonds (Northwest Senior Housing Corporation – Edgemere Project) Series 2015B, in the original aggregate principal amount of \$40,590,000 issued pursuant to the 2015 Bond Indenture.

1.129 “*Series 2017 Bonds*” means the Retirement Facility Revenue Bonds (Northwest Senior Housing Corporation – Edgemere Project) Series 2017A, in the original aggregate principal amount of \$21,685,000 issued pursuant to the 2017 Bond Indenture.

1.130 “*Series 2017 Bond Claims*” means any and all Claims in respect of the Series 2017 Bonds.

1.131 “*SQLC*” means Senior Quality Lifestyles Corporation.

1.132 “*Trustee*” means (i) UMB Bank, N.A., in its capacity as successor Bond Trustee under the 2015 Bond Indenture and the 2017 Bond Indenture, and successor Master Trustee under the Original Master Indenture; and (ii) any successor trustee in any such capacity.

1.133 “*Unexpired Lease*” means a lease to which a Debtor is a party that is subject to assumption or rejection under Bankruptcy Code section 365, including the Ground Lease.

1.134 “*Unimpaired*” means, with respect to a Claim, a Class of Claims that is “unimpaired” within the meaning of Bankruptcy Code section 1124.

1.135 “*U.S. Trustee*” means the Office of the United States Trustee for the Northern District of Texas.

1.136 “*U.S. Trustee Fees*” means all fees and charges assessed against the Estates of the Debtors under 28 U.S.C. § 1930.

1.137 “*Voting Agent*” means KCC.

1.138 “*Voting Deadline*” means the deadline to vote to accept or reject this Plan as set forth in the Disclosure Statement or an order of the Bankruptcy Court, as such deadline may be extended or modified from time to time.

B. Interpretation: Application of Definitions and Rules of Construction.

Unless otherwise specified, all section or exhibit references in this Plan are to the respective section in, or exhibit to, this Plan, as the same may be amended, waived, or modified from time to time. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to this Plan as a whole and not to any particular section, subsection, or clause contained therein. A term used herein that is not defined herein shall have the meaning assigned to that term in the Bankruptcy Code. The rules of construction contained in Bankruptcy Code section 102 shall apply to this Plan. The headings in this Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. Unless otherwise provided, any reference in this Plan to an existing document, exhibit, or schedule means such document, exhibit, or schedule as it may have been amended, restated, revised, supplemented, or otherwise modified. If a time or date is specified for any payments or other Distribution under this Plan, it shall mean on or as soon as reasonably practicable thereafter. Further, where appropriate from a contextual reading of a term, each term includes the singular and plural form of the term regardless of how the term is stated and each stated pronoun is gender neutral.

C. Computation of Time.

In computing any period of time prescribed or allowed by the terms of this Plan, the provisions of Bankruptcy Rule 9006(a) shall apply. Any references to the Effective Date shall mean the Effective Date or as soon as reasonably practicable thereafter unless otherwise specified herein.

D. Controlling Document.

In the event of an inconsistency between this Plan and the Disclosure Statement, the terms of this Plan shall control in all respects. In the event of an inconsistency between this Plan and the Plan Supplement, the Plan Supplement shall control. In the event of an inconsistency between this Plan, the Plan Supplement and the Confirmation Order, the Confirmation Order shall control.

SECTION 2. TREATMENT OF ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIMS, AND U.S. TRUSTEE FEES

2.1 ***Administrative Claims.*** Unless a holder of an Allowed Administrative Claim and the Plan Sponsors before the Effective Date agree to less favorable treatment, each holder of an Allowed Administrative Claim will be paid the full unpaid amount of such Allowed Administrative Claim in Cash: (i) if such Allowed Administrative Claim is based on liabilities that the Debtors incurred in the ordinary course of business after the Petition Date, on the Effective Date or in accordance with the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claim, in the Plan Sponsors’ discretion, and without any further action by any holder of such Allowed Administrative Claim; (ii) if such Allowed Administrative Claim is due on the Effective Date, or, if such Allowed Administrative Claim is not due as of the Effective Date, on the date that such Allowed Administrative Claim becomes due or as soon as reasonably

practicable thereafter; (iii) if an Administrative Claim is not Allowed as of the Effective Date, on the date that is no later than thirty (30) days after the date on which an order allowing such Administrative Claim becomes a Final Order of the Bankruptcy Court or as soon as reasonably practicable thereafter; or (iv) at such time and upon such terms as set forth in a Final Order of the Bankruptcy Court.

To be eligible to receive Distributions under this Plan on account of an Administrative Claim that is not otherwise Allowed by this Plan, a request for payment of an Administrative Claim must be filed with the Bankruptcy Court on or before the Administrative Claims Bar Date. Any Administrative Claim that is not asserted in accordance herewith shall be deemed disallowed under this Plan and shall be forever barred against the Debtors, the Debtors' Estates, or any of the Debtors' Assets or property, and the holder thereof shall be enjoined from commencing or continuing any action, employment of process or act to collect, offset, recoup or recover such Claim. For the avoidance of doubt, holders of the DIP Facility Claims and the Diminution Claim shall not be required to file an Administrative Claim for the allowance and satisfaction of such Claims.

2.2 Professional Claims. All Professionals seeking payment of Professional Claims shall (i) file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred in the Chapter 11 Cases by the date that is forty-five (45) days after the Effective Date and (ii) be paid (a) the full unpaid amount as is Allowed by the Bankruptcy Court within five (5) Business Days after the date that such Claim is Allowed by order of the Bankruptcy Court, or (b) upon such other terms as may be mutually agreed upon between the holder of such an Allowed Professional Claim and the Plan Sponsors. Any Professional Claim that is not asserted in accordance with this Section 2.2 shall be deemed disallowed under this Plan and shall be forever barred against the Debtors, the Debtors' Estates, or any of the Debtors' Assets or property, and the holder thereof shall be enjoined from commencing or continuing any action, employment of process or act to collect, offset, recoup or recover such Claim.

2.3 Priority Tax Claims. In accordance with Bankruptcy Code section 1123(a)(1), Priority Tax Claims have not been classified and are treated as described in this Section 2 of this Plan. Unless otherwise agreed by the holder of an Allowed Priority Tax Claim, any Person holding an Allowed Priority Tax Claim will receive, as determined by the Plan Sponsors in their sole discretion and in full satisfaction of such Claim, payment in Cash in full on the later of (i) the Effective Date, or as soon as reasonably practicable thereafter as determined by the Litigation Trustee, or (ii) the first Business Day after the date that is thirty (30) calendar days after the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon thereafter as is reasonably practicable.

2.4 U.S. Trustee Fees. U.S. Trustee Fees will be paid in full by the Debtors and the Litigation Trustee, as applicable, as they become due and owing.

2.5 DIP Facility Claims. The DIP Facility Claims shall be deemed Allowed Secured Claims and superpriority Administrative Claims in the full amount due and owing under the DIP Credit Agreement as of the Effective Date. The DIP Facility Claims shall be satisfied in full from Cash available on the Effective Date.

2.6 ***Diminution Claim.*** The Diminution Claim shall be deemed Allowed superpriority Administrative Claim in the full amount due and owing under the DIP Orders as of the Effective Date. The Diminution Claim shall be satisfied in full from Cash available on the Effective Date.

SECTION 3. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

3.1 ***Classification and Specification of Treatment of Claims.*** Pursuant to Bankruptcy Code sections 1122 and 1123, Claims (other than Allowed Administrative Claims, Priority Tax Claims, Professional Claims, DIP Facility Claims, the Diminution Claim and U.S. Trustee Fees) are classified for all purposes, including, without limitation, voting, confirmation and Distribution pursuant to this Plan, as set forth herein. A Claim or an Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or an Interest also is classified in a particular Class for the purpose of receiving Distributions under this Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date.

This Plan is premised upon the substantive consolidation of the Debtors solely for the purposes of voting, determining which Classes have accepted this Plan, confirming this Plan, and the resultant treatment of Claims and Interests and Distributions under this Plan.

3.2 ***Classes of Claims and Interests.***

Class	Claim	Estimated Allowed Claims	Status	Voting Rights
1	Other Priority Claims	\$ 19,182.99	Unimpaired	Deemed to Accept
2	Bond Claims	\$111,728,919.22	Impaired	Entitled to Vote
3	Other Secured Claims	\$0	Unimpaired	Deemed to Accept
4	General Unsecured Claims	\$243,575,238.13 ³	Impaired	Entitled to Vote
5	Interests in Debtors	N/A	Impaired	Deemed to Reject

3.2.1 ***Class 1 — Other Priority Claims.*** In accordance with the Proofs of Claim on file, there are asserted priority claims in the amount of \$19,182.99. To the extent that such Claims have been or will be Allowed, Class 1 Claims will be Unimpaired and not entitled to vote on this Plan. Except to the extent that a holder of an Allowed Other Priority Claim has agreed

³ Includes an estimated Bond Deficiency Claim of \$77,402,439.22 based upon the initial Purchaser's offer and after payment of other amounts set forth in the Plan.

to a different treatment of such Claim, each such holder shall receive, in full satisfaction of such Allowed Other Priority Claim, Cash in an amount equal to such Allowed Other Priority Claim, on or as soon as reasonably practicable after the later of (i) the Effective Date; (ii) the date the Other Priority Claim becomes an Allowed Claim; or (iii) the date for payment provided by any agreement or arrangement between the Plan Sponsors and the holder of the Allowed Other Priority Claim.

3.2.2 Class 2 — Bond Claims. Class 2 is Impaired and entitled to vote on this Plan. This Class consists of all Bond Claims and includes all Claims of the holders of the Series 2015 Bonds and the Series 2017 Bonds, which Claims shall be deemed Allowed pursuant to this Plan in the aggregate principal amount of \$109,185,000, plus accrued and unpaid interest as of the Petition Date in the amount of \$2,543,919.22. On the Effective Date, the Net Proceeds after payment of Allowed Administrative Claims, Priority Tax Claims, Professional Claims, DIP Facility Claims, the Diminution Claim and U.S. Trustee Fees, shall be paid to the Trustee, which funds shall be disbursed to holders of the Bond Claims in accordance with the Original Bond Documents. Assuming no competing qualified bids are received and the Sale Transaction with the initial Purchaser closes, Holders of Bond Claims are estimated to receive Distributions ranging from 30.1% to 31.4% of their Bond Claims. The Bond Deficiency Claim shall be treated on a Pro Rata basis with holders of Allowed General Unsecured Claims.

3.2.3 Class 3 — Other Secured Claims. This Class consists of all Other Secured Claims against the Debtors. In accordance with Debtors' books and records, no Class 3 Claims exist. To the extent that such Claims have been or will be asserted and Allowed, Class 3 Claims will be Unimpaired and not entitled to vote on this Plan. In full satisfaction of an Allowed Other Secured Claim, on the later of the Effective Date and the date on which the Other Secured Claim is Allowed, each holder of an Allowed Other Secured Claim shall receive, at the sole and exclusive option of the Plan Sponsors: (i) Cash equal to the amount of such Claim; (ii) return of the underlying collateral related to their Claims; or (iii) treatment of such Allowed Other Secured Claim in any other manner that renders the Claim Unimpaired, including Reinstatement.

3.2.4 Class 4 — General Unsecured Claims. Class 4 is Impaired and entitled to vote on this Plan. This Class consists of all General Unsecured Claims, including Claims of Residents under Residency Agreements and the Bond Deficiency Claim. Allowed General Unsecured Claims shall be payable from a Pro Rata share of the Litigation Trust Proceeds. Holders of Allowed General Unsecured Claims are estimated to receive Distributions ranging from 0% to 50% of their Allowed General Unsecured Claims, depending on the outcome of the Landlord Litigation, Retained Causes of Action and the liquidation of other Litigation Trust Assets. For the avoidance of doubt, Residents shall also maintain any direct individual claims against Lifespace, which recoveries will reduce the amount of Allowed General Unsecured Claims.

3.2.5 Class 5 — Interests in Debtors. Class 5 is Impaired and deemed to reject this Plan. This Class consists of Interests of Lifespace in the Debtors, which Interests shall be terminated on the Effective Date.

3.3 *Acceptance or Rejection of this Plan.*

3.3.1 Acceptance by an Impaired Class. In accordance with Bankruptcy Code section 1126(c) and except as provided in Bankruptcy Code section 1126(e), an Impaired

Class of Claims shall have accepted this Plan if this Plan is accepted by the holders of at least two-thirds in dollar amount and more than one-half in number of the Allowed Claims of such Class that have timely and properly voted to accept or reject this Plan.

3.3.2 Presumed Acceptance of this Plan. Classes 1 and 3 are conclusively presumed to have accepted this Plan pursuant to Bankruptcy Code section 1126(f).

3.3.3 Presumed Rejection of this Plan. Class 5 is Impaired under this Plan and will receive no Distributions and, thus, is conclusively presumed to have rejected this Plan pursuant to Bankruptcy Code section 1126(g).

3.3.4 Voting Class. Classes 2 and 4 are Impaired under this Plan and are entitled to vote to accept or reject this Plan.

3.4 ***Subordinated Claims***. The allowance, classification, and treatment of all Allowed Claims and Interests and the respective Distributions and treatments under this Plan take into account the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, Bankruptcy Code section 510(b), or otherwise. For purposes of Bankruptcy Rule 7001(8), this Plan provides for subordination. The Litigation Trustee, as set forth herein, shall have the right to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto under the Bankruptcy Code as long as such treatment is consistent with the terms of the Litigation Trust Agreement. Subordinated Claims shall not receive a Distribution under this Plan until any and all senior Allowed Claims are paid in full.

3.5 ***Cramdown***. If all applicable requirements for confirmation of this Plan are met as set forth in Bankruptcy Code section 1129(a) except subsection (8) thereof, the Plan Sponsors shall request that the Bankruptcy Court confirm this Plan in accordance with Bankruptcy Code section 1129(b) on the bases that this Plan is fair and equitable and does not discriminate unfairly with respect to each Class of Claims or Interests that is Impaired hereunder, and has not accepted or is deemed to reject, this Plan.

SECTION 4. MEANS FOR IMPLEMENTATION OF THIS PLAN

4.1 *Sale Transaction*

4.1.1 Sale Transaction. Consistent with the Asset Purchase Agreement, substantially all of the property in the Estates shall be sold to the Purchaser (including such Purchaser to be identified as the winning bidder following an Auction), free and clear of all Liens, Claims, charges, or other encumbrances pursuant to section 1123(a)(5)(D) of the Bankruptcy Code, with all such Liens, Claims, charges or other encumbrances attaching automatically to the Net Proceeds in the same manner, extent, validity and priority as existed on the Closing Date, with the Net Proceeds to be distributed pursuant to this Plan. An initial Purchaser has been identified, whose purchase offer in the amount of \$48.5 million (subject to the adjustments in the Asset Purchase Agreement) is subject to higher and better bids. If a competing qualified bid is received by December 27, 2022 at 4:00 p.m. (prevailing Central Time), an Auction shall be held on December 28, 2022 at 10:00 a.m. (prevailing Central Time) to determine the ultimate Purchaser.

Upon the Closing of the Sale Transaction, all Net Proceeds therefrom after payments required under this Plan to pay any unpaid Allowed Administrative Claims, Priority Tax Claims, Professional Claims, DIP Facility Claims, Diminution Claim and the U.S. Trustee Fees, shall be paid to the Trustee for Distribution to holders of Original Bonds, pursuant to the terms of the Original Bond Documents.

4.1.2 Monthly Rental Agreements. The Asset Purchase Agreement contemplates the rejection of all Residency Agreements, provided that any Purchaser shall offer to all Current Residents a monthly rental agreement which shall provide similar services to Current Residents as provided prior to the Closing Date.

4.1.3 Transfer of Assets to Litigation Trust. On the Effective Date, all of the Estates' assets not sold in the Sale Transaction shall be transferred to the Litigation Trust and administered as set forth more fully below.

4.2 *Creation of the Litigation Trust and Appointment of the Litigation Trustee and Litigation Trust Oversight Committee*

4.2.1 Creation of the Litigation Trust. On or prior to the Effective Date, the Debtors shall execute the Litigation Trust Agreement. On the Effective Date, the Litigation Trust shall become effective and shall be deemed to be valid, binding and enforceable in accordance with the terms and provisions of this Plan and the Litigation Trust Agreement. After the Effective Date, the Litigation Trust Agreement may be amended in accordance with its terms without further order of the Bankruptcy Court. The Litigation Trust Agreement shall be satisfactory in form and substance to the Plan Sponsors.

4.2.2 Purpose of the Litigation Trust. The Litigation Trust shall be established for the purposes of (i) liquidating any non-Cash Litigation Trust Assets; (ii) maximizing recovery of the Litigation Trust Assets for the benefit of the holders of Litigation Trust Interests; (iii) distributing the proceeds of the Litigation Trust Assets to holders of the Litigation Trust Interests in accordance with this Plan and the Litigation Trust Agreement, with no objective to continue or engage in the conduct of a trade or business, except only in the event and to the extent necessary for, and consistent with, the liquidating purpose of the Litigation Trust; (iv) prosecuting or otherwise resolving Causes of Action comprising Litigation Trust Assets for the benefit of the holders of the Litigation Trust Interests; and (v) winding down the Chapter 11 Cases as provided in this Plan.

4.2.3 Funding of the Litigation Trust. \$150,000 of Cash shall be set aside for the payment of Litigation Trust Expenses to be incurred by the Litigation Trust.

4.2.4 Transfer of Litigation Trust Assets to the Litigation Trust. As of the Effective Date, pursuant to the provisions of sections 1141(b) and (c) of the Bankruptcy Code, the Debtors and the Estates shall preserve, transfer and assign all of their respective right, title and interest in and to all of the Litigation Trust Assets, which shall automatically vest in the Litigation Trust free and clear of all Claims, Liens, encumbrances, charges, Interests and other interests, subject only to the Allowed Claims of the holders of Litigation Trust Interests as set forth in this Plan and in the Litigation Trust Agreement.

4.2.5 Appointment of the Litigation Trustee. On the Effective Date, the Litigation Trustee shall be deemed the Estates' representative solely with respect to the Litigation Trust Assets in accordance with section 1123 of the Bankruptcy Code and shall have all powers, authority and responsibilities specified in this Plan and Litigation Trust Agreement solely with respect to the Litigation Trust Assets, including, without limitation, the powers of a trustee under sections 704 and 1106 of the Bankruptcy Code and Bankruptcy Rule 2004.

4.2.6 Governance of Litigation Trust. The Litigation Trust shall be governed by the Litigation Trust Agreement and administered by the Litigation Trustee who shall report to the Litigation Trust Oversight Committee in accordance with the terms of this Plan and the Litigation Trust Agreement.

4.2.7 Tax Treatment. Except to the extent allocable to Disputed Claims, consistent with the principles of Revenue Procedure 94-45, 1994-2 C.B. 684, as of the Effective Date, for federal income tax purposes, (i) the Debtors will be deemed to transfer the Litigation Trust Assets to the holders of the Litigation Trust Interests, (ii) the holders of the Litigation Trust Interests will be deemed to transfer such Assets to the Litigation Trust, (iii) the Litigation Trust will be treated as a "liquidating trust," as defined in Treasury Regulation section 301.7701-4(d), and as a "grantor trust" within the meaning of Internal Revenue Code sections 671-679 and (iv) the holders of the Litigation Trust Interests will be treated as the "grantors" of the Litigation Trust.

4.2.8 Securities Registration Exemption. The Plan Sponsors intend that the Litigation Trust Interests shall not be deemed "securities" under applicable laws, but to the extent such units are deemed to be "securities," the Plan Sponsors believe the issuance of such units under this Plan is exempt, pursuant to section 1145 of the Bankruptcy Code (except with respect to an entity that is an "underwriter" as defined in section 1145(b) of the Bankruptcy Code).

4.2.9 Rights, Powers and Duties of the Litigation Trust and the Litigation Trustee. The Litigation Trustee will act for the benefit of holders of Litigation Trust Interests in a fiduciary capacity and shall have comparable authority as a bankruptcy trustee of the Debtors, as the exclusive representative of the Estates under section 1123(a)(5)(B) of the Bankruptcy Code or any corresponding federal or state laws with respect to the Litigation Trust Assets and shall succeed to all of the Debtors' and the Estate's rights with respect thereto, subject to the provisions of this Plan and the Litigation Trust Agreement. The Litigation Trust is the successor to the Debtors and their Estates. The powers, rights and duties of the Litigation Trustee shall arise on the Effective Date and shall include, all subject to the terms and conditions of the Litigation Trust Agreement, the following:

- (a) commencing, pursuing and liquidating all of the Litigation Trust Assets;
- (b) engaging attorneys, consultants, agents, employees and any other professional persons to assist the Litigation Trustee with respect to the Litigation Trustee's responsibilities;
- (c) paying the fees and expenses of the attorneys, consultants, agents, employees and other professional persons engaged by the Litigation Trust and paying all other expenses;

- (d) compromising and settling Claims without notice or Bankruptcy Court approval;
- (e) calculating and implementing Distributions of Litigation Trust Assets for the benefit of the holders of the Litigation Trust Interests;
- (f) resolving issues involving Claims and Interests in accordance with this Plan;
- (g) consulting with members of the Litigation Trust Oversight Committee regarding the prosecution and/or settlement of Retained Causes of Action and reporting to the Litigation Trust Oversight Committee regarding such matters, and seeking approval from the Litigation Trust Oversight Committee regarding the prosecution and/or settlement of each Cause of Action, to the extent set forth in the Litigation Trust Agreement;
- (h) investing Cash in accordance with section 345 of the Bankruptcy Code, and withdrawing and making Distributions of Cash to holders of Litigation Trust Interests holding and paying taxes and other obligations incurred by the Litigation Trustee in connection with winding down the Estates in accordance with this Plan;
- (i) coordinating the turnover of property, if any, subject to rejected executory contracts or abandonment or liquidation of any Litigation Trust Assets;
- (j) taking possession of all books, records, and files of the Debtors and their Estates; and providing for the retention and storage of such books, records, and files until such time as the Litigation Trust determines, in accordance with the Litigation Trust Agreement, that retention of same is no longer necessary or required;
- (k) overseeing compliance with the accounting, finance and reporting obligations;
- (l) paying taxes or other obligations incurred by the Litigation Trust;
- (m) preparing financial statements and U.S. Trustee post-confirmation quarterly reports, and filing such reports on the docket of the Chapter 11 Cases until such time as a final decree has been entered;
- (n) overseeing the filing of final tax returns, refund requests, audits and other corporate dissolution documents, as required;
- (o) performing any additional corporate actions as necessary to carry out the wind down and liquidation of the Estates;
- (p) exercising such other powers as may be vested in or assumed by the Litigation Trustee pursuant to this Plan, the Litigation Trust Agreement or other Order of the Bankruptcy Court or as may be needed or appropriate to carry out the provisions of this Plan; and

- (q) undertaking all administrative functions of the Chapter 11 Cases, including the payment of fees payable to the U.S. Trustee and the ultimate closing of the Chapter 11 Cases.

4.2.10 Litigation Trust Interests. Holders of Allowed General Unsecured Claims shall, by operation of this Plan, receive a Pro Rata share of the Litigation Trust Interests in accordance with the terms of and priorities set forth in this Plan. Litigation Trust Interests shall also be reserved for holders of Disputed Claims which, if Allowed, would be entitled to participate in Distributions from the Litigation Trust, and such reserved Litigation Trust Interests shall be held by the Litigation Trustee pending allowance or disallowance of such Claims. No other Person shall have any interest, legal, beneficial or otherwise, in the Litigation Trust Assets upon the assignment and transfer of such assets to the Litigation Trust. As set forth in the Litigation Trust Agreement, Distributions from the Litigation Trust on account of Litigation Trust Interests shall be made from the Litigation Trust Assets after paying, reserving against or satisfying, among other things, the Litigation Trust Expenses. The Litigation Trust Interests shall be uncertificated and shall be nontransferable except upon death of the holder or by operation of law. Holders of Litigation Trust Interests shall have no voting rights with respect to such interests.

4.2.11 Pending Adversary Proceedings. Without the need for filing any motion for such relief, in connection with the Litigation Trust Assets, the Litigation Trust or the Litigation Trustee (as applicable) hereby shall be deemed substituted for the applicable Debtor (i) in all pending matters including, but not limited to, motions, contested matters and adversary proceedings in the Bankruptcy Court; and (ii) with respect to any Retained Causes of Action pending before the Bankruptcy Court or any other court.

4.2.12 Preservation of Right to Conduct Investigations. The preservation for the Litigation Trust of any and all rights to conduct investigations pursuant to Bankruptcy Rule 2004 is necessary and relevant to the liquidation and administration of the Litigation Trust Assets. Accordingly, any and all rights to conduct investigations pursuant to Bankruptcy Rule 2004 held by the Debtors prior to the Effective Date shall vest with the Litigation Trust and shall continue until dissolution of the Litigation Trust.

4.3 ***Entrance Fee Escrow.***

4.3.1 As of the Petition Date, the Entrance Fee Escrow held \$15,844,326. On the Effective Date, funds in the Entrance Fee Escrow shall be returned to those respective Residents that deposited such funds pursuant to the terms of the Escrow Agreement.

4.4 ***Corporate Action.*** Upon the Effective Date, all actions contemplated by this Plan (whether to occur before, on, or after the Effective Date) shall be deemed authorized and approved in all respects, and all matters provided for in this Plan involving the corporate structure of the Debtors and any corporate action required by the Debtors in connection with this Plan shall be deemed to have occurred, without any requirement of further action by the directors or officers of the Debtors.

On or (as applicable) before the Effective Date, the appropriate officers of the Debtors or the Litigation Trust, as applicable, shall be authorized and directed to issue, execute, and deliver

the agreements, documents, securities, certificates of incorporation, operating agreements, and instruments contemplated by this Plan (or necessary or desirable to effect the transactions contemplated by this Plan), including all documents necessary to consummate the Sale Transaction, in the name of and on behalf of the Debtors or the Litigation Trust, as the case may be, and any and all other agreements, documents, securities, and instruments relating to the foregoing.

4.5 ***Section 1146 Exemption from Certain Taxes and Fees.*** Pursuant to Bankruptcy Code section 1146(a), any transfer of property and any issuance, transfer, or exchange of a security in connection with or pursuant to this Plan shall not be subject to any stamp, mortgage recording, or other similar tax, charge, or governmental assessment in the United States, and the Confirmation Order shall direct and be deemed to direct the appropriate state or local governmental officials or agents to forgo the collection of any such tax, charge, or governmental assessment and, as applicable, to accept for filing and recordation instruments or other documents pursuant to such transfer of property or to permit the issuance, transfer, or exchange of a security without the payment of any such tax, charge, or governmental assessment. Such exemption specifically applies, without limitation, to (i) the sale of the Assets pursuant to the Asset Purchase Agreement effectuated under this Plan; (ii) the creation and recordation of any mortgage, deed of trust, lien, or other security interest; (iii) the making or assignment of any lease or sublease; and (iv) the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with this Plan, including: (a) any merger agreements; (b) agreements of consolidation, restructuring, disposition, liquidation, or dissolution; (c) deeds; or (d) assignments executed in connection with any transaction occurring under this Plan.

4.6 ***Preservation of Causes of Action of the Debtors.*** In accordance with Bankruptcy Code section 1123(b), and except where such Causes of Action have been expressly released (including, for the avoidance of doubt, the Exculpated Claims against the Exculpated Parties and the Debtor Released Claims against the Released Parties), the Litigation Trustee shall be vested with the authority to enforce all rights to commence and pursue, as appropriate, any and all Causes of Action of the Debtors, whether arising before or after the Petition Date, and the Litigation Trustee's right(s) to commence, prosecute, or settle such Causes of Action shall be consistent with the terms of the Litigation Trust Agreement. The Litigation Trustee is the sole party that may pursue such Causes of Action, as appropriate, in accordance with the best interests of the holders of the Litigation Trust Interests. No Person may rely on the absence of a specific reference in this Plan or the Disclosure Statement to any Cause of Action against such Person as any indication that the Debtors or the Litigation Trustee, as applicable, will not pursue any and all available Causes of Action against such Person. Except with respect to Causes of Action as to which the Debtors have released any Person on or before the Effective Date (including pursuant to the Releases by the Debtors or otherwise), the Litigation Trustee, as applicable, expressly reserves all rights to prosecute any and all Causes of Action of the Debtors against any Person, except as otherwise expressly provided in this Plan. Unless any Causes of Action against a Person are expressly waived, relinquished, exculpated, released, compromised, or settled in this Plan or by an order of the Bankruptcy Court, the Litigation Trustee expressly reserves all Causes of Action for later adjudication and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the confirmation

or consummation of this Plan. For the avoidance of doubt, nothing in this Section 4.14 shall affect the “Releases by the Debtors” provided in Section 8.2 of this Plan.

SECTION 5. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumptions or rejections of such Executory Contracts or Unexpired Leases as set forth in this Plan or the Plan Supplement, all pursuant to Bankruptcy Code sections 365(a) and 1123. Unless otherwise indicated, all assumptions or rejections of Executory Contracts and Unexpired Leases pursuant to this Plan are effective as of the Closing Date. Each Executory Contract or Unexpired Lease assumed pursuant to this Plan or by Bankruptcy Court order and assigned to a Purchaser shall vest in and be fully enforceable by the Purchaser in accordance with its terms, except as such terms may have been modified by such order. Notwithstanding anything to the contrary in this Plan, the Plan Sponsors reserve the right to alter, amend, modify, or supplement the list of Executory Contracts and Unexpired Leases identified in the Plan Supplement at any time before the Effective Date. After the Effective Date, the Purchaser shall have the right to terminate, amend, or modify any contracts, leases, or other agreements without approval of the Bankruptcy Court, subject to the terms thereof. For the avoidance of doubt, Section 5 of this Plan shall apply to all Executory Contracts and Unexpired Leases except as otherwise provided herein and to the extent addressed and decided by an order of the Bankruptcy Court.

5.1 ***Rejection of Residency Agreements.*** On the Closing Date and as set forth in the Asset Purchase Agreement, the Debtors shall reject the Residency Agreements of all Current Residents including, without limitation, those set forth in the Plan Supplement. Resulting contract damages claims will be treated as Class 4 Claims. Any Current Resident that desires to remain at the Community may do so by entering into a new monthly rental agreement which agreements will provide similar services to such Current Resident as provided under their prior Residency Agreement.

5.2 ***Assumption and Rejection of Executory Contracts and Unexpired Leases.*** Unless assumed and assigned under the Asset Purchase Agreement, on the Closing Date the Debtors shall reject all Executory Contracts and Unexpired Leases. Resulting contract damages claims will be treated as Class 4 Claims.

5.3 ***Assumption of the Ground Lease.*** On the Closing Date and as set forth in the Asset Purchase Agreement, the Ground Lease shall be assumed, subject to the rights of the Litigation Trustee as set forth in this Plan and assigned to the Purchaser. The Landlord shall have an Allowed Administrative Claim for the amounts due and owing from the Petition Date through the Effective Date, subject to final approval of the Bankruptcy Court and the rights of parties in interest to challenge the asserted Administrative Claim amount. Nothing herein shall be construed as a waiver of the Debtors, the Litigation Trustee, the Plan Sponsors, the Committee or any third parties to pursue any and all Claims against the Landlord.

5.4 ***Claims Based on Rejection of Executory Contracts or Unexpired Leases.*** All Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, if any, must be filed no later than the Rejection Damages Bar Date; *provided, that* any such Claims arising from the rejection of an Unexpired Lease shall be subject to the cap

on rejection damages imposed by Bankruptcy Code section 502(b)(6). Any Claims arising from the rejection of an Executory Contract or Unexpired Lease that is not timely filed with the Bankruptcy Court will be automatically disallowed and forever barred from assertion and shall not be enforceable against the Debtors, the Estates, or the Debtors' property, without the need for any objection by any party or further notice to, action by, or order or approval of the Bankruptcy Court. All Allowed Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as Class 4 Claims and shall be treated in accordance with this Plan.

5.5 Cure of Defaults for Assumed Executory Contracts and Unexpired Leases. Any provisions or terms of the Debtors' Executory Contracts or Unexpired Leases to be assumed under the Sale Transaction that are, or may be, alleged to be in default, shall be satisfied solely by cure or by a waiver of cure agreed upon between the Purchaser and the applicable counterparty. Except with respect to Executory Contracts or Unexpired Leases in which the Purchaser and the applicable counterparties have stipulated in writing to payment of cure or with respect to Residency Agreements, the following procedures shall be established for determining cure with respect to the proposed assumed Executory Contracts or Unexpired Leases (the "**Proposed Assumed Contracts**"):

- (a) Within five (5) days after entry of the Bidding Procedures Order, the Plan Sponsors will file with the Bankruptcy Court and serve a notice to the counterparties to Executory Contracts and Unexpired Leases, other than Residents that are party to a Residency Agreement as of the Petition Date, (each, a "**Non-Resident Contract Counterparty**"), setting forth the Plan Sponsors' calculation of each Non-Resident Contract Counterparty's cure amount, if any, that would be owing to such Non-Resident Contract Counterparty if the Debtors were to assume or assume and assign such Executory Contract or Unexpired Lease, and alerting such Non-Resident Contract Counterparty that its agreement may be assumed and assigned to the Purchaser (the "**Cure and Possible Assumption and Assignment Notice**"). Any Non-Resident Contract Counterparty that objects to the cure amount set forth in the Cure and Possible Assumption and Assignment Notice, must file an objection (a "**Cure Objection**") no later than December 19, 2022 at 4:00 p.m. (prevailing Central Time), which Cure Objection must be served on the following by e-mail: (a) counsel for the Plan Sponsors, Daniel Bleck, dsbleck@mintz.com, Eric Blythe, erblythe@mintz.com, and Kaitlin Walsh, krwalsh@mintz.com; (b) RBC Capital Advisors, David Fields, david.fields@rbccm.com; (c) counsel for the Debtors, Trinitee G. Green, tggreen@polsinelli.com and Jeremy Johnson, Jeremy.johnson@polsinelli.com, and (d) counsel for the Committee, Stephen A. McCartin, smccartin@foley.com, Thomas C. Scannell, tscannell@foley.com, and Mark Moore, mmoore@foley.com (collectively, the "**Notice Parties**").
- (b) If a Non-Resident Contract Counterparty does not timely file and serve a Cure Objection, that party will be forever barred from objecting to the proposed cure amount. Where a Non-Resident Contract Counterparty files a timely Cure Objection asserting a higher cure amount than the amount listed in the Cure and Possible Assumption and Assignment Notice, and the Non-Resident Contract Counterparty and the Plan Sponsor are unable to consensually resolve the dispute, the amount to be paid under Bankruptcy Code section 365 (if any) or, as the case may be, the

Debtors' ability to assign the agreement to the Purchaser, will be determined at the Confirmation Hearing.

- (c) After the conclusion of the Auction, the Plan Sponsors shall file with the Bankruptcy Court and serve on the Notice Parties and Contract Counterparties a further notice (the "**Assumption Notice**") identifying the Purchaser, stating which Executory Contracts or Unexpired Leases may be assumed and assigned to the Purchaser, and providing such Contract Counterparties with the Purchaser's assurance of future performance. Any Contract Counterparty that objects to the adequacy of the assurance or assumption and/or assignment of its Executory Contract or Unexpired Lease set forth in the Assumption Notice must file an objection with the Bankruptcy Court (a "**Contract Objection**") and serve the Contract Objection on the Notice Parties prior to the Confirmation Hearing. If a Contract Counterparty does not file a Contract Objection prior to the Confirmation Hearing, such party will be forever barred from objecting to the adequacy of the assurance to be provided by the Purchaser and assumption and assignment to the Purchaser. Where a Contract Counterparty files a Contract Objection prior to the Confirmation Hearing, and the parties are unable to consensually resolve the dispute, the adequacy of the assurance provided by the Purchaser or raised issues regarding the potential assumption and assignment will be determined at the Confirmation Hearing.
- (d) For the avoidance of doubt, this section does not address Residency Agreements although the Residency Agreements are Executory Contracts. As provided above, any Purchaser must provide detail regarding the treatment of Residency Agreements with the Debtors' Current Residents. To the extent a potential Purchaser includes the assumption of the Residency Agreements, the potential Purchaser will be required to satisfy the related cure costs and provide adequate assurance of future performance. The Assumption Notice shall include a description of the Purchaser's proposed treatment of Residency Agreements.
- (e) Except as specified herein, assumption or assumption and assignment of any Executory Contract or Unexpired Lease pursuant to this Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults on the part of the Debtors or the Estates, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assumed and assignment Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assumption and assignment.

5.6 **Insurance Policies.** Notwithstanding anything herein to the contrary, as of the Closing Date, and unless specifically rejected by the Purchaser, the Debtors shall assume all of the Insurance Policies, including director and officer and general liability policies, identified by the Plan Sponsors in the Plan Supplement pursuant to Bankruptcy Code section 365(a). Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Debtors' foregoing assumption of each of the Insurance Policies.

5.7 Modifications, Amendments, Supplements, Restatements, or Other Agreements. Unless otherwise provided, each Executory Contract or Unexpired Lease that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and all Executory Contracts and Unexpired Leases related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated, or is rejected or repudiated under this Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith, unless such Executory Contract or Unexpired Lease has been previously assumed by the Debtors.

5.8 Reservation of Rights. Nothing contained in this Plan or the Plan Supplement shall constitute an admission that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Debtors have any liability thereunder.

5.9 Nonoccurrence of Effective Date. If the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases under Bankruptcy Code section 365(d)(4), unless such deadline(s) have expired.

SECTION 6. PROVISIONS GOVERNING DISTRIBUTIONS

6.1 Timing and Calculation of Amounts to Be Distributed. Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim on the Effective Date, on the date that such a Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter), each holder of an Allowed Claim against the Debtors shall receive the full amount of the Distributions that this Plan provides for Allowed Claims in the applicable Class and in the manner provided herein. In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent that there are Disputed Claims, Distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in this Plan. Except as otherwise provided for in this Plan, holders of Claims shall not be entitled to interest, dividends, or accruals on the Distributions provided for herein, regardless of whether such Distributions are delivered on or at any time after the Effective Date.

6.2 Disbursements. Except as otherwise provided in this Plan, all Distributions under this Plan shall be made by the Litigation Trustee,

6.3 Rights and Powers of Litigation Trustee regarding Disbursements. The Litigation Trustee shall be empowered to: (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (ii) make all

Distributions contemplated hereby; (iii) employ professionals to represent it with respect to its responsibilities; and (iv) exercise such other powers as may be vested in the Litigation Trustee by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Litigation Trustee to be necessary and proper to implement the provisions of this Plan.

6.4 ***Payments and Distributions on Disputed Claims.*** Distributions made after the Effective Date to holders of Disputed Claims that are not Allowed Claims as of the Effective Date (but that later become Allowed Claims), shall be deemed to have been made on the Effective Date.

6.5 ***Special Rules for Distributions to Holders of Disputed Claims.*** Notwithstanding any other provision of this Plan and except as may be agreed to by the Plan Sponsors or the Litigation Trustee, on the one hand, and the holder of a Disputed Claim, on the other hand, no partial payments and no partial Distributions shall be made with respect to any Disputed Claim until all Disputed Claims held by the holder of such Disputed Claim have become Allowed Claims or have otherwise been resolved by settlement or Final Order.

6.6 ***Delivery of Distributions in General.*** Except as otherwise provided in this Plan, Distributions to holders of Allowed Claims shall be made to holders of record as of the Distribution Record Date by the Litigation Trustee, including the Distribution to the Trustee of the Net Sale Proceeds as provided in this Plan. Distributions to holders of Allowed Claims will be made at the address of each such holder as set forth in the Debtors' books and records, except that, in the case of holders of the Original Bonds, Distributions will be made by means of book-entry exchange through the facilities of the Depository Trust Company in accordance with the customary practices of the Depository Trust Company, as and to the extent practicable. Distributions under this Plan on account of Allowed Claims shall not be subject to levy, garnishment, attachment, or like legal process, so that each holder of an Allowed Claim shall have and receive the benefit of the Distributions in the manner set forth in this Plan. The Litigation Trustee shall not incur any liability whatsoever on account of any Distributions under this Plan except for gross negligence, willful misconduct, or fraud.

6.7 ***Undeliverable Distributions and Unclaimed Property.*** If any Distribution to any holder is returned as undeliverable, the Litigation Trustee shall use reasonable efforts to determine the current address of such holder. No Distribution to such holder shall be made unless and until the Litigation Trustee has determined such holder's then current address, at which time such Distribution shall be made as soon as practicable; *provided, however*, that such Distributions shall be deemed unclaimed property under Bankruptcy Code section 347(b) and forfeited at the expiration of six months from the later of (i) the Effective Date and (ii) the date of the initial attempted Distribution. After such date, all "unclaimed property" or interests in property shall revert to the Litigation Trust (notwithstanding any applicable federal or state escheat or abandoned or unclaimed property laws to the contrary), and the Claim of any holder to such property shall be discharged and forever barred.

6.8 ***Withholding and Reporting Requirements.*** In connection with this Plan and all instruments issued in connection therewith, the Litigation Trustee shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing

authority, and all Distributions under this Plan shall be subject to any such withholding or reporting requirements.

6.9 **Setoffs.** Except as otherwise provided herein and subject to applicable law, the Debtors shall, pursuant to the Bankruptcy Code (including Bankruptcy Code section 553), applicable non-bankruptcy law, or as may be agreed to by the holder of a Claim, setoff against any Allowed Claim (which setoff shall be made against the Allowed Claim, not against any Distributions to be made under this Plan with respect to such Allowed Claim), any claims, rights, and Causes of Action of any nature that the Debtors may hold against the holder of such Allowed Claim, to the extent such claims, rights, or Causes of Action against such holder have not been otherwise released, waived, relinquished, exculpated, compromised, or settled on or prior to the Effective Date (whether pursuant to this Plan or otherwise), and any Distribution to which a holder is entitled under this Plan shall be made on account of the Claim, as reduced after application of the setoff described above. In no event shall any holder of a Claim be entitled to setoff any Claim against any claim, right, or Cause of Action of the Debtors unless such holder obtains entry of a Final Order authorizing such setoff or unless such setoff is otherwise agreed to in writing by the Debtors and a holder of a Claim; *provided, that*, where there is no written agreement between the Debtors and a holder of a Claim authorizing such setoff, nothing herein shall prejudice or be deemed to have prejudiced the Debtors' right(s) to assert that any holder's setoff rights were required to have been asserted by motion to the Bankruptcy Court prior to the Effective Date. This Section 6.9 shall not be applicable to any Distributions to be made to or for the benefit of the beneficial holders of the Original Bonds.

6.10 **Insurance Claims.** No Distributions under this Plan shall be made on account of an Allowed Claim until the holder of such Allowed Claim has exhausted all remedies with respect to the Debtors' Insurance Policies. To the extent that one or more of the Debtors' insurers agrees to satisfy in full a Claim, then immediately upon such agreement, such Claim may be expunged without an objection to such Claim having to be filed and without any further notice to, action by, or order or approval of the Bankruptcy Court.

6.11 **Applicability of Insurance Policies.** Except as otherwise provided in this Plan, Distributions to holders of Allowed Claims shall be made in accordance with the provisions of any applicable Insurance Policy. Except as expressly provided in this Plan, nothing contained in this Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtors or any Person may hold against any other Person, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

6.12 **Allocation of Distributions Between Principal and Unpaid Interest.** With the exception of any Distributions on account of the Original Bonds, which shall be treated as provided in Class 2 herein (other than the Bond Deficiency Claim), to the extent that any Claim entitled to a Distribution under this Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall, for U.S. federal income tax purposes, be allocated on the Debtors' books and records to the principal amount of the Claim first and then, to the extent the consideration exceeds the principal amount of the Claim, to the accrued but unpaid interest.

6.13 ***Interest on Claims.*** Unless otherwise specifically provided for in this Plan, postpetition interest will not accrue or be paid on Claims, and no Claim holder will be entitled to interest accruing on or after the Petition Date on any Claim. Similarly, unless otherwise specifically provided for in this Plan, postpetition interest will not accrue or be paid on any Disputed Claim in respect of the period from the Petition Date to the date a final Distribution is made thereon if and after such Disputed Claim becomes an Allowed Claim.

SECTION 7. PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED, AND DISPUTED CLAIMS

7.1 ***Prosecution of Objections to Claims.*** The Litigation Trustee shall have the exclusive authority to file, settle, compromise, withdraw, or litigate to judgment any objections to Claims as permitted under this Plan and the Litigation Trust Agreement. From and after the Effective Date, the Litigation Trustee may settle or compromise any Disputed Claim without approval of the Bankruptcy Court, but subject to the terms and conditions of the Litigation Trust Agreement. The Litigation Trustee reserves all rights to resolve any Disputed Claim outside the Bankruptcy Court under applicable governing law.

7.2 ***Allowance of Claims.*** Except as expressly provided in this Plan or in any order entered in the Chapter 11 Cases before the Effective Date (including the Confirmation Order), the Litigation Trustee after the Effective Date will have and retain any and all rights and defenses held by the Debtors with respect to any Claim as of the Petition Date. All Claims of any Person against the Debtors shall be disallowed unless and until such Person pays, in full, the amount it owes the Debtors. For the avoidance of doubt, this section is not applicable to the Trustee or the beneficial holders of the Original Bonds.

7.3 ***Distributions After Allowance.*** As soon as practicable following the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Litigation Trustee shall provide to the holder of such Claim the Distribution (if any) to which such holder is entitled under this Plan, without any interest to be paid on account of such Claim.

7.4 ***Estimation of Claims.*** The Plan Sponsors (before the Effective Date) or the Litigation Trustee (on or after the Effective Date) may, at any time, and from time to time, request that the Bankruptcy Court estimate any Disputed Claim pursuant to Bankruptcy Code section 502(c) regardless of whether an objection was previously filed with the Bankruptcy Court with respect to such Claim, or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates any Disputed Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim against any party or Person, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Litigation Trustee may elect to pursue any supplemental proceedings to object to any ultimate Distribution on such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in this Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, objected to, settled, withdrawn, or resolved by any mechanism approved by the

Bankruptcy Court. This Section of this Plan shall not be applicable to the Trustee or the beneficial holders of the Original Bonds.

SECTION 8. SETTLEMENT, RELEASE, INJUNCTION AND RELATED PROVISIONS

8.1 ***Compromise and Settlement of Claims, Interests and Controversies.*** Pursuant to Bankruptcy Code section 1123 and Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided pursuant to this Plan, the provisions of this Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, including with respect to any challenges to the Bond Claims, or any Distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of this Plan, pursuant to Bankruptcy Code section 363 and Bankruptcy Rule 9019(a), without any further notice to, action by, or order or approval of the Bankruptcy Court, after the Effective Date, the Litigation Trustee may compromise and settle Claims against the Debtors and Causes of Action against other Persons.

8.2 ***Releases by the Debtors.*** Pursuant to Bankruptcy Code section 1123(b), as of the Effective Date, and except as otherwise specifically provided in this Plan, the Plan Supplement, or the Confirmation Order, for good and valuable consideration, including the service of the Released Parties to facilitate the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by this Plan, the Released Parties are deemed released and discharged by the Debtors and the Estates from any and all claims, interests, obligations, rights, suits, damages, Causes of Action, setoffs, recoupments, remedies, and liabilities whatsoever, including any derivative claims asserted or assertable on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, that the Debtors, the Estates, or the Released Parties would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest, or other Person, based on or relating to, or in any manner arising from, in whole or in part, any act, omission, transaction, affiliation, event or other circumstance taking place or existing on or before the Effective Date (including before the Petition Date) in connection with or related to the Debtors, or their respective Assets, operations, finances, property and Estates, the Chapter 11 Cases or the negotiation, formulation, or preparation of this Plan, the Disclosure Statement, the Plan Supplement or related agreements, instruments or other documents, the DIP Facility, or the Restructuring Transaction (collectively, the "**Debtor Released Claims**"), other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct including fraud or gross negligence.

8.3 ***Releases by Holders of Claims.*** As of the Effective Date and except as otherwise specifically provided in this Plan, the Plan Supplement, or the Confirmation Order, for good and valuable consideration, each Releasing Party shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged the Debtors, the Estates, and the Released Parties from any and all claims, interests, obligations, rights, suits,

damages, Causes of Action, setoffs, recoupments, remedies, and liabilities whatsoever, including any derivative claims asserted or assertable on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, that such Person would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' operations, the Debtors' restructuring, the Chapter 11 Cases or the negotiation, formulation, or preparation of this Plan, the Disclosure Statement, the Plan Supplement or related agreements, instruments or other documents, or the DIP Facility (collectively, "**Released Claims**"); for the avoidance of doubt, no claims shall be released against the Non-Released Parties.

8.4 *Exculpation.* UPON THE EFFECTIVE DATE, THE PLAN SPONSORS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, INVESTMENT BANKERS, FINANCIAL ADVISORS, AND OTHER PROFESSIONAL ADVISORS AND AGENTS WILL BE DEEMED TO HAVE SOLICITED ACCEPTANCES OF THIS PLAN IN GOOD FAITH AND IN COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE, INCLUDING BANKRUPTCY CODE SECTION 1125(E).

EXCEPT WITH RESPECT TO ANY ACTS OR OMISSIONS EXPRESSLY SET FORTH IN AND PRESERVED BY THIS PLAN, THE PLAN SUPPLEMENT, OR ANY RELATED DOCUMENTS, THE EXCULPATED PARTIES SHALL NEITHER HAVE, NOR INCUR ANY LIABILITY TO ANY ENTITY FOR ANY PREPETITION OR POSTPETITION ACT TAKEN OR OMITTED TO BE TAKEN IN CONNECTION WITH, OR RELATED TO FORMULATING, NEGOTIATING, PREPARING, DISSEMINATING, IMPLEMENTING, ADMINISTERING, CONFIRMING, OR EFFECTING THIS PLAN OR ANY CONTRACT, INSTRUMENT, RELEASE, OR OTHER AGREEMENT OR DOCUMENT CREATED OR ENTERED INTO IN CONNECTION WITH THIS PLAN, THE FILING OF THE CHAPTER 11 CASES, THE PURSUIT OF CONFIRMATION OF THIS PLAN, THE ADMINISTRATION AND IMPLEMENTATION OF THIS PLAN, THE DISTRIBUTION OF PROPERTY UNDER THIS PLAN, OR ANY OTHER RELATED AGREEMENT OR ANY OTHER PREPETITION OR POSTPETITION ACT TAKEN OR OMITTED TO BE TAKEN IN CONNECTION WITH OR IN CONTEMPLATION OF THE RESTRUCTURING OF THE DEBTORS; *PROVIDED, THAT* THE FOREGOING "EXCULPATION" SHALL HAVE NO EFFECT ON THE LIABILITY OF ANY ENTITY THAT RESULTS FROM ANY SUCH ACT OR OMISSION THAT IS DETERMINED IN A FINAL ORDER TO HAVE CONSTITUTED GROSS NEGLIGENCE OR WILLFUL MISCONDUCT (INCLUDING FRAUD); *PROVIDED FURTHER, THAT* EACH EXCULPATED PARTY SHALL BE ENTITLED TO RELY UPON THE ADVICE OF COUNSEL CONCERNING HIS, HER, OR ITS DUTIES PURSUANT TO, OR IN CONNECTION WITH, THIS PLAN OR ANY OTHER RELATED DOCUMENT, INSTRUMENT, OR AGREEMENT.

8.5 *Discharge of Claims.* PURSUANT TO BANKRUPTCY CODE SECTION 1141(D), AND EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THE BAR DATE ORDER, IN THIS PLAN, OR IN ANY CONTRACT, INSTRUMENT, OR OTHER AGREEMENT OR DOCUMENT CREATED PURSUANT TO THIS PLAN, THE

DISTRIBUTIONS, RIGHTS, AND TREATMENT THAT ARE PROVIDED IN THIS PLAN SHALL BE IN FULL AND FINAL SATISFACTION, SETTLEMENT, RELEASE, AND DISCHARGE, EFFECTIVE AS OF THE EFFECTIVE DATE, OF ALL CLAIMS AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER, INCLUDING ANY INTEREST ACCRUED ON CLAIMS FROM AND AFTER THE PETITION DATE, WHETHER KNOWN OR UNKNOWN, AGAINST, LIABILITIES OF, LIENS ON, OBLIGATIONS OF, AND RIGHTS AGAINST THE DEBTORS OR ANY OF THEIR ASSETS OR PROPERTIES, REGARDLESS OF WHETHER ANY PROPERTY SHALL HAVE BEEN DISTRIBUTED OR RETAINED PURSUANT TO THIS PLAN ON ACCOUNT OF SUCH CLAIMS, INCLUDING DEMANDS, LIABILITIES, AND CAUSES OF ACTION THAT AROSE BEFORE THE EFFECTIVE DATE, ANY CONTINGENT OR NON-CONTINGENT LIABILITY ON ACCOUNT OF REPRESENTATIONS OR WARRANTIES ISSUED ON OR BEFORE THE EFFECTIVE DATE, AND ALL DEBTS OF THE KIND SPECIFIED IN BANKRUPTCY CODE SECTIONS 502(G), 502(H), OR 502(I), IN EACH CASE WHETHER OR NOT: (I) A PROOF OF CLAIM BASED UPON SUCH CLAIM, DEBT, OR RIGHT IS FILED OR DEEMED FILED PURSUANT TO BANKRUPTCY CODE SECTION 501; (II) A CLAIM BASED UPON SUCH CLAIM, DEBT, OR RIGHT IS ALLOWED PURSUANT TO BANKRUPTCY CODE SECTION 502; OR (III) THE HOLDER OF SUCH A CLAIM HAS ACCEPTED THIS PLAN. EXCEPT AS OTHERWISE PROVIDED HEREIN, ANY DEFAULT BY THE DEBTORS WITH RESPECT TO ANY CLAIM THAT EXISTED BEFORE OR ON ACCOUNT OF THE FILING OF THE CHAPTER 11 CASES SHALL BE DEEMED CURED ON THE EFFECTIVE DATE. THE CONFIRMATION ORDER SHALL BE A JUDICIAL DETERMINATION OF THE DISCHARGE OF ALL CLAIMS SUBJECT TO THE EFFECTIVE DATE OCCURRING, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS PLAN.

8.6 *Injunction.* FROM AND AFTER THE EFFECTIVE DATE, ALL ENTITIES ARE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER, ANY SUIT, ACTION, OR OTHER PROCEEDING, ON ACCOUNT OF OR RESPECTING ANY CLAIM, DEMAND, LIABILITY, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, INTEREST, OR REMEDY RELEASED OR TO BE RELEASED AGAINST ANY RELEASED PARTY PURSUANT TO THIS PLAN OR THE CONFIRMATION ORDER.

FROM AND AFTER THE EFFECTIVE DATE, TO THE EXTENT OF THE RELEASES AND EXCULPATION GRANTED IN THIS PLAN, ALL RELEASING PARTIES SHALL BE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER AGAINST THE RELEASED PARTIES AND THE EXCULPATED PARTIES AND THEIR ASSETS AND PROPERTIES, AS THE CASE MAY BE, ANY SUIT, ACTION, OR OTHER PROCEEDING ON ACCOUNT OF, IN CONNECTION WITH, OR WITH RESPECT TO ANY CLAIM, DEMAND, LIABILITY, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, INTEREST, OR REMEDY RELEASED OR TO BE RELEASED PURSUANT TO THIS PLAN.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS PLAN, THE PLAN SUPPLEMENT, OR RELATED DOCUMENTS, OR FOR OBLIGATIONS ISSUED

PURSUANT TO THIS PLAN, ALL PERSONS WHO HAVE HELD, HOLD, OR MAY HOLD CLAIMS OR INTERESTS THAT HAVE BEEN RELEASED, DISCHARGED, OR ARE SUBJECT TO EXCULPATION, ARE PERMANENTLY ENJOINED, FROM AND AFTER THE EFFECTIVE DATE, FROM TAKING ANY OF THE FOLLOWING ACTIONS: (I) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND ON ACCOUNT OF, IN CONNECTION WITH, OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; (II) ENFORCING, ATTACHING, COLLECTING, OR RECOVERING BY ANY MANNER OR MEANS ANY JUDGMENT, AWARD, DECREE, RELIEF OR ORDER AGAINST SUCH PERSONS ON ACCOUNT OF, IN CONNECTION WITH, OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; (III) CREATING, PERFECTING, OR ENFORCING ANY ENCUMBRANCE OF ANY KIND AGAINST SUCH PERSONS OR THE PROPERTY OR ESTATE OF SUCH PERSONS ON ACCOUNT OF, IN CONNECTION WITH, OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; AND (IV) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND ON ACCOUNT OF, IN CONNECTION WITH, OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS RELEASED, SETTLED, OR DISCHARGED PURSUANT TO THIS PLAN.

THE RIGHTS AFFORDED IN THIS PLAN AND THE TREATMENT OF ALL CLAIMS AND INTERESTS HEREIN SHALL BE IN EXCHANGE FOR AND IN COMPLETE SATISFACTION OF ALL CLAIMS AND INTERESTS OF ANY NATURE WHATSOEVER, INCLUDING ANY INTEREST ACCRUED ON CLAIMS FROM AND AFTER THE PETITION DATE, AGAINST THE DEBTORS OR ANY OF THE DEBTORS' ASSETS, PROPERTY, OR ESTATES. ON THE EFFECTIVE DATE, ALL SUCH CLAIMS AGAINST THE DEBTORS SHALL BE FULLY RELEASED AND DISCHARGED, AND THE INTERESTS SHALL BE CANCELLED (EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS PLAN).

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED FOR IN THIS PLAN OR IN OBLIGATIONS ISSUED PURSUANT TO THIS PLAN FROM AND AFTER THE EFFECTIVE DATE, ALL CLAIMS AGAINST THE DEBTORS SHALL BE FULLY RELEASED AND DISCHARGED, AND ALL INTERESTS SHALL BE CANCELLED, AND THE DEBTORS' LIABILITY WITH RESPECT THERETO SHALL BE EXTINGUISHED COMPLETELY, INCLUDING ANY LIABILITY OF THE KIND SPECIFIED UNDER BANKRUPTCY CODE SECTION 502(g).

ALL PERSONS SHALL BE PRECLUDED FROM ASSERTING AGAINST THE DEBTORS, THE DEBTORS' ESTATES, THE LITIGATION TRUST, EACH OF THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, AND EACH OF THEIR ASSETS AND PROPERTIES, ANY OTHER CLAIMS OR INTERESTS BASED UPON ANY DOCUMENTS, INSTRUMENTS, OR ANY ACT OR OMISSION, TRANSACTION, OR OTHER ACTIVITY OF ANY KIND OR NATURE THAT OCCURRED BEFORE THE EFFECTIVE DATE.

8.7 *Term of Injunctions or Stays.* Unless otherwise provided in this Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to

Bankruptcy Code sections 105 or 362 or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in this Plan or the Confirmation Order) shall remain in full force and effect until the Effective Date. Upon the Effective Date, all injunctions or stays contained in this Plan or the Confirmation Order shall be in full force and effect in accordance with their terms.

8.8 ***Protection Against Discriminatory Treatment.*** Consistent with Bankruptcy Code section 525 and the Supremacy Clause of the U.S. Constitution, all Persons, including Governmental Units, shall not discriminate against the Litigation Trustee or the Purchaser or deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, or discriminate with respect to such a grant against, the Litigation Trustee, the Purchaser or another Person with whom the Litigation Trustee or Purchaser have been associated, solely because the Debtors have been debtors under Chapter 11, have been insolvent before the commencement of the Chapter 11 Cases (or during the Chapter 11 Cases but before the Debtors are granted or denied a discharge), or has not paid a debt that is dischargeable in the Chapter 11 Cases.

8.9 ***Release of Liens.*** Except as otherwise provided in this Plan or any contract, instrument, release, or other agreement or document created pursuant to this Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to this Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released and discharged, and all of the right, title, and interest of any holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to the Litigation Trustee. For the avoidance of doubt, except as otherwise provided in this Plan, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released and discharged on the Effective Date without any further action of any party, including, but not limited to, further order of the Bankruptcy Court or filing updated schedules or statements typically filed pursuant to the Uniform Commercial Code.

SECTION 9. CONDITIONS PRECEDENT TO CONFIRMATION AND THE EFFECTIVE DATE

9.1 ***Conditions Precedent to Confirmation.*** It shall be a condition precedent to the confirmation of this Plan, such that the Confirmation Order shall not be entered, until each of the following conditions precedent have been satisfied or waived pursuant to the provisions of this Plan:

- (a) The proposed Confirmation Order shall be in form and substance reasonably satisfactory in all respects to the Plan Sponsors and the Purchaser; and
- (b) This Plan and the Plan Supplement, including any schedules, documents, supplements and exhibits thereto shall be, in form and substance acceptable in all respects to the Plan Sponsors.

9.2 ***Conditions Precedent to the Effective Date.*** It shall be a condition precedent to the Effective Date that each of the following provisions, terms, and conditions shall have been satisfied or waived pursuant to the provisions of this Plan:

- (a) The Bankruptcy Court shall have entered the Confirmation Order containing findings of fact and conclusions of law satisfactory to the Plan Sponsors and Purchaser, which Confirmation Order shall not be subject to any stay, and which Confirmation Order shall include or provide, among other things:
 - (i) all provisions, terms and conditions of this Plan and related documents are approved; and
 - (ii) all Executory Contracts or Unexpired Leases assumed and assigned by the Debtors during the Chapter 11 Cases including under this Plan shall remain in full force and effect for the benefit of the Purchaser or their assignee(s) notwithstanding any provision in such contract or lease (including those described in Bankruptcy Code sections 365(b)(2) and (f)) that prohibits such assignment or transfer or that enables, permits, or requires termination of such contract or lease;
- (b) The Bankruptcy Court shall have entered a Final Order approving the Disclosure Statement as containing adequate information within the meaning of Bankruptcy Code section 1125;
- (c) On the occurrence of the Effective Date, the conditions to effectiveness of the Sale Transaction shall have been satisfied or waived and the Closing Date has occurred;
- (d) All actions, documents, certificates, and agreements necessary to implement this Plan, including, without limitation, the Asset Purchase Agreement and documents related to the Sale Transaction, shall have been effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws;
- (e) All payments and transfers to be made on the Effective Date shall be made or duly provided for;
- (f) All authorizations, consents, and regulatory approvals required, if any, in connection with the consummation of this Plan shall have been obtained; and
- (g) All other actions, documents and agreements necessary to implement this Plan shall be in form and substance acceptable to the Plan Sponsors, and shall have been effected or executed.

9.3 ***Effect of Failure of Conditions.*** If the Effective Date does not occur, this Plan shall be null and void in all respects and nothing contained in this Plan or the Disclosure Statement shall: (i) constitute a waiver or release of any claims by the Plan Sponsors or Claims by or against the Debtors; (ii) prejudice in any manner the rights of the Plan Sponsors, the Debtors, any holders of Claims, or any other Person; or (iii) constitute an admission, acknowledgment, offer, or undertaking by the Plan Sponsors or any other Person in any respect.

SECTION 10. MODIFICATION, REVOCATION OR WITHDRAWAL OF THIS PLAN

10.1 ***Modification and Amendments.*** Except as otherwise specifically provided herein, the Plan Sponsors reserve the right to modify this Plan and seek confirmation consistent with the Bankruptcy Code and, as appropriate, not re-solicit votes on such modified Plan. Subject to certain restrictions and requirements set forth in Bankruptcy Code section 1127 of the and Bankruptcy Rule 3019 and those restrictions on modifications set forth in this Plan, the Plan Sponsors expressly reserve their rights to alter, amend, or modify materially this Plan one or more times, after confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify this Plan or remedy any defect or omission, or reconcile any inconsistencies in this Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of this Plan. For the avoidance of doubt, nothing in this Section 10.1 shall be deemed to supplant or supersede the requirements of Bankruptcy Rule 3019.

10.2 ***Effect of Confirmation on Modifications.*** Entry of the Confirmation Order shall mean that all modifications or amendments to this Plan occurring after the solicitation thereof are approved pursuant to Bankruptcy Code section 1127(a) and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

10.3 ***Revocation or Withdrawal of this Plan.*** The Plan Sponsors reserve the right to revoke or withdraw this Plan before the Effective Date. If the Plan Sponsors revoke or withdraw this Plan, or if confirmation does not occur, then: (i) this Plan shall be null and void in all respects, (ii) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of any Executory Contract or Unexpired Lease effected by this Plan, and any document or agreement executed pursuant to this Plan, shall be deemed null and void, and (iii) nothing contained in this Plan shall: (i) constitute a waiver or release of any Claims or Interests; (ii) prejudice in any manner the rights of the Plan Sponsors or any other Person; or (iii) constitute an admission, acknowledgment, offer or undertaking of any sort by the Plan Sponsors or any other Person.

SECTION 11. RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over the Chapter 11 Cases and all matters arising out of or related to the Chapter 11 Cases and this Plan, including, without limitation, jurisdiction to:

- (a) allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims;
- (b) decide and resolve all matters related to the granting and denying, in whole or in part, of any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or this Plan;
- (c) resolve any matters related to: (i) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease to which any Debtor is party or with respect to which the Debtors may be liable in any manner and to hear, determine, and, if necessary, liquidate any Claims arising therefrom, including rejection Claims, cure Claims pursuant to Bankruptcy Code section 365, or any other matter related to such Executory Contract or Unexpired Lease, (ii) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed, (iii) the Litigation Trust or Purchaser amending, modifying, or supplementing, after the Effective Date, any Executory Contracts or Unexpired Leases on the list of Executory Contracts and Unexpired Leases to be assumed or rejected, and (iv) any dispute regarding whether a contract or lease is or was executory or unexpired;
- (d) ensure that Distributions to holders of Allowed Claims are accomplished pursuant to the provisions of this Plan;
- (e) adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving the Debtors that may be pending on the Effective Date;
- (f) adjudicate, decide, or resolve any and all matters related to any Cause of Action;
- (g) adjudicate, decide, or resolve any and all matters related to the Asset Purchase Agreement;
- (h) adjudicate, decide, or resolve any and all matters related to Bankruptcy Code section 1141;
- (i) resolve any avoidance or recovery actions under Bankruptcy Code sections 105, 502(d), 542 through 551, and 553;
- (j) resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the consummation of this Plan or any Person's obligations incurred in connection with this Plan;
- (k) issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Person with consummation or enforcement of this Plan;

- (l) resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the discharge, releases, injunctions, exculpations, indemnifications, and other provisions contained in this Plan and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;
- (m) enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;
- (n) adjudicate any and all disputes arising from or relating to Distributions under this Plan;
- (o) consider any modifications of this Plan, cure any defect or omission, or reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;
- (p) determine requests for the payment of Claims entitled to priority pursuant to Bankruptcy Code section 507;
- (q) hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of this Plan or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with this Plan;
- (r) hear and determine matters concerning state, local, and federal taxes in accordance with Bankruptcy Code sections 346, 505, and 1146;
- (s) hear and determine all disputes involving the existence, nature, or scope of the Debtors' discharge, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred before or after the Effective Date;
- (t) enforce all orders previously entered by the Bankruptcy Court;
- (u) hear any other matter not inconsistent with the Bankruptcy Code; and
- (v) enter an order concluding or closing the Chapter 11 Cases.

SECTION 12. MISCELLANEOUS PROVISIONS

12.1 ***Immediate Binding Effect.*** Notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or any other Bankruptcy Rule, upon the occurrence of the Effective Date, the terms of this Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors and any and all holders of Claims or Interests (irrespective of whether such holders of Claims or Interests are deemed to have accepted this Plan), all Persons that are parties to or are subject to the settlements, compromises, releases, exculpation, discharges, and injunctions described in this Plan, each Person acquiring property under this Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.

12.2 **Additional Documents.** On or before the Effective Date, the Plan Sponsors may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan, subject to the consent of the Trustee. The Debtors and all holders of Claims receiving Distributions pursuant to this Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan.

12.3 **Dissolution of the Committee.** On the Effective Date, the Committee shall dissolve, and members thereof shall be released and discharged from all rights and duties from or related to the Chapter 11 Cases.

12.4 **Reservation of Rights.** Except as expressly set forth in this Plan, this Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of this Plan, any statement or provision contained in this Plan, or any action taken or not taken by the Plan Sponsors or other Person with respect to this Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of the Plan Sponsors or other Person with respect to the holders of Claims or Interests before the Effective Date.

12.5 **Successors and Assigns.** The rights, benefits, and obligations of any Person named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign, affiliate, officer, director, manager, agent, representative, attorney, beneficiary, or guardian, if any, of such Person.

12.6 **Votes Solicited in Good Faith.** Upon entry of the Confirmation Order, the Plan Sponsors will be deemed to have solicited votes on this Plan in good faith and in compliance with the Bankruptcy Code and any applicable non-bankruptcy law, and pursuant to Bankruptcy Code section 1125(e), the Plan Sponsors and their respective affiliates, agents, representatives, members, principals, shareholders, officers, directors, employees, advisors, and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of securities offered and sold under this Plan, and, therefore, will have no liability for the violation of any applicable law, rule, or regulation governing the solicitation of votes on this Plan.

12.7 **Closing of Chapter 11 Cases.** The Litigation Trustee shall, promptly after the full administration of the Chapter 11 Cases, file with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Cases.

12.8 **Notices.** All notices or requests in connection with this Plan shall be in writing and given by mail and email addressed to:

**MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY, AND POPEO, PC**

Daniel S. Bleck
Eric Blythe
Kaitlin R. Walsh
One Financial Center
Boston, MA 02111
Telephone: (617) 546-6000
dsbleck@mintz.com
erblythe@mintz.com
krwalsh@mintz.com

-and-

HAYNES AND BOONE, LLP

J. Frasher Murphy
Thomas J. Zavala
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: (214) 651-5000
frasher.murphy@haynesboone.com
tom.zavala@haynesboone.com

All notices and requests to Persons holding any Claim in any Class shall be sent to them at their last known address or to the last known address of their attorney of record in these Chapter 11 Cases. Any such holder of a Claim may designate in writing any other address for purposes of this Section 12.8, which designation will be effective upon receipt by the Debtors.

12.9 **Headings.** The headings used in this Plan are inserted for convenience only and neither constitute a portion of this Plan nor in any manner affect the construction of the provisions of this Plan.

12.10 **Severability.** If, prior to confirmation, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, Impaired, or invalidated by such holding, alteration, or interpretation.

12.11 **Validity and Enforceability.** The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms. Should any provision in this Plan be determined by the Bankruptcy Court or any

appellate court to be unenforceable following the Effective Date, such determination shall in no way limit the enforceability and operative effect of any and all other provisions of this Plan.

12.12 ***Plan Supplement.*** Any exhibits or schedules not filed with this Plan may be contained in the Plan Supplement and the Plan Sponsors reserve the right to alter, modify, or amend the Plan Supplement through and to the Confirmation Hearing.

12.13 ***Governing Law.*** Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of Texas, without giving effect to the principles of conflicts of laws, shall govern the rights, obligations, construction, and implementation of this Plan and the restructuring transactions consummated or to be consummated in connection therewith.

12.14 ***Request for Confirmation.*** The Plan Sponsors request entry of a Confirmation Order under Bankruptcy Code section 1129(a) and, to the extent necessary, Bankruptcy Code section 1129(b).

[Remainder of page intentionally left blank.]

Dated: November 2, 2022

HAYNES AND BOONE, LLP

/s/ J. Frasher Murphy

J. Frasher Murphy
State Bar No. 24013214
Thomas J. Zavala
State Bar No. 24116265
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: (214) 651-5000
frasher.murphy@haynesboone.com
tom.zavala@haynesboone.com

– and –

**MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY, AND POPEO, PC**

Daniel S. Bleck (Admitted *Pro Hac Vice*)
Eric Blythe (Admitted *Pro Hac Vice*)
Kaitlin R. Walsh (Admitted *Pro Hac Vice*)
One Financial Center
Boston, MA 02111
Telephone: (617) 546-6000
dsbleck@mintz.com
erblythe@mintz.com
krwalsh@mintz.com

Counsel to the Plan Sponsors

Exhibit 1

Asset Purchase Agreement

ASSET PURCHASE AGREEMENT

DATED AS OF NOVEMBER [•], 2022

BY AND BETWEEN

**NORTHWEST SENIOR HOUSING CORPORATION,
A TEXAS NOT-FOR-PROFIT CORPORATION, as Seller**

AND

BAY 9 HOLDINGS LLC or its designee, as Purchaser

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the “**Agreement**”) is made and entered into as of November [•], 2022 (the “**Execution Date**”), by and between Northwest Senior Housing Corporation, a Texas not-for-profit corporation (“**Seller**” or the “**Debtor**”), and Bay 9 Holdings LLC, a Delaware limited liability company, or its designee (“**Purchaser**”). The Seller and the Purchaser are sometimes individually referred to as a “**Party**” and collectively as the “**Parties.**”

RECITALS

WHEREAS, Seller has filed a voluntary petition for relief under the Bankruptcy Code as Case Number 22-30659 (the “**Chapter 11 Case**”) with the United States Bankruptcy Court for the Northern District of Texas (the “**Bankruptcy Court**”);

WHEREAS, Seller is a not-for-profit corporation that owns and operates a best-in-class continuing care retirement community (the “**Edgemere Community**”) on land owned by Intercity Investments Properties, Inc. (the “**Landlord**”) located at 8523 Thackery St, Dallas, Texas 75225 and leased to Seller pursuant to that certain Ground Lease dated November 5, 1999 (the “**Ground Lease**”). The Edgemere Community offers residents a continuum of care in a campus-style setting, providing living accommodations and related health care and support services to persons aged 62 or older.

WHEREAS, UMB Bank, N.A., in its capacity as successor Bond Trustee under the 2015 Bond Indenture and the 2017 Bond Indenture, and successor Master Trustee under the Original Master Indenture (the “**Trustee**”) and in its capacity as DIP Lender (as defined below) (UMB Bank, N.A. in each such capacity, collectively, the “**Plan Sponsors**”), have filed a proposed a Plan of Reorganization under Chapter 11 of the Bankruptcy Code (including all related supplements and documents, the “**Plan**”) that contemplates the sale of the Edgemere Community and related assets to Purchaser, or another purchaser that submits a higher and better offer for the assets in accordance with the Sale Transaction Procedures (as defined below);

WHEREAS, Purchaser desires to acquire the Edgemere Community, including Edgemere’s leasehold interest in the Premises (as defined below) created by the Ground Lease, and the assets owned by Seller and used or useful to Seller’s operation of the Edgemere Community (the “**Business**”, and, together with Seller’s interests in the Ground Lease, the “**Assets**”) on the terms and conditions contained in this Agreement, subject to higher and better bids, as well as confirmation of the Plan;

NOW, THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1

DEFINITIONS

1.1 Defined Terms. As used herein, the following terms have the meanings set forth below:

“2015 Bond Indenture” means that certain Indenture of Trust, dated May 1, 2015, by and between the Issuer and the Bank of New York Mellon Trust Company, National Association, as initial bond trustee, pursuant to which the Series 2015 Bonds were issued.

“2017 Bond Indenture” means that certain Indenture of Trust, dated March 1, 2017, between the Issuer and Bank of New York Mellon Trust Company, National Association, as initial bond trustee, pursuant to which the Series 2017 Bonds were issued.

“Accounts Receivable” means all accounts, accounts receivable, contractual rights to payment, notes, notes receivable, negotiable instruments, chattel paper, and vendor and supplier rebates of Seller in connection with, or relating to, the Business other than intercompany obligations by and among Seller, Lifespace and any Affiliates thereof.

“Accrued PTO” means accrued but unused paid time off (including any sick time) for each employee as of the Closing Date.

“Action” means any action, claim, proceeding, litigation, arbitration, mediation, suit, investigation or regulatory inquiry (whether civil, criminal, administrative or judicial), or any appeal therefrom or any material demand letter threatening the initiation of any of the foregoing, including, but not limited to, the Landlord Litigation and any all causes of action arising from Chapter 5 of the Bankruptcy Code.

“Affiliate” shall mean, as to the entity in question, any person or entity that directly or indirectly controls, is controlled by or is under common control with, the entity in question and the term **“control”** means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity whether through ownership of voting securities, by contract or otherwise. For the avoidance of doubt, Lifespace shall not be deemed an affiliate of the Seller at the time of Closing.

“Agreement” has the meaning set forth in the recitals.

“Alternative Transaction” has the meaning set forth in Section 7.1(f).

“Approvals” means all consents and approvals from any Governmental Authority, including without limitation any Governmental Authority with regulatory oversight of healthcare organizations, which are necessary for the transfer of the Purchased Assets or the operation of the Business.

“Assets” has the meaning set forth in the recitals.

“Assumed Contracts” means all of the rights and interests of Seller in and to the executory contracts and unexpired leases that Purchaser designates for assumption and assignment, as listed on Schedule 5.5(b) (as may be supplemented or modified prior to Closing), but explicitly excluding all of the Residency Agreements and the Residency Escrow Agreement.

“Assumed Liabilities” has the meaning set forth in Section 2.3.

“**Assignment and Assumption Agreement**” has the meaning set forth in Section 2.8(a)(ii) and substantially in the form set forth in **Exhibit B** hereto.

“**Bankruptcy Code**” means Title 11 of the United States Code entitled “Bankruptcy”, as now in effect.

“**Bankruptcy Court**” has the meaning set forth in the recitals.

“**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure as now in effect.

“**Bidding Procedures Motion**” means that certain motion filed by the Plan Sponsors on November 2, 2022 seeking Bankruptcy Court approval of the bidding procedures attached thereto and this Agreement, and granting related relief.

“**Bidding Procedures Order**” means that certain order of the Bankruptcy Court dated [•], 2022 granting the relief sought in the Bidding Procedures Motion.

“**Bills of Sale**” has the meaning set forth in Section 2.8(a)(i) and substantially in the form set forth in **Exhibit A** hereto.

“**Bond Trustee**” means UMB Bank, N.A., in its capacity as successor Bond Trustee under (i) that certain Indenture of Trust, dated as of May 1, 2015 and (ii) that certain Indenture of Trust, dated March 1, 2017, each issued by the Tarrant County Cultural Education Facilities Finance Corporation for the benefit of the Seller.

“**Books and Records**” means the books and records of Seller relating to the Purchased Assets, to the greatest extent assignable; provided, however, that “Books and Records” shall not include the originals of Seller’s minute books, stock books and Tax returns.

“**Break-Up Fee**” has the meaning set forth in Section 7.1(f).

“**Business**” has the meaning set forth in the recitals.

“**Business Day**” means any day other than any Saturday, Sunday or legal holiday in Dallas, Texas.

“**Chapter 11 Case**” has the meaning set forth in the recitals.

“**Closing**” has the meaning set forth in Section 2.7.

“**Closing Date**” has the meaning set forth in Section 2.7.

“**Closing Escrow**” has the meaning set forth in Section 2.5(h).

“**Closing Escrow Agent**” has the meaning set forth in Section 2.5(h).

“**Closing Escrow Amount**” has the meaning set forth in Section 2.5(h).

“**Closing Escrow Objection**” has the meaning set forth in Section 2.5(h).

“**Closing Escrow Release Date**” has the meaning set forth in Section 2.5(h).

“**Closing Escrow Release Notice**” has the meaning set forth in Section 2.5(h).

“**Closing Statement**” has the meaning set forth in Section 2.8.

“**Confirmation Order**” means the order of the Bankruptcy Court in form and substance acceptable to the Plan Sponsors and Purchaser, confirming the Plan and approving the Sale pursuant to section 1129 of the Bankruptcy Code.

“**Contract Party**” has the meaning set forth in Section 5.5.

“**Cure Amounts**” means the amount necessary pursuant to 11 U.S.C. § 365 to cure defaults under Assumed Contracts.

“**Debtor**” has the meaning set forth in the recitals.

“**Deposit**” has the meaning set forth in Section 2.5(b) and shall include any interest earned thereon.

“**DIP Credit Agreement**” means that certain Priming Superpriority Debtor-in-Possession Credit Agreement between the Debtors and the DIP Lender as approved by the Bankruptcy Court.

“**DIP Lender**” means UMB Bank, N.A., in its capacity as lender under the DIP Credit Agreement.

“**Edgemere Community**” has the meaning set forth in the recitals.

“**Effective Time**” has the meaning set forth in Section 2.7.

“**Encumbrance**” means any charge, claim (as defined at Bankruptcy Code section 101(5)), community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, transfer, receipt of income or exercise of any other attribute of ownership.

“**Equipment**” means the furniture, tangible property and equipment owned by Seller and used or useful to the Business, including the property identified on Schedule 1(w).

“**Escrow Agent**” means UMB Bank, N.A.

“**Escrow Deposit Agreement**” means that certain agreement between Purchaser, Seller and Escrow Agent substantially in the form set forth in **Exhibit G** hereto.

“**Excluded Assets**” has the meaning set forth in Section 2.2.

“**Excluded Contracts**” has the meaning set forth in Section 5.5(b).

“**Execution Date**” has the meaning set forth in the recitals.

“**Existing Improvements**” shall have the meaning set forth in the Ground Lease.

“**Expense Reimbursement**” has the meaning set forth in Section 7.1(f).

“**Final Order**” means an order or judgment of the Bankruptcy Court entered by the Clerk of the Bankruptcy Court on the docket in the Chapter 11 Case that has not been reversed, vacated, or stayed and as to which (i) the time to appeal, petition for certiorari, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for a new trial, reargument, or rehearing shall then be pending and stayed, or (ii) if an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought and a stay of the order or judgment has been granted, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, to petition for certiorari, or to move for a new trial, reargument, or rehearing shall have expired; provided, however, that the possibility that a motion under Rules 59 or 60 of the Federal Rules of Civil Procedure, or Bankruptcy Rules 9023 or 9024, may be filed relating to such order shall not cause such order to not be a Final Order.

“**Governmental Authority**” means the Bankruptcy Court, any tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, any foreign country or any domestic or foreign state, county, city or other political subdivision.

“**Ground Lease**” has the meaning set forth in the recitals.

“**Ground Lease Assignment and Assumption Agreement**” has the meaning set forth in Section 2.8(a)(iii) and substantially in the form set forth in **Exhibit C** hereto.

“**Intangible Personal Property**” means all intangible property rights related to the Businesses or the Premises, including any warranties and guaranties, zoning approvals, building permits, and systems used or useful to the Business. .

“**Intellectual Property**” means all intellectual property and industrial property rights and assets, and any other similar or equivalent type of proprietary right or intellectual property right anywhere in the world, and all rights to sue, obtain damages or other remedies, including for past, present, and future infringement or misappropriation, and other administrative rights arising from or relating to any of the foregoing, and any interests and protections that are associated with, similar to, or required for the exercise of, any of the foregoing, however arising, pursuant to the Laws of any jurisdiction throughout the world, whether registered or unregistered, including any and all: (a) trademarks, service marks, trade names, brand names, fictitious names, logos, trade dress, design rights and other similar designations of source, sponsorship, association or origin, together with the goodwill connected with the use of and symbolized by, and all

registrations, applications and renewals for, any of the foregoing; (b) internet domain names, whether or not trademarks, registered in any top-level domain by any authorized private registrar or governmental authority, web addresses, web pages, websites and related content, accounts with Twitter, Facebook and other social media companies and the content found thereon and related thereto, and URLs; (c) works of authorship, expressions, designs and design registrations, whether or not copyrightable, including copyrights, author, performer, moral and neighboring rights, and all registrations, applications for registration and renewals of such copyrights; (d) inventions, discoveries, trade secrets, business and technical information and know-how, databases, data collections and other confidential and proprietary information and all rights therein; (e) patents (including all reissues, divisional, provisionals, continuations and continuations-in-part, re-examinations, renewals, substitutions and extensions thereof), patent applications, and other patent rights and any other governmental-authority-issued indicia of invention ownership (including inventor's certificates, petty patents and patent utility models); (f) software and firmware, including data files, source code, object code, application programming interfaces, architecture, files, records, schematics, computerized databases and other related specifications and documentation; (g) semiconductor chips and mask works; (h) royalties, fees, income, payments and other proceeds now or hereafter due or payable with respect to any and all of the foregoing; and (i) all rights to any Actions of any nature available to or being pursued by Seller to the extent related to the foregoing, whether accruing before, on, or after the Execution Date, including all rights to and claims for damages, restitution and injunctive relief for infringement, dilution, misappropriation, violation, misuse, breach or default, with the right but no obligation to sue for such legal and equitable relief, and to collect, or otherwise recover, any such damages.

“Intellectual Property Assets” means all Intellectual Property that is owned or licensed by Seller, to the greatest extent assignable, and used or useful to the Business. Intellectual Property Assets shall exclude computer software used by Seller in operation of the Assets which Seller has no right to sell, including computer software which can be purchased through retail outlets, and Matrix software used by Seller for minimum data set tabulation.

“Intellectual Property Assignment and Assumption Agreement” has the meaning set forth in Section 2.8(a)(iv) and substantially in the form set forth in **Exhibit D** hereto.

“Intellectual Property Registrations” means all Intellectual Property Assets that are subject to any issuance, registration, application, or other filing by, to or with any governmental authority or authorized private registrar in any jurisdiction, including registered trademarks, domain names and copyrights, issued and reissued patents and pending applications for any of the foregoing.

“Inventory” means all Seller's inventory used or useful to the Business.

“Issuer” means Tarrant County Cultural Education Facilities Finance Corporation.

“IT Assets” means IT Inventories, technical documentation, software contracts and computer equipment, in each case related to the Business.

“IT Inventories” means (i) computer software code (in all media) and materials, including all software programs; (ii) computer software documentation, including user materials;

and (iii) all other unused or reusable materials, stores, and supplies related to computer software, in each case to the extent used in, relating to, or arising out of the Business

“**Land**” shall have the meaning set forth in the Ground Lease.

“**Landlord**” has the meaning set forth in the recitals.

“**Landlord Litigation**” means that certain adversary proceeding commenced in the Bankruptcy Court on April 14, 2022 (Adv. No. 22-03040-mvl) and captioned *Northwest Senior Housing Corporation v. Intercity Investment Properties, Inc., et al.*

“**Liabilities**” means liabilities, obligations, or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute, or contingent, accrued or unaccrued, matured or unmatured or otherwise.

“**Lien**” shall have the meaning set forth in section 101(37) of the Bankruptcy Code, including any security interest, pledge, mortgage, lien, charge, adverse claim of ownership or use, restriction on transfer (such as a right of first refusal or other similar right), defect of title, encroachments, or other encumbrance of any kind or character.

“**Lifespace**” shall mean Lifespace Communities, Inc.

“**MAC**” shall mean either (i) if there has been a reduction of seventeen and a half percent (17.5%) or more, for any reason, when comparing the occupancy for independent living, memory care, and assisted living Residents, collectively, in the Edgemere Community during the month in which the Execution Date occurs to the monthly occupancy for such Residents over any one month period from the Execution Date to the Closing Date or (ii) the loss, revocation, or termination of any Permits necessary or material to operate the Business in the manner operated on the Execution Date, or the cessation of any material part of the Business.

“**Medicare**” means Title XVIII of the Social Security Act.

“**Modified Residency Agreement**” has the meaning set forth in Section 5.5(d).

“**Necessary Consent**” has the meaning set forth in Section 5.5(c).

“**Original Master Indenture**” means that certain Amended and Restated Master Trust Indenture, Deed of Trust and Security Agreement, dated November 15, 1999 and effective as of April 1, 2006, by and between the Obligated Group and JP Morgan Chase Bank, National Association, as initial master trustee and UMB Bank, N.A., as successor Master Trustee, as supplemented by that certain Supplemental Indenture Number 6, dated March 1, 2017, which shall be further amended on and after the Effective Date.

“**Outside Closing Date**” has the meaning set forth in Section 2.7.

“**Permits**” means to the greatest extent transferrable, all licenses, permits (including occupancy permits), certificates, registrations, approvals, franchises, consents and other

authorizations of Seller obtained from or filed with a Governmental Authority and used or useful to the Business, including Seller's Medicare provider agreements.

"Permitted Liens" means (i) statutory Liens for Taxes, assessments or other governmental charges not yet due and payable, (ii) workers', repairers', landlords' and similar Liens which arose or were incurred in the ordinary course of business and which secure obligations which are not yet due and payable and which do not exceed \$10,000 in the aggregate, (iii) Liens which are expressly assumed or consented to by Purchaser herein (including, without limitation, liens included in the Assumed Liabilities), (iv) Liens which are created by Purchaser, (v) easements, restrictions, covenants, and all other matters of record and legal highways with respect to the Premises, and (vi) matters which would be shown on an accurate survey of the Premises.

"Person" means any natural person, corporation, limited liability company, general partnership, limited partnership, sole proprietorship, trust, union, association, Governmental Authority or other business organization.

"Plan" has the meaning set forth in the recitals.

"Plan Sponsors" has the meaning set forth in the recitals.

"Premises" has the meaning set forth in the Ground Lease, consisting of, without limitation, approximately 16.2 acres of land located in Dallas, Texas.

"Proration Time" means 12:01 on the Closing Date.

"Purchase Price" has the meaning set forth in Section 2.5(a).

"Purchased Assets" has the meaning set forth in Section 2.1.

"Purchaser" has the meaning set forth in the recitals.

"Purchaser Closing Certificate" has the meaning set forth in Section 6.3(e) and substantially in the form set forth in **Exhibit F** hereto.

"Rejected Contracts" has the meaning set forth in Section 5.5(b).

"Related Agreements" means the Bill of Sale, the Assignment Assumption Agreement, Ground Lease Assumption Agreement, the Intellectual Property Assignment and Assumption Agreement, and other agreements, documents, and instruments related to the transactions contemplated herein.

"Residency Agreements" means those certain agreements entered into by and between any Resident and the Seller, including all independent living residency agreements, assisted living residency agreements, life care agreements, skilled nursing residency agreements, memory care agreements, and any additional documents related thereto, including any amendments, supplements, or addendums.

“**Residency Escrow Agreement**” means that certain Escrow Agreement dated as of September 27, 2021, by and among Edgemere, the Trustee, and Regions Bank as escrow agent.

“**Resident**” means a present or former occupant of the Edgemere Community who is a party to a Residency Agreement.

“**Sale**” shall have the meaning ascribed to it in the Sale Transaction Procedures.

“**Sale Transaction Procedures**” shall mean the procedures, in form and substance acceptable to Purchaser, and set forth in those certain bidding procedures as filed and served pursuant to the Bidding Procedures Motion, which set forth the procedures in connection with the sale of substantially all of the Seller’s assets pursuant to Sections 105(a), 363, 363, 365, 1123, 1125(a)(5)(D) and 1129 of the Bankruptcy Code.

“**Seller**” has the meaning set forth in the recitals.

“**Seller Closing Certificate**” has the meaning set forth in Section 6.2(e) and substantially in the form set forth in **Exhibit E** hereto.

“**Tangible Personal Property**” means all tangible personal property owned by Seller and used or useful to the Business.

“**Taxes**” means any and all taxes, fees, levies, duties, tariffs, import charges and other charges imposed by any taxing authority, together with any related interest, penalties or other additions thereto, or additional amounts imposed by any taxing authority, and without limiting the generality of the foregoing, shall include net income alternative or add-on minimum tax, gross income, gross receipts, sales, use, ad valorem, value added, franchise, profits, license, transfer, recording, escheat, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, windfall profit, environmental, custom, duty, or other tax, governmental fee or other like assessment or charge of any kind whatsoever.

“**Threshold**” has the meaning set forth in Section 2.10.

“**Transferred Employee**” shall have the meaning set forth in Section 5.4(b).

ARTICLE 2

PURCHASE AND SALE OF ASSETS

2.1 Sale of Assets to Purchaser. Upon the terms and subject to the conditions contained in this Agreement, at the Closing, the Seller shall sell, assign, transfer, deliver and convey to Purchaser, and Purchaser shall purchase, acquire and accept from Seller pursuant to Sections 363, 365, 1123, 1125(a)(5)(D) and 1129 of the Bankruptcy Code, all of Seller’s right, title and interest in and to all assets, properties, rights, titles and interests of every kind and nature of Seller whether real, personal or mixed, tangible or intangible (including goodwill), wherever located and whether now existing or hereafter acquired, which relate to, or are used or useful to the Business other than Excluded Assets, free and clear of all Encumbrances and Liens, except Permitted Liens, including, without limitation (collectively, the “**Purchased Assets**”):

- (a) the Ground Lease;
- (b) all of Seller's interest in the Land and Existing Improvements pursuant to the Ground Lease;
- (c) the Accounts Receivable;
- (d) the Books and Records;
- (e) the Equipment;
- (f) the Inventory;
- (g) to the greatest extent transferable under applicable law, the Permits, including Seller's Medicare provider agreement;
- (h) the Intellectual Property Assets;
- (i) the Tangible Personal Property, only to the extent assignable;
- (j) the Intangible Personal Property;
- (k) the IT Assets;
- (l) all prepaid expenses, credits, advance payments, claims, security, refunds, rights of recovery, rights of set-off, rights of recoupment, deposits, charges, sums, and fees which pertain to the Purchased Assets and are not Excluded Assets;
- (m) Seller's attorney-client and work-product privileges which pertain to the Purchased Assets; and
- (n) the Assumed Contracts.

2.2 Excluded Assets. Notwithstanding Section 2.1, the Parties acknowledge that Seller shall not sell, assign, transfer or convey to Purchaser, and Purchaser shall not purchase, acquire or accept from Seller, the assets consisting of the following (all such assets, the "**Excluded Assets**"):

- (a) the Purchase Price and all rights under this Agreement and the Related Agreements;
- (b) all cash and cash equivalents;
- (c) the contracts that are not Assumed Contracts (including the Residency Agreements and the Residency Escrow Agreement, which, for the avoidance of doubt, are Rejected Contracts);

- (d) all set-off rights to claims filed or asserted in the Chapter 11 Case (except to the extent arising in connection with (i) an Assumed Contract which is subject to cure, (ii) Assumed Liabilities, or (iii) Accounts Receivable);
- (e) all Actions;
- (f) all intercompany-related obligations between and among Lifespace, the Seller and their respective Affiliates;
- (g) hold-backs and escrows for any prorations or Taxes (except real estate Taxes for tax year 2023 relating to the Premises and paid by Seller prior to the Closing) being paid by Seller in connection with the Closing or afterward, if applicable;
- (h) all insurance policies of Seller, any prepaid insurance premiums and any rights or claims or proceeds arising from such policies;
- (i) all Tax refunds and rebates which are related to Seller's operation of the Business prior to the Closing;
- (j) all (i) corporate seals, corporate organizational records, minute books, charter documents, record books, and stock transfer books pertaining to Seller, (ii) original Tax, accounting and financial records which pertain exclusively to the Excluded Assets, and (iii) such other files, books and records which pertain exclusively to the Excluded Assets or to the formation, existence or capitalization of Seller or of any other Person;
- (k) all Inventory and Assets disposed of or exhausted prior to Closing in the ordinary course of business;
- (l) any records which Seller is legally required to retain in its possession and any records related to Excluded Assets or Excluded Liabilities (as hereinafter defined);
- (m) all equipment and tangible property located at the Premises but not owned by Seller, and all other assets, properties and rights not related to or used in the Business;
- (n) personnel records for Employees who are not Transferred Employees and, to the extent the transfer of such records (whether directly or by means of the sale of the Purchased Assets) to Purchaser or its affiliates is prohibited by applicable Law, for Transferred Employees;
- (o) all board designated, self-insurance trusts, workers compensation trusts, working capital trust assets, and assets and investments restricted as to use), donor restricted assets, beneficial interests in charitable trusts and accrued earnings on all of the foregoing;
- (p) Employee Retention Tax Credit on qualified wages for the period from March 27, 2020 to December 31, 2021 provided by the Coronavirus Aid, Relief, and Economic Security Act (CARES ACT), the Consolidated Appropriations Act, 2021 (CAA), and the American Rescue Plan Act (ARPA); and

(q) any reserve or bond funds in possession of the Trustee, including, without limitation, any restricted and trustee-held or other escrowed funds (such as the debt service reserves, operating reserves and rent reserves).

2.3 Assumed Liabilities. Upon the terms and subject to the conditions contained in this Agreement, at the Closing, Purchaser shall assume or otherwise be responsible for, which amounts shall be in addition to the Purchase Price, for (collectively, the “**Assumed Liabilities**”):

(a) all liabilities and obligations under the Purchased Assets accruing or arising after the Closing (except real estate Taxes for tax year 2023 relating to the Premises and paid by Seller prior to the Closing) and all Cure Amounts associated with the Assumed Contracts (other than the Ground Lease for which the Cure Amounts, if any, shall be paid by Seller at Closing);

(b) all liabilities and obligations arising under or related to the Assumed Contracts, from and after Closing; and

(c) all liabilities required to be paid by Purchaser pursuant to this Agreement (such as, without limitation, stamp and recording Tax, solely to the extent not exempt under 11 U.S.C. § 1146).

2.4 Excluded Liabilities. Except for the Assumed Liabilities, Purchaser shall not assume or be liable to pay, perform or discharge any liability, obligation, debt, claim against or contract of the Seller or any of its Affiliates which, in any case, pertain to the ownership, operation or conduct of the Business or the ownership of the Purchased Assets prior to the Closing Date, at any time existing or asserted, whether or not accrued, fixed, contingent or otherwise, whether known or unknown, and whether or not recorded on the books and records of Seller or any of its Affiliates. Without limiting the generality of the foregoing, the Excluded Liabilities shall include, but not be limited to, the following:

(a) any liabilities with respect to the transactions contemplated hereunder arising under the federal Worker Adjustment and Retraining Notification Act and any similar foreign, state, or local plant closing or collective dismissal Laws (collectively, the “WARN Act”);

(b) any Liability for Taxes of Seller (or any member or affiliate of Seller) or relating to the Business, the Purchased Assets, or the Assumed Liabilities for any accruing or arising prior to the Closing (except real estate Taxes for tax year 2023 relating to the Premises and paid by Seller prior to the Closing);

(c) any Liabilities relating to or arising out of the Excluded Assets, whether arising prior to, or from and after the Closing,

(d) any Liabilities related to or arising out of any Rejected Contracts, Accrued PTO, or any pension, deferred compensation or retirement plan, whether arising prior to, or from and after the Closing;

(e) any Liabilities in respect of any pending or threatened Action arising out of, relating to or otherwise in respect of the ownership or operation of the Business or the Purchased Assets to the extent such Action relates to such operation on or prior to the Closing Date; and

(f) any liabilities related to cost report settlements, fines, penalties, overpayments or recoupments.

2.5 Closing Proceedings.

(a) The Purchase Price under this Agreement is Forty Eight Million and Five Hundred Thousand Dollars (\$48,500,000.00) (“**Purchase Price**”), as adjusted in accordance with this Section 2.5.

(b) Upon the entry of the Bidding Procedures Order by the Bankruptcy Court, Two Million and Four Hundred Thousand Dollars (\$2,425,000) (the “**Deposit**”) shall be paid to Escrow Agent, which will be held by Escrow Agent in accordance with the terms and conditions of this Agreement, the Escrow Deposit Agreement substantially in the form set forth in **Exhibit G** hereto, the Bidding Procedures Order and further orders of the Bankruptcy Court which have been reviewed and approved by the Purchaser. The Deposit will be credited against the Purchase Price at Closing, subject to Section 2.5(c), or, in the event an Alternative Transaction is consummated, returned to Purchaser in accordance with the terms of this Agreement.

(c) Notwithstanding anything to the contrary contained herein, if the Closing does not occur, the Deposit, including any interest earned thereon, shall be paid to the party entitled thereto pursuant to the terms of this Agreement.

(d) At the Closing, Purchaser shall assume the Assumed Liabilities (which shall be in addition to, and not a credit against, the Purchase Price), *provided, however*, with regard to Assumed Contracts other than the Ground Lease, the Purchaser shall pay to each Contract Party any Cure Amounts, in cash, by wire transfer of immediately available funds, necessary to assume and assign any Assumed Contract, at such time as may be designated by the Court in the Confirmation Order; *provided, further, however*, the Seller shall pay any Cure Amounts due in connection with the Ground Lease to permit the assumption and assignment of the Ground Lease to Purchaser free and clear of any Encumbrances and Liens effective as of the Closing Date.

(e) At the Closing, Purchaser shall pay all escrow fees, recording costs or fees, transfer Taxes (if applicable), and conveyance fees (if applicable). The provisions of this Section 2.5(e) shall survive the Closing.

(f) At the Closing, payment of the Purchase Price, minus the Deposit (and any interest earned thereon) and plus or minus prorations or adjustments as set forth herein, shall be paid by the Purchaser by wire transfer to Escrow Agent.

(g) At the Closing, the Parties will execute and deliver the Related Agreements.

(h) At the Closing, \$1,500,000 of the Purchase Price (the “**Closing Escrow Amount**”) shall be deposited into an escrow account (the “**Closing Escrow**”) with an independent escrow agent acceptable to the Plan Sponsors (the “**Closing Escrow Agent**”) upon terms and conditions consistent with this section. On or prior to the Closing Escrow Release Date (defined below), any portion of the Closing Escrow Amount shall only be released to Purchaser from the Closing Escrow upon fourteen (14) days’ notice by Purchaser to Closing Escrow Agent and Plan Sponsors for release of the amount (only up to the available Closing Escrow Amount) credited by

Medicare/CMS payor pursuant to a notice of recoupment or setoff against the Purchaser's post-Closing Medicare Accounts Receivable on account of pre-Closing Medicare/CMS payor overpayments on Seller's Accounts Receivable (each, a "**Closing Escrow Release Notice**"). The Plan Sponsors may assert any objection to a Closing Escrow Release Notice on or before seven (7) days from receipt of a Closing Escrow Release Notice (each, a "**Closing Escrow Objection**"). The Plan Sponsors and Purchaser shall meet and confer in good faith to discuss the Closing Escrow Objection. To the extent the Plan Sponsors fail to reach an agreement with Purchaser and continue(s) all or part of the Closing Escrow Objections, the Plan Sponsors shall (a) provide instruction to the escrow agent to release any undisputed amounts from the Closing Escrow (up to the available Closing Escrow Amount), and (b) seek further order of the Bankruptcy Court to resolve the Closing Escrow Objection. Upon the later of (i) the one (1) year anniversary of the Closing Date, or (ii) resolution of any payment audit relating to Seller's pre-Closing Medicare payments or Accounts Receivable that is pending at or initiated prior to the one (1) year anniversary of the Closing (the "**Closing Escrow Release Date**"), any remaining and undisputed Closing Escrow Amount shall be paid to Plan Sponsors as proceeds from the Sale, with any disputed remaining amounts being disbursed upon final resolution of any then pending Closing Escrow Objections.

2.6 Prorations. The following items shall be prorated as of the Proration Time and paid or credited at Closing, as shall be set forth on the Closing Statement. In the event any amounts at Closing cannot be accurately determined, such amounts shall be estimated and adjusted as promptly as practicable thereafter but in no event later than sixty (60) days after the Closing Date. Seller shall be responsible for such items prior to the Proration Time and Purchaser shall be responsible for such items after the Proration Time.

(a) All state, county, city, school, ad valorem, and other local real and personal property taxes and assessments and business personal property taxes relating to or assessed against the Purchased Assets shall be prorated as of the Proration Time.

(b) To the extent all utilities and other periodic charges cannot be changed to Purchaser's designee's account by the Closing Date, the same shall be prorated as of the Proration Time.

(c) Seller shall credit to Purchaser at Closing a pro-rata portion of the payments received by Seller for residents and patients, as well as other services to be provided after the Proration Time. Seller shall be credited at Closing with all prepayments made by Seller for services relating to Purchased Assets to be provided after the Proration Time (except real estate Taxes for tax year 2023 relating to the Premises and paid by Seller prior to the Closing).

(d) Provider taxes, privilege taxes or so-called bed taxes or similar taxes or fees (howsoever designated) shall be prorated as of the Proration Time.

2.7 Time and Place of Closing. Subject to the terms of this Agreement, the closing of the transactions contemplated hereby (the "**Closing**") shall be held by electronic exchange of executed documents (or, if the parties elect to hold a physical Closing, at the offices of the Plan Sponsors' legal counsel at Haynes and Boone, LLP, 2323 Victory Avenue, Suite 700, Dallas, Texas 75219), prior to the close of business on a date which is not later than ten (10) days after all

of the conditions to Closing set forth in Article VI are either satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date) (the “**Closing Date**”), but in no event later than forty-five (45) days after the entry of the Confirmation Order so long as an operation transition agreement is in place that enables Purchaser to operate the Business in the manner Seller was operating the Business as of the Execution Date (the “**Outside Closing Date**”) (unless otherwise mutually agreed by the Parties). The transactions contemplated hereby shall take place pursuant to, and in accordance with, the terms and conditions hereof. The Closing shall be effective as of 11:59 p.m. on the Closing Date or such other date and time as the parties may agree in writing (the “**Effective Time**”).

2.8 Closing Deliverables.

(a) At the Closing, Seller shall deliver to Purchaser or its designees the following:

(i) bills of sale in the form of **Exhibit A** (the “**Bills of Sale**”) duly executed by Seller, transferring the Existing Improvements, the Intellectual Property Assets, the Intangible Personal Property the Tangible Personal Property, and the IT Assets to Purchaser or its designees;

(ii) assignment and assumption agreements in the form of **Exhibit B** (the “**Assignment and Assumption Agreement**”) duly executed by Seller, effecting the assignment to and assumption by Purchaser’s designees of the Assumed Contracts (other than the Ground Lease);

(iii) assignment and assumption agreement in the form of **Exhibit C** (“**Ground Lease Assignment and Assumption Agreement**”) duly executed by Seller, effecting the assignment to and assumption by Purchaser’s designees of the Ground Lease;

(iv) assignment and assumption agreements in the form of **Exhibit D** (the “**Intellectual Property Assignment and Assumption Agreement**”) duly executed by Seller, effecting the assignment to and assumption by Purchaser’s designees of the Intellectual Property Assets;

(v) a closing certificate duly executed by Seller in the form of **Exhibit E** (the “**Seller Closing Certificate**”);

(vi) a closing statement setting forth all prorations and adjustments (the “**Closing Statement**”);

(vii) a certified copy of the Confirmation Order;

(viii) physical possession of the Purchased Assets, including, without limitation, all access codes and keys to the Edgemere Community and Premises and all other things reasonably necessary in order for Purchaser to commence Business;

(ix) upon approval of the Bankruptcy Court, evidence of assumption of the Ground Lease; and

(x) all other documents and instruments contemplated to be delivered by Seller pursuant to this Agreement.

(b) At the Closing, Purchaser and/or its designees shall deliver to Seller the following:

(i) the Assignment and Assumption Agreements duly executed by Purchaser or its designees;

(ii) a closing certificate duly executed by the Purchaser in the form of **Exhibit F** (the “**Purchaser Closing Certificate**”);

(iii) the Closing Statement duly executed by Purchaser; and

(iv) all other documents and instruments contemplated to be delivered by Purchaser pursuant to this Agreement.

(c) On the Closing Date, Purchaser shall cause the Escrow Agent to deliver the Deposit to Seller and shall transfer to Seller the balance of the Purchase Price, less the \$1,500,000 escrow as described in Section 2.5(h).

2.9 Purchase Price Allocation. Purchaser shall allocate the Purchase Price (together with Assumed Liabilities properly included, if any) among the Purchased Assets in a manner consistent with the fair market values determined in good faith and on a reasonable basis by Purchaser prior to the Closing Date. Such allocation shall be consistent with Section 1060 of the Internal Revenue Code and the Treasury Regulations thereunder. Purchaser and Seller covenant and agree that all filings with Governmental Authorities regarding Taxes will be consistent with such allocation.

2.10 Casualty and Condemnation. If any material part of the Purchased Assets is condemned, damaged or destroyed (whether by fire, theft, or other casualty event) prior to the Closing, Seller shall immediately notify Purchaser of such condemnation, damage or destruction. In the event Seller’s reasonable estimate of such damage or destruction is in excess of \$2,500,000.00 (“**Threshold**”), then Purchaser shall have the option to: (x) terminate this Agreement by written notice delivered to Seller within ten (10) days after Purchaser’s receipt of notice of such damage or destruction, in which case the Deposit shall be returned to Purchaser and the Parties shall have no further obligations hereunder, or (y) proceed with the transaction contemplated in this Agreement without abatement of the Purchase Price, in which case (i) all insurance proceeds relating to such damage or casualty shall be deemed to have been absolutely and irrevocably assigned to and be payable directly to Purchaser from and after the Closing (and held by the Seller in trust for the Purchaser if received prior to the Closing), less any amounts reasonably expended by Seller with the written consent of the Purchaser prior to Closing, (ii) Purchaser shall have the right to conduct all settlement proceedings with respect to such insurance claims, and (iii) Seller shall deliver to Purchaser through escrow an unconditional assignment of all such insurance proceeds. If prior to Closing a material portion, but not all of the

Premises, is taken through any power of eminent domain, whether by condemnation or conveyance in lieu of condemnation, Seller shall promptly provide Purchaser written notice of such action and Purchaser shall have the option before the date of the Closing to terminate this Agreement by written notice to Seller delivered within ten (10) days after receipt of Seller's written notice to Purchaser, and Seller shall promptly return the Deposit to Purchaser in immediately available funds. In order to constitute a "material" portion of the Premises for purposes of this Section 2.10, there must be a decrease in the value of the Premises in excess of the Threshold. If this Agreement is not terminated, Seller shall not be obligated to repair any damage or destruction unless requires by law, regulation or Government Authority. Any documents provided pursuant to this Section shall be provided by the disclosing Party to counsel for the Bond Trustee within one (1) Business Day of such disclosure.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF SELLER

In order to induce Purchaser to enter into this Agreement, Seller makes the representations and warranties set forth below which are true, correct and complete on the date hereof and shall be true, correct and complete as of the Closing.

3.1 Organization and Qualification of Seller. Seller is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the State of Texas and has full corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Business as currently conducted.

3.2 Authority, Execution and Delivery. Subject to entry of the Confirmation Order and to the extent limited thereby, Necessary Consents, and the Approvals, Seller has full power, authority and capacity to execute and deliver this Agreement and the Related Agreements and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby, and this Agreement has been duly and validly executed and delivered by Seller and constitutes, and upon the execution and delivery by the Seller of the Related Agreements, the Related Agreements shall constitute, legal, valid and binding obligations of Seller enforceable against Seller in accordance with their terms.

3.3 Broker. Except for the engagement of RBC Capital Markets, LLC, whose fee shall be paid from the proceeds of the sale at Closing, neither Seller nor any of its Affiliates has incurred any liability for any fee or commission to any broker, finder, investment banker or other intermediary in connection with the transactions contemplated by this Agreement that would result in any liability, fee, expense or obligation being imposed on Purchaser.

3.4 Title to Purchased Assets. Seller has good and valid title to all the Purchased Assets. All such Purchased Assets are free and clear of Liens and Encumbrances except for the Permitted Liens.

3.5 Accuracy of Representations and Warranties. All representations and warranties of Seller contained in this Agreement are true and correct as of the Execution Date and shall be true and correct as of the Closing Date.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF PURCHASER

In order to induce Seller to enter into this Agreement, Purchaser makes the representations and warranties set forth below which are true, correct and complete on the date hereof and shall be true, correct and complete as of the Closing.

4.1 **Organization.** Purchaser has full power, authority and capacity to execute and deliver this Agreement and the Related Agreements and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby.

4.2 **Authority, Execution and Delivery.** This Agreement has been duly and validly executed and delivered by Purchaser and constitutes and, upon the execution and delivery by Purchaser of the Related Agreements, the Related Agreements shall constitute, legal, valid and binding obligations of Purchaser enforceable against Purchaser in accordance with their terms.

4.3 **Brokers.** Neither Purchaser nor any of its Affiliates has incurred any liability for any fee or commission to any broker, finder, investment banker or other intermediary in connection with the transactions contemplated by this Agreement that would result in any liability, fee, expense or obligation being imposed on Seller.

4.4 **Adequate Funds.** As of the Execution Date, Purchaser has the ability to obtain funds in cash in amounts equal to the Purchase Price and other funds needed to consummate the transaction and will at the Closing have immediately available funds in cash, which are sufficient to pay the Purchase Price and to pay any other amounts payable pursuant to this Agreement and to consummate the transaction contemplated herein.

4.5 **Condition of Assets; Disclaimers.** Purchaser expressly acknowledges and warrants that Purchaser is accepting the Purchased Assets, and taking assignment of the Ground Lease in an "AS IS" "WHERE IS" "WITH ALL FAULTS CONDITION". PURCHASER ACKNOWLEDGES THAT, EXCEPT AS OTHERWISE PROVIDED FOR IN THE REPRESENTATIONS AND WARRANTIES IN ARTICLE 3 OF THIS AGREEMENT, SELLER MAKES NO REPRESENTATIONS, WARRANTIES, OR GUARANTEES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PURCHASED ASSETS.

The representations and warranties in this Section 4 shall not survive Closing.

ARTICLE 5

COVENANTS

5.1 **Access to Books and Records.** Seller shall, commencing on the Execution Date, provide reasonable access to Purchaser of all of Seller's assets, books, accounting records, correspondence and files of Seller (to the extent related to the operation of the Assets) for examination by Purchaser (and its representatives), with the right to make copies of such books, records and files or extracts therefrom. Such access will be available to Purchaser during normal business hours, upon reasonable notice, in such manner as will not unreasonably interfere with the

conduct of the Business. Those books, records and files which relate to Seller's assets that are not transferred to Purchaser shall be maintained pursuant to the terms of and in accordance with the Confirmation Order. In addition, from the Execution Date until the Closing Date, Seller shall provide to Purchaser copies of the reports provided to the US Trustee and/or DIP Lender at Section 5.1(a), (c) and (d) of the DIP Credit Agreement [ECF #72] and paragraph 21(ii) of the Final Order approving entry into the DIP Credit Agreement [ECF #421].

5.2 Conduct of Business. From the Execution Date until the Closing Date, except as otherwise contemplated by this Agreement, authorized by the Bankruptcy Court or to the extent Purchaser otherwise consents in writing, and subject to the requirements of the Chapter 11 Case, Seller shall: (i) conduct the Business in the ordinary course, (ii) make no transfers of any Purchased Assets, (iii) use commercially reasonable efforts to maintain and preserve intact the organization and advantageous business relationships of the Business, and (iv) take no action which would materially adversely affect or materially delay the ability of Purchaser to obtain any Approvals for the transactions contemplated hereby or to perform its covenants under this Agreement.

5.3 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, at Purchaser's reasonable request and at the Purchaser's sole cost and expense, the Seller will execute and deliver to Purchaser such other instruments of sale, transfer, conveyance and assignment, provide such materials and information and take such other actions as Purchaser may reasonably deem necessary or desirable in order more effectively to transfer, convey and assign to Purchaser, and to confirm Purchaser's title to, all of the Purchased Assets. Additionally, Purchaser shall undertake all commercially reasonable efforts to obtain Permits and regulatory approvals as are needed to consummate the transaction described in this Agreement, and shall file any necessary applications within fifteen (15) days of entry of the Confirmation Order.

5.4 Employees.

(a) Not more than ten (10) days after the Execution Date, Seller shall provide Purchaser with a list of all employees of Seller working at the Edgemere Community, including, for each listed employee, his or her name, date of hire, job title, full-time/part-time status, exempt/non-exempt status, bonus eligibility, commission eligibility, current compensation and status (*e.g.*, leave of absence, disability, layoff, active, temporary).

(b) As of the Closing Date, Purchaser may, but shall not be obligated to, offer employment to such of the hourly and salaried employees of the Seller in its sole discretion (all such employees that accept the employment offer are collectively, the "**Transferred Employees**"). For the avoidance of doubt, Purchaser shall have no liability to Seller or any Transferred Employee for any accrued and unpaid obligations owing from Seller to such employee.

(c) As of the Closing Date, all such Transferred Employees shall be deemed to be the employees of Purchaser and no longer to be the employees of Seller. Effective as of the Closing, Seller agrees to terminate the employment of all of the Transferred Employees. Seller agrees to use its commercially reasonable efforts to make employment records and other related information reasonably requested by Purchaser available to Purchaser.

(d) Nothing herein, express or implied, shall confer upon any other Persons (including any current or former employee or contractor of Seller, Purchaser or any of their respective Affiliates) any rights or remedies hereunder, including any right to employment or continued employment for any specified period or continued participation in any benefit plan or other benefit plan, or any nature or kind whatsoever under or by reason of this Agreement. Nothing herein restricts or precludes the right of Purchaser to terminate the employment of any Transferred Employee after the Closing Date.

5.5 Assumed and Assigned Contracts.

(a) Cure Process. Purchaser shall pay cash or other acceptable consideration to the third party (or parties) to the applicable Assumed Contract (each, a **“Contract Party”**) in order to cure the monetary defaults and satisfy any pecuniary obligations of Seller (or obtain waivers with respect thereto) with respect to the Business. Notwithstanding anything to the contrary herein, Seller shall pay cash or other acceptable consideration to the Landlord in order to cure the monetary defaults and satisfy any pecuniary obligations of Seller in connection with the Ground Lease, with such consideration to permit the assumption and assignment of the Ground Lease to Purchaser free and clear of any Encumbrances and Liens, effective as of the Closing Date. The Purchaser shall provide adequate assurance of future performance under the Assumed Contracts. Further, Purchaser shall assume all obligations from and after the Closing Date under Assumed Contracts.

(b) Identification of Assumed Contracts. Schedule 5.5(b)(i) identifies all executory contracts and unexpired leases Purchaser wishes to be assumed by Seller and assigned by the Seller to Purchaser at Closing (the **“Assumed Contracts”**). At any time prior to the Closing, Purchaser will have the right to provide written notice to Seller of Purchaser’s election to designate an executory contract or an unexpired lease as an Assumed Contract or as a contract that will not be assumed by Purchaser (such contracts, the **“Excluded Contracts”**). Schedule 5.5(b)(ii) identifies all executory contracts and unexpired leases Purchaser wishes to be Excluded Contracts. Upon such designation of a contract as an Assumed Contract, such contract will constitute a Purchased Asset and will be conveyed to Purchaser under this Agreement at Closing. Upon such designation of a contract as an Excluded Contract, such contract will constitute an Excluded Asset. All executory contracts and unexpired leases that are not Assumed Contracts, including, the Excluded Contracts, shall be deemed to be rejected by Seller under Section 365(a) of the Bankruptcy Code as of the Closing Date (the **“Rejected Contracts”**). For the avoidance of doubt, the Residency Agreements, the Residency Escrow Agreement and the management agreement between the Seller and Lifespace are Rejected Contracts and Excluded Contracts. The Confirmation Order shall provide for the assumption and assignment to Purchaser, effective as of the Effective Time, of any Assumed Contract, and, to the extent not included in a prior order of the Bankruptcy Court, for the rejection, effective as of the Effective Time, of the Rejected Contracts. After the Closing Date, the Seller shall be released from any further liability under such Assumed Contracts as provided for under Sections 365(k) and 1141 of the Bankruptcy Code.

(c) Non-Assignment of Assets. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or transfer and shall not affect the assignment or transfer of any Purchased Asset if (a) notwithstanding the rights and remedies available under the Bankruptcy Code, an attempted assignment thereof,

without the approval, authorization or consent of, or granting or issuance of any license or permit by, any Government Authority thereto would constitute a breach thereof or (b) the Bankruptcy Court shall not have approved assumption and assignment of any Assumed Contract for any reason (each such action in (a) and (b), a “**Necessary Consent**”). In such event, Seller and Purchaser shall use their commercially reasonable efforts, to obtain the Necessary Consents with respect to any such Assumed Contract after the Closing; provided that the failure to obtain any Necessary Consent shall not delay the Closing or give rise to a reduction in the Purchase Price. Nothing in this Section 5.5 shall in any way diminish or enlarge (x) Purchaser’s obligations hereunder to obtain the Approvals, or (y) the Parties’ obligations hereunder to obtain the Necessary Consents.

(d) Modified Residency Agreements. Purchaser will offer all current Residents at the Edgemere Community the option to enter into a new rental agreement which shall provide similar services to each current Resident as offered by Seller prior to Closing, at the then current private pay rate as advertised by Seller, subject to ordinary market adjustments (the “**Modified Residency Agreement**”).

5.6 Cost Reports. Seller shall prepare and file any Medicare cost reports for the Edgemere Community related to the period prior to Closing. Following the Closing, Seller shall be authorized to contact the business office manager or other persons with access to the information at the Edgemere Community during normal business hours in order to obtain information needed to prepare the final Medicare cost reports with respect to claims filed with Medicare for the Facilities prior to the Closing, and Purchaser shall provide Seller with such Edgemere Community records as Seller reasonably requests to complete such final cost reports.

ARTICLE 6

CONDITIONS TO CLOSING

6.1 Conditions to Obligations of All Parties. The obligations of each party to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

(a) No governmental authority shall have enacted, issued, promulgated, enforced, or entered any governmental Order which is in effect and has the effect of making the transactions contemplated by this Agreement illegal, otherwise restraining or prohibiting consummation of such transactions or causing any of the transactions contemplated hereunder to be rescinded following completion thereof.

(b) The Bankruptcy Court shall have entered the Confirmation Order on terms reasonably acceptable to the Parties approving the sale to the Purchaser, and the Confirmation Order shall have become a Final Order.

(c) Purchaser or its designees shall have received all Permits and regulatory approvals that are material to operation of the Purchased Assets as such Purchased Assets are currently owned and operated by Seller.

6.2 Conditions to Obligations of Purchaser. The obligations of Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Purchaser's waiver, at or prior to the Closing, of each of the following conditions:

(a) Seller shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and each of the other Related Agreements to be performed or complied with by it prior to or on the Closing Date; provided, with respect to agreements, covenants and conditions that are qualified by materiality, Seller shall have performed such agreements, covenants, and conditions, as so qualified, in all respects.

(b) The representations and warranties of Seller contained in this Agreement, the other Related Agreements and any certificate or other writing delivered pursuant hereto shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality) or in all material respects (in the case of any representation or warranty not qualified by materiality) on and as of the Execution Date and on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects).

(c) No injunction or restraining order shall have been issued by any governmental authority, and be in effect, which restrains or prohibits any material transaction contemplated hereby.

(d) Seller shall have delivered to Purchaser duly executed counterparts to the Related Agreements and such other documents and deliveries set forth in Section 2.8(a).

(e) Purchaser shall have received a certificate, dated the Closing Date, and signed by a duly authorized officer of Seller, that each of the conditions set forth in Section 6.2(a) and Section 6.2(b) have been satisfied (the "**Seller Closing Certificate**").

(f) No MAC has occurred that Purchaser has not waived by written notice to Seller.

6.3 Conditions to Obligations of Seller. The obligations of Seller to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Seller's waiver, at or prior to the Closing, of each of the following conditions:

(a) The representations and warranties of Purchaser contained in this Agreement, the other Related Agreements and any certificate or other writing delivered pursuant hereto shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality) or in all material respects (in the case of any representation or warranty not qualified by materiality or) on and as of the Execution Date and on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects).

(b) Purchaser shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and each of the other

Related Agreements to be performed or complied with by it prior to or on the Closing Date; provided, with respect to agreements, covenants and conditions that are qualified by materiality, Purchaser shall have performed such agreements, covenants, and conditions, as so qualified, in all respects.

(c) No injunction or restraining Order shall have been issued by any governmental authority, and be in effect, which restrains or prohibits any material transaction contemplated hereby.

(d) Purchaser shall have delivered to Seller duly executed counterparts to the Related Agreements (other than this Agreement) and such other documents and deliveries set forth in Section 2.8(b).

(e) Seller shall have received a certificate, dated the Closing Date, and signed by a duly authorized officer of Purchaser, that each of the conditions set forth in Section 6.3(a) and Section 6.3(b) have been satisfied (the “**Purchaser Closing Certificate**”).

(f) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Purchaser certifying that attached thereto are true and complete copies of all resolutions adopted by the officers of Purchaser authorizing the execution, delivery and performance of this Agreement and the other Related Agreements and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby.

(g) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Purchaser certifying the names and signatures of the officers of Purchaser authorized to sign this Agreement, the Related Agreements, and the other documents to be delivered hereunder and thereunder.

(h) Purchaser shall have delivered to Seller such other documents or instruments as Seller reasonably requests and are reasonably necessary to consummate the transactions contemplated by this Agreement.

ARTICLE 7

TERMINATION

7.1 Termination. This Agreement may be terminated, or enforced in accordance with Section 7.2(c), at any time before the Closing by written notice to the applicable Party:

(a) by mutual written agreement of Purchaser and Seller;

(b) by Purchaser upon written notice to Seller of Seller’s material breach or default of any provision of this Agreement, which breach or default is not cured (only if capable of curing) within ten (10) Business Days after written notice thereof is received, provided, however, that the Purchaser is not then in material breach or default of this Agreement;

(c) by Seller with consent of Plan Sponsors, upon written notice to Purchaser of Purchaser's material breach or default of any provision of this Agreement, which breach or default is not cured within ten (10) Business Days after written notice thereof is received, provided, however, that the Seller is not then in material breach or default of this Agreement;

(d) by either Purchaser, or Seller with consent of Plan Sponsors, if the sale is not approved by the Bankruptcy Court, or there is an Alternative Transaction;

(e) by Purchaser, or Seller with consent of Plan Sponsors, if the Closing has not occurred by the Outside Closing Date by no fault of the Party terminating; and

(f) by either Purchaser with consent of Plan Sponsors, or Seller, if, prior to Closing, the Confirmation Order, after being entered by the Bankruptcy Court, has subsequently been reversed, revoked, or voided by an order of a court of competent jurisdiction.

(g) by Purchaser if any of the conditions set forth in Section 6.1(c) or 6.2 shall have been, or if it becomes apparent that any of such conditions will not be, fulfilled by the Outside Closing Date, unless such failure shall be due to the failure of Purchaser to perform with any of the covenants, agreements or conditions hereof to be performed or complied with prior to the Closing; or

(h) by Seller if any of the conditions set forth in Section 6.3 shall have been, or if it becomes apparent that any of such conditions will not be, fulfilled by the Outside Closing Date, unless such failure shall be due to the failure of Seller to perform with any of the covenants, agreements or conditions hereof to be performed or complied with prior to the Closing;

(i) If Seller sells, transfers, leases or otherwise disposes of, directly or indirectly, including through an asset sale, stock sale, merger or other similar transaction, all or substantially all of the Business or the Purchased Assets in a transaction or a series of transactions with one or more Persons other than Purchaser in any circumstance, including in accordance with the Sale Transaction Procedures (such event being an "**Alternative Transaction**"), Seller shall pay to Purchaser, within two (2) Business Days after the consummation of the Alternative Transaction, an amount in cash equal to (i) three percent (3%) of the Purchase Price (the "**Break-Up Fee**") and (ii) Purchaser's actual, out of pocket costs and expenses, not to exceed \$200,000 (the "**Expense Reimbursement**");

(j) by Purchaser if Seller fails to comply with Section 5.1(a), (c) or (d) of the DIP Credit Agreement [ECF #72] or paragraph 21(ii) of the Final Order approving entry into the DIP Credit Agreement [ECF #421] or if there is an Event of Default under Section 8.1 (k), or (l) under the DIP Credit Agreement; or

(k) by Purchaser if the Bidding Procedures Order is not in form and substance acceptable to the Purchaser, which order must include approval of the Break-Up Fee and Expense Reimbursement.

7.2 Remedies.

(a) If the Closing does not occur as a result of an Alternative Transaction, the payment of the Break-Up Fee and the Expense Reimbursement as set forth in Section 7.1(f) shall be Purchaser's sole and exclusive remedy.

(b) Upon termination by Seller in accordance with Section 7.1 due to Purchaser's default or breach, provided the Seller has not defaulted under or breached this Agreement, Purchaser will be deemed to have forfeited the Deposit as liquidated damages. The Parties intend that the remedy in Section 7.2(b) constitutes compensation, and not a penalty and shall be the sole and exclusive remedy to Seller for any such default or breach by Purchaser of this Agreement. The Parties acknowledge and agree that Seller's harm caused by Purchaser's default or breach of this Agreement would be impossible or very difficult to accurately estimate as of the date of this Agreement, and that upon termination due to Purchaser's breach or default pursuant to Section 7.1, the Deposit is a reasonable estimate of the anticipated or actual harm that might arise from such a default or breach.

(c) Upon default or breach by Seller in accordance with Section 7.1, provided the Purchaser has not defaulted under or breached this Agreement, Purchaser shall elect (1) and only one (1) of the following remedies:

(i) Purchaser may terminate this Agreement by written notice given to Seller and Plan Sponsors, in which event the Deposit will be refunded to Purchaser; or

(ii) Purchaser may demand specific performance of this Agreement by Seller and, if necessary, have a right to entry of an order enforcing the terms hereunder.

(d) Effect of Termination. In the event of the termination of this Agreement in accordance with this Article, this Agreement shall forthwith become void and there shall be no liability on the part of any party hereto except as set forth in Section 7.2 hereof.

Article 7 shall survive any termination of this Agreement.

ARTICLE 8

MISCELLANEOUS

8.1 Expenses. Except as specifically set forth in this Agreement, the Parties shall bear their own expenses, including, without limitation, fees, disbursements and other costs of any attorneys, accountants and other advisors, in connection with this Agreement, the Related Agreements, and the transactions contemplated hereby and thereby. This Section shall not apply, if the Closing does not occur, to any existing or future litigation, if a right to attorneys' fees and expenses otherwise exists.

8.2 Notices. All notices, requests, demands and other communications made in connection with this Agreement shall be in writing and shall be (a) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, (b) transmitted by hand delivery, (c)

sent by electronic means, or (d) sent by nationally recognized overnight courier for next Business Day delivery, addressed as follows:

Seller:

John Falldine, Executive Director
Edgemere
8523 Thackery Street
Dallas, Texas 75225

With a simultaneous copy to:

Jeremy R. Johnson & Trinitee G. Green
POLSINELLI PC
2950 N. Harwood, Suite 2100
Dallas, Texas 75201
jeremy.johnson@polsinelli.com
tggreen@polsinelli.com

Purchaser:

Bay 9 Holdings LLC
265 Magnolia Avenue
Suite 100
Larkspur, CA 94939

With a simultaneous copy to:

Adrienne K. Walker
Chelsey Rosenbloom List
Locke Lord LLP
111 Huntington Avenue
9th Floor
Boston, MA 02199-7613
awalker@lockelord.com
chelsey.list@lockelord.com

And with a simultaneous copy to counsel for the Plan Sponsors:

Daniel S. Bleck
Eric Blythe
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erblythe@mintz.com

krwalsh@mintz.com

or, in each case, such other address as may be specified in writing to the other Party. All such notices, requests, demands, waivers and other communications shall be deemed to have been received (w) if by first-class, registered or certified mail, on the fifth Business Day after the mailing thereof, (x) if by hand delivery, on the day after such delivery, (y) if by electronic means and the transmitting Party receives a transmission receipt dated the day of transmission, on the same day as the transmission, and (z) if by nationally recognized overnight courier, on the next Business Day after deposit with such courier.

8.3 Amendment; Waivers, Etc. No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the Party against whom enforcement of the amendment, modification, discharge or waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time.

8.4 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

8.5 Assignment. Neither this Agreement nor any of the rights or obligations under this Agreement may be assigned by either Party without the prior written consent of the other Party, except that Purchaser may assign its rights under this Agreement to an Affiliate.

8.6 Parties in Interest. This Agreement and the Related Agreements shall be binding upon and inure solely to the benefit of the Parties and their successors and permitted assigns, and nothing in this Agreement or any Related Agreement, expressed or implied, is intended to confer upon any other Person any rights or remedies of any nature under or by reason of this Agreement or any Related Agreement.

8.7 No Personal Liability. No individual officer, director, employee, manager, agent, or representative shall have personal liable for any of the obligations hereunder or claims of any kind in connection herewith.

8.8 Counterparts; Facsimile Signature. This Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which shall constitute one and the same instrument, and shall become effective when one or more counterparts have been signed by each of the Parties. Any Party may execute this Agreement by facsimile (or .pdf copy) signature and the other Parties will be entitled to rely upon such facsimile (or .pdf copy) signature as conclusive evidence that this Agreement has been duly executed by such Party.

8.9 Governing Law. Except to the extent inconsistent with the Bankruptcy Code, this Agreement and the Related Agreements shall be governed by and construed and enforced in accordance with the laws of the State of Texas, without regard to its conflicts of law rules.

8.10 Jurisdiction. Each of the Parties agrees that any proceeding brought to enforce the rights or obligations of any Party under this Agreement or any Related Agreement shall be commenced and maintained in the Bankruptcy Court, and the Bankruptcy Court shall have

exclusive jurisdiction over any such proceeding. Each of the Parties consents to the exercise of jurisdiction over it and its properties, in accordance with the terms of this Section, with respect to any proceeding arising out of or in connection with this Agreement, any Related Agreement or the transactions contemplated hereby or thereby, or the enforcement of any rights under this Agreement or any Related Agreement. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY IN ANY PROCEEDINGS BROUGHT BY ANY OTHER PARTY IN CONNECTION WITH ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, THE PROPERTY OR THE RELATIONSHIP OF THE PARTIES HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT.

8.11 Severability. If any provision of this Agreement is inoperative or unenforceable for any reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever, so long as this Agreement, taken as a whole, still expresses the material intent of the Parties. The invalidity of any one or more phrases, sentences, clauses, sections or subsections of this Agreement shall not affect the remaining portions of this Agreement.

8.12 Entire Agreement. This Agreement and the Related Agreements constitute the entire agreement between the Parties with respect to the subject matter hereof, and supersede all prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof. There are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as set forth specifically herein.

8.13 Employees Not Third-Party Beneficiaries. Nothing in this Agreement or the Related Agreements is intended to confer upon any past, present or future employee of Seller or its Affiliates or his or her legal representatives or heirs any rights as a third-party beneficiary or otherwise or any other rights or remedies of any nature or kind whatsoever under or by reason of the transactions contemplated by this Agreement or by the Related Agreements, including, without limitation, any rights of employment, continued employment or any rights under or with respect to any employee benefit, welfare benefit, pension or other fringe benefit plan, fund, program or arrangement.

8.14 Bulk Sales or Transfer Laws. Purchaser hereby waives compliance by Seller with the provisions of the bulk sales or transfer laws of all applicable jurisdictions; it being understood that any Liabilities arising out of the failure of Seller to comply with the requirements and provisions of any bulk sales, bulk transfer or similar laws of any jurisdiction which would not otherwise constitute Assumed Liabilities shall be treated as Excluded Liabilities.

8.15 No Inferences. Inasmuch as this Agreement is the result of negotiations between sophisticated parties of equal bargaining power represented by counsel, no inference in favor of, or against, either party shall be drawn from the fact that any portion of this Agreement has been drafted by or on behalf of such party.

8.16 Interpretation. In this Agreement, unless the context otherwise requires: (a) references to this Agreement are references to this Agreement and to the Schedules and Exhibits hereto; (b) references to Articles and Sections are references to articles and sections of this Agreement; (c) references to any party to this Agreement shall include references to its respective successors, its designees, and permitted assigns; (d) references to a judgment shall include references to any order, writ, injunction, decree, determination or award of any court or tribunal; (e) the terms “hereof,” “herein,” “hereby,” and any derivative or similar words will refer to this entire Agreement; (f) references to any document (including this Agreement) are references to that document as amended, consolidated, supplemented, novated or replaced by the parties thereof from time to time; (g) references to any law are references to that law as of the Closing Date, unless the context requires otherwise, and shall also refer to all rules and regulations promulgated thereunder, unless the context requires otherwise; (h) the word “including” shall mean including without limitation; and (i) references to time are references to Central Standard or Daylight time (as in effect on the applicable day) unless otherwise specified herein. The representations, warranties, and schedules will be deemed supplemented and amended by any Disclosure Update in order to cause the representations and warranties of Seller to be true as of the Closing.

8.17 WAIVER OF JURY TRIAL. EACH PARTY TO THIS AGREEMENT HEREBY UNCONDITIONALLY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE DOCUMENTS RELATED HERETO, ANY DEALINGS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT OR ANY RELATED TRANSACTIONS.

8.18 Time of the Essence. Time is of the essence for purposes of this Agreement and the rights and obligations of the Parties hereunder.

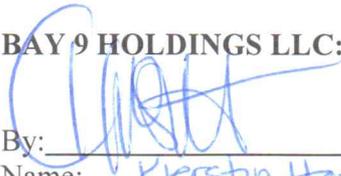
[Signatures Follow on Next Page]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered as of the date first above written.

NORTHWEST SENIOR HOUSING CORPORATION:

By: _____
Name: _____
Title: _____

BAY 9 HOLDINGS LLC:


By: _____
Name: Kierstin Hatch
Title: Managing Member of HP

SCHEDULE 1(w) – EQUIPMENT

SCHEDULE 3.7 – PERMITS

SCHEDULE 5.5(b)(i) – ASSUMED CONTRACTS

SCHEDULE 5.5(b)(ii) – EXCLUDED CONTRACTS

EXHIBIT A

FORM OF BILL OF SALE

BILL OF SALE

Northwest Senior Housing Corporation, a Texas not-for-profit corporation (“**Seller**”), for good and valuable consideration received from Bay 9 Holdings LLC, a Delaware limited liability company, or its designee (“**Purchaser**”), except as limited by that certain Asset Purchase Agreement, dated as of November [•], 2022 between Seller and Purchaser (as modified, amended, or supplemented, the “**Asset Purchase Agreement**”) and the Confirmation Order (as defined in the Asset Purchase Agreement), does hereby sell, convey, transfer, assign and deliver the Purchased Assets (as defined in the Asset Purchase Agreement) “AS-IS”, “WHERE-IS”, “WITH ALL FAULTS”, and Seller does not make any express or implied representations, statements, warranties or conditions of any kind or nature whatsoever concerning the Purchased Assets being sold, conveyed, transferred, assigned and delivered hereunder.

Seller hereby covenants that it will, from time to time upon written request therefor, execute and deliver to Purchaser, its nominees, successors and/or assigns, any new or confirmatory instruments which Purchaser, its nominees, successors and/or assigns, may reasonably request in order to assign and transfer to Purchaser its rights, title and interest in, such Purchased Assets.

IN WITNESS WHEREOF, the undersigned, being duly authorized, has executed and delivered this instrument effective as of January [•], 2023.

NORTHWEST SENIOR HOUSING CORPORATION,
a Texas not-for-profit corporation

By: _____
Name:
Title:

EXHIBIT B

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (“**Assignment**”), dated as of January [•], 2023, is between Northwest Senior Housing Corporation, a Texas not-for-profit corporation (“**Assignor**”), and Bay 9 Holdings LLC, a Delaware limited liability company, or its designee (“**Assignee**”). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Asset Purchase Agreement (as defined below).

RECITALS

A. This Assignment is executed pursuant to that certain Asset Purchase Agreement dated as of November [•], 2022, by and between Assignor as Seller and Assignee as Purchaser (the “**Purchase Agreement**”).

B. Subject to the terms and conditions set forth in the Purchase Agreement, Assignor has agreed to assign to Assignee the Assumed Contracts, and Assignee has agreed to assume the Assumed Liabilities.

AGREEMENT

NOW, THEREFORE, in consideration of the above promises and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. Assignor does hereby assign transfer, convey, and deliver to Assignee, as of the Effective Time, all of its right, title, and interest in all Assumed Contracts.

2. Assignee, as of the Effective Time, hereby assumes and agrees to pay and perform in due course the Assumed Liabilities. For avoidance of doubt, Assignee is not assuming any of the Excluded Liabilities set forth in Section 2.4 of the Purchase Agreement.

3. This Assignment is binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

4. This Assignment may be executed in any number of counterparts (including by facsimile, .PDF, or email), each of which will be deemed to be an original and all of which, together, will constitute one and the same instrument.

5. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE, AND WHERE STATE LAW IS IMPLICATED THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF, INCLUDING AS TO MATTERS OF CONSTRUCTION, VALIDITY, AND PERFORMANCE.

6. THE PARTIES AGREE THAT THE BANKRUPTCY COURT SHALL HAVE JURISDICTION OVER ALL DISPUTES AND OTHER MATTERS RELATING TO (i) THE

INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT OR ANY ANCILLARY DOCUMENT EXECUTED PURSUANT TO THIS AGREEMENT; OR (ii) THE ASSUMED CONTRACTS AND TRANSFERRED RIGHTS ASSIGNED PURSUANT TO OR ARISING OUT OF THIS AGREEMENT OR ANY ANCILLARY DOCUMENT EXECUTED PURSUANT TO THIS AGREEMENT, AND THE PARTIES EXPRESSLY CONSENT TO AND AGREE NOT TO CONTEST SUCH EXCLUSIVE JURISDICTION; PROVIDED THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTES AND OTHER MATTERS, THEN THE COURTS OF THE STATE OF TEXAS AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA SITTING IN THE STATE OF TEXAS SHALL HAVE JURISDICTION OVER SUCH DISPUTES AND OTHER MATTERS EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

7. Nothing in this Assignment, express or implied, is intended to or shall be construed to modify, expand, or limit in any way the terms and conditions of the Purchase Agreement. In the event of a conflict between the terms and conditions of this Assignment and the terms and conditions of the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern, supersede, and prevail.

8. None of the provisions of this Assignment may be amended or waived unless such amendment or waiver is in writing and is signed, in the case of an amendment, by both parties, or in the case of a waiver, by the party against whom the waiver is to be effective.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed as of the date first written above.

ASSIGNOR

**NORTHWEST SENIOR HOUSING
CORPORATION**

By: _____

ASSIGNEE

BAY 9 HOLDINGS LLC

By: _____

EXHIBIT C

FORM OF GROUND LEASE ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS ASSIGNMENT AND ASSUMPTION OF LEASE (this “Assignment Agreement”) is made and entered into this [•] day of January, 2023 (the “Effective Date”) by and among Northwest Senior Housing Corporation, a Texas not-for-profit corporation (“Assignor”), and Bay 9 Holdings LLC, a Delaware limited liability company, or its designee (“Assignee”). Assignor and Assignee may be referred to individually herein as a “Party” and, collectively, as the “Parties” to this Assignment Agreement.

WHEREAS, Assignor is a party to the Ground Lease (as it may be amended, the “Lease Agreement”) dated as of November 1999 by and between Intercity Investment Properties, Inc., a Texas corporation (“Landlord”) and Assignor with respect to certain real property in the City and County of Dallas more specifically described in the Lease Agreement (the “Premises”); and

WHEREAS, pursuant to that certain Asset Purchase Agreement dated as of November [•], 2022 (the “Purchase Agreement”), Assignor desires to assign the Lease Agreement to Assignee effective as of the Closing Date (as defined in the Purchase Agreement) and Assignee desires to assume the Lease Agreement in accordance with, and subject to the terms hereof.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the Parties agree as follows:

1. Effective as of the Effective Date, Assignor hereby irrevocably contributes, assigns, transfers, conveys and delivers to Assignee, and Assignee hereby accepts from Assignor, the entire right, title, and interest of Assignor in, to and under the Lease Agreement.

2. Notwithstanding anything to the contrary contained in the Lease Agreement and subject to the terms and conditions of the Purchase Agreement and Confirmation Order (as defined in the Purchase Agreement), effective as of the Effective Date, Assignee hereby assumes and agrees to be bound by the terms and conditions, pay, defend, discharge, and perform all of the liabilities and obligations of the tenant arising under the Lease Agreement on and after the Effective Date as if Assignee were the tenant named therein. Assignor shall remain responsible for all of the liabilities and obligations of the tenant arising under the Lease Agreement prior to the Effective Date subject to any limitations in the Purchase Agreement and the Confirmation Order.

3. Assignor represents that the Lease Agreement represents the entire agreement with respect to the Premises between Landlord and Assignor.

4. Effective as of the Effective Date, notice is hereby given that all notices and other communications to Assignor and Assignee under the Lease Agreement should be delivered to the addresses set forth below in lieu of (or, with respect to Assignee, in addition to) the addresses for notices set forth in the Lease Agreement. Notice to Landlord shall be given to the address set forth in the Lease Agreement. Any notice, demand, request, consent, approval or communication that a Party desires or is required to give to any other Party related to this Assignment Agreement shall be in writing and either served personally or sent by prepaid, certified or registered mail, return receipt requested, and addressed to such Party at the address set forth below. A Party may change its address by notifying the other Parties of the change of address. Notice shall be deemed

communicated on the date shown on the receipt card (or if no date is shown, on the date of the postmark) if mailed as provided in this paragraph, and upon receipt if served personally.

Assignor:

John Falldine, Executive Director
Edgemere
8523 Thackery Street
Dallas, Texas 75225

With a simultaneous copy to:

Jeremy R. Johnson & Trinitee G. Green
POLSINELLI PC
2950 N. Harwood, Suite 2100
Dallas, Texas 75201
jeremy.johnson@polsinelli.com
tggreen@polsinelli.com

Assignee:

Bay 9 Holdings LLC
265 Magnolia Avenue
Suite 100
Larkspur, CA 94939

With a simultaneous copy to:

Adrienne K. Walker
Chelsey Rosenbloom List
Locke Lord LLP
111 Huntington Avenue
9th Floor
Boston, MA 02199-7613
awalker@lockelord.com
chelsey.list@lockelord.com

Except as specifically amended or modified by this Assignment Agreement, the Lease Agreement shall remain unchanged and in full force and effect.

5. Assignee warrants and represents it has not contacted any broker regarding the Premises or this Assignment Agreement.

6. This Assignment Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective executors, administrators, successors and assigns.

7. This Assignment Agreement shall be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and where state law is implicated this Assignment

Agreement, shall be governed by and construed in accordance with the laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction).

8. THE PARTIES AGREE THAT THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS (THE "BANKRUPTCY COURT") SHALL HAVE JURISDICTION OVER ALL DISPUTES AND OTHER MATTERS RELATING TO THE INTERPRETATION AND ENFORCEMENT OF THIS ASSIGNMENT AGREEMENT OR ANY ANCILLARY DOCUMENT EXECUTED PURSUANT TO THIS ASSIGNMENT AGREEMENT AND THE PARTIES EXPRESSLY CONSENT TO AND AGREE NOT TO CONTEST SUCH EXCLUSIVE JURISDICTION; PROVIDED THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTES AND OTHER MATTERS, THEN THE COURTS OF THE STATE OF TEXAS AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA SITTING IN THE STATE OF TEXAS SHALL HAVE JURISDICTION OVER SUCH DISPUTES AND OTHER MATTERS EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

9. This Assignment Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which counterparts when taken together will constitute one and the same agreement. The exchange of copies of this Assignment Agreement and of signature pages by facsimile transmission or electronic mail transmission (e.g., in .PDF format) will constitute effective execution and delivery of this Assignment Agreement as to the parties and may be used in lieu of the original Assignment Agreement for all purposes. Signatures of the parties transmitted by facsimile or electronic mail (e.g., in .PDF format) will be deemed to be their original signatures for any purpose whatsoever. Without limiting the foregoing, the words "execution," "execute," "signed," "signature," and words of like import in or related to this Assignment Agreement and the transactions contemplated hereby shall be deemed to include electronic signatures (e.g., through DocuSign or other similar electronic e-signature application), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act.

[Signature Page Follows]

EXECUTED under seal as of the date first above written.

ASSIGNOR:

Northwest Senior Housing Corporation

By: _____

Name: []

Title: []

Hereunto Duly Authorized

ASSIGNEE:

Bay 9 Holdings, LLC

By: _____

Name: []

Title: []

Hereunto Duly Authorized

EXHIBIT D

**FORM OF INTELLECTUAL PROPERTY
ASSIGNMENT AND ASSUMPTION AGREEMENT**

INTELLECTUAL PROPERTY ASSIGNMENT

This INTELLECTUAL PROPERTY ASSIGNMENT (this “**Agreement**”), is executed and delivered as of January [•], 2023, by and among Northwest Senior Housing Corporation, a Texas not-for-profit corporation (“**Assignor**”) and Bay 9 Holdings LLC, a Delaware limited liability company, or its designee (“**Assignee**”) pursuant to the Asset Purchase Agreement (as hereinafter defined). Assignor and Assignee are each referred to individually as a “**Party**,” and collectively as the “**Parties**.”

WHEREAS, on the terms and subject to the conditions of the Asset Purchase Agreement, dated as of November [•], 2022, by and between Assignor (the “**Seller**”), and Assignee (the “**Purchaser**”) (as modified, amended, or supplemented, the “**Asset Purchase Agreement**”), Seller agreed to, on the Closing Date and at the Closing, sell, convey, transfer, assign, and deliver to Purchaser the Purchased Assets free and clear of all Claims and Encumbrances (other than Permitted Liens).

WHEREAS, Assignor is the owner of the Intellectual Property Assets as defined in the Asset Purchase Agreement, including as set forth on **Schedule 1** hereto; and

NOW, THEREFORE, for the consideration set forth in the Asset Purchase Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Defined Terms. All initially capitalized terms used but not defined herein have the meaning given them in the Asset Purchase Agreement.

2. Assignment. On the terms and subject to the conditions set forth in the Asset Purchase Agreement and the Confirmation Order, Assignor hereby sells, conveys, transfers, assigns, and delivers to Assignee, and Assignee’s successors and assigns,

i) all right, title and interest in and to the Intellectual Property Assets, including all rights therein provided by international conventions and treaties, and the right to sue for past, present and future infringement thereof (“**Transferred Rights**”);

ii) any and all rights to sue at law or in equity for any infringement, imitation, impairment, distortion, dilution or other unauthorized use or conduct in derogation of the Transferred Rights occurring prior to the Closing, including the right to receive all proceeds and damages therefrom;

iii) any and all rights to royalties, profits, compensation, license fees or other payments or remuneration of any kind relating to the Transferred Rights arising from and after the date of this Agreement;

iv) any and all rights to obtain renewals, reissues, and extensions of registrations or other legal protections pertaining to the Transferred Rights; and

v) all goodwill and other intangible assets associated with the Intellectual Property Assets.

Assignee, its successors and assigns, shall hold the rights to the foregoing for and during the existence of such Transferred Rights, and all renewals, reissues and extensions thereof, as fully and as entirely as the same would have been held and enjoyed by Assignor had this Agreement not been made.

3. Asset Purchase Agreement. This Agreement is in accordance with and is subject to the terms of the Asset Purchase Agreement and Confirmation Order. Nothing contained herein shall be deemed to supersede, enlarge on, limit or modify any of the obligations, agreements, covenants or warranties of Seller contained in the Asset Purchase Agreement and Confirmation Order. If any conflict or other difference exists between the terms of this Agreement and the Asset Purchase Agreement or Confirmation Order, then the terms of the Asset Purchase Agreement and Confirmation Order shall govern and control. Except as set forth in the Asset Purchase Agreement and Confirmation Order, the Transferred Rights are being sold, conveyed, transferred, assigned and delivered hereunder “AS-IS”, “WHERE-IS”, “WITH ALL FAULTS”, and Seller does not make any express or implied representations, statements, warranties or conditions of any kind or nature whatsoever concerning the Transferred Rights being sold, conveyed, transferred, assigned and delivered hereunder.

4. Further Assurances. At the request and cost (if any) of Assignee, Assignor shall timely execute and deliver any additional documents and perform such additional acts reasonably necessary or desirable to record and perfect the interest of Assignee in and to the Intellectual Property Assets (including, without limitation, the Transferred Rights), and shall not enter into any agreement in conflict with this Agreement.

5. Binding on Successors; No Third Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and the respective successors in interest and permitted assigns of such parties. This Agreement is not intended to confer any rights or remedies upon any Person or entity other than the Parties hereto.

6. Counterparts. This Agreement may be executed in two (2) or more counterparts (including by DocuSign, or other electronic delivery by electronic mail), each of which shall be deemed an original but all of which together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party hereto and delivered to the other parties, it being understood that each party need not sign the same counterpart. No Party shall assert that the use of an electronic transmission to deliver a signature or the fact that any signature was transmitted or communicated through the use of an electronic transmission, constitutes a defense to the formation or delivery of a contract or a document, and each party hereto forever waives any such defenses.

7. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

8. Amendments, Etc. Any amendment, modification or waiver of any term or provision of this Agreement must be in writing and signed by Assignor and Assignee. Any waiver will be effective only in the specific instance and for the specific purpose for which it is given.

9. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE, AND WHERE STATE LAW IS IMPLICATED THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF, INCLUDING AS TO MATTERS OF CONSTRUCTION, VALIDITY, AND PERFORMANCE.

10. Bankruptcy Court Jurisdiction. THE PARTIES AGREE THAT THE BANKRUPTCY COURT SHALL HAVE JURISDICTION OVER ALL DISPUTES AND OTHER MATTERS RELATING TO (i) THE INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT OR ANY ANCILLARY DOCUMENT EXECUTED PURSUANT TO THIS AGREEMENT; OR (ii) THE INTELLECTUAL PROPERTY ASSETS, AND TRANSFERRED RIGHTS ASSIGNED PURSUANT TO OR ARISING OUT OF THIS AGREEMENT OR ANY ANCILLARY DOCUMENT EXECUTED PURSUANT TO THIS AGREEMENT, AND THE PARTIES EXPRESSLY CONSENT TO AND AGREE NOT TO CONTEST SUCH EXCLUSIVE JURISDICTION; PROVIDED THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTES AND OTHER MATTERS, THEN THE COURTS OF THE STATE OF TEXAS AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA SITTING IN THE STATE OF TEXAS SHALL HAVE JURISDICTION OVER SUCH DISPUTES AND OTHER MATTERS EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[Signature Page Follows]

IN WITNESS WHEREOF, the party hereto has executed this Agreement as of the day and year first above written.

ASSIGNEE:

ASSIGNOR:

BAY 9 HOLDINGS LLC

NORTHWEST SENIOR HOUSING
CORPORATION

By: _____

Name:

Its:

By: _____

Name:

Its:

Schedule 1 - Intellectual Property Assets

EXHIBIT E

FORM OF SELLER CLOSING CERTIFICATE

SELLER CLOSING CERTIFICATE

Pursuant to Section 6.2(e) of the Asset Purchase Agreement (the “**Agreement**”), dated as of November [•], 2022 between Northwest Senior Housing Corporation, a Texas not-for-profit corporation (“**Seller**”) and Bay 9 Holdings LLC, a Delaware limited liability company, or its designee (“**Purchaser**”), the undersigned, being a duly authorized executive officer of Seller, does hereby certify that (i) all the covenants and obligations of the Agreement to be complied with and performed by Seller at or before the Closing Date (as defined in the Agreement) have been complied with and performed in all material respects, and (ii) the representations and warranties made by Seller in the Agreement (other than those that speak as of a specified date or time) are true and correct in all respects, as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date, except to the extent such failure to be true and correct has not had, and would not reasonably be expected to have, a material effect.

Northwest Senior Housing Corporation,
a Texas not-for-profit corporation

By: _____
Name:
Title:

EXHIBIT F

FORM OF PURCHASER CLOSING CERTIFICATE

PURCHASER CLOSING CERTIFICATE

Pursuant to Section 6.3(e) of the Asset Purchase Agreement (the “**Agreement**”), dated as of November [•], 2022 between Northwest Senior Housing Corporation, a Texas not-for-profit company (“**Seller**”) and Bay 9 Holdings LLC, a Delaware limited liability company or its designee (“**Purchaser**”), the undersigned, being a duly authorized executive officer of Purchaser, does hereby certify that (i) all of the covenants and obligations of the Agreement to be complied with and performed by Purchaser at or before the Closing Date (as defined in the Agreement) have been complied with and performed in all material respects, and (ii) the representations and warranties made by Purchaser in the Agreement (other than those that speak as of a specified date or time) are true and correct in all respects, as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date, except to the extent such failure to be true and correct has not had, and would not reasonably be expected to have, a material effect.

Bay 9 Holdings LLC
a Delaware limited liability company

By: _____
Name:
Title:

EXHIBIT G

FORM OF ESCROW DEPOSIT AGREEMENT

ESCROW AGREEMENT

THIS Escrow Agreement (this “**Agreement**”) made and entered into as of this [•] day of November, 2022 by and among Northwest Senior Housing Corporation, a Texas not-for-profit corporation (“**Seller**”), Bay 9 Holdings LLC, a Delaware limited liability company or its designee (“**Purchaser**”), and UMB Bank, N.A., as Escrow Agent, a national banking association organized and existing under the laws of the United States of America (the “**Escrow Agent**”).

RECITALS

A. Seller has filed a voluntary petition for relief under the Bankruptcy Code as Case Number 22-30659 with the United States Bankruptcy Court for the Northern District of Texas;

B. Seller is a not-for-profit corporation that owns and operates a best-in-class continuing care retirement community located at 8523 Thackery St, Dallas, Texas 75225 (the “**Edgemere Community**”) on land owned by Intercity Investment Properties, Inc. pursuant to that certain Ground Lease dated November 5, 1999 (the “**Ground Lease**”). The Edgemere Community offers residents a continuum of care in a campus-style setting, providing living accommodations and related health care and support services to persons aged 62 or older.

C. UMB Bank, N.A., as the Bond Trustee under the 2015 Bond Indenture and the 2017 Bond Indenture, and successor Master Trustee under the Original Master Indenture (the “**Trustee**”) and in its capacity as DIP Lender, have filed a proposed a Plan of Reorganization under Chapter 11 of the Bankruptcy Code (the “**Plan**”) that contemplates the sale of the Edgemere Community and related assets to Purchaser, or another purchaser that submits a higher and better offer for the assets in accordance with the Sale Transaction Procedures;

D. Purchaser desires to acquire the Edgemere Community, including Edgemere’s leasehold interest in the Premises created by the Ground Lease, and the assets owned by Seller and used or useful to Seller’s operation of the Edgemere Community (the “**Business**”, and, together with Seller’s interests in the Ground Lease, the “**Assets**”) on the terms and conditions contained in this Agreement, subject to higher and better bids, as well as confirmation of the Plan;

E. Seller and Purchaser have entered into that certain Asset Purchase Agreement dated November [•], 2022 (the “**APA**”)¹.

F. Seller and Purchaser desire that UMB Bank, N.A. act as Escrow Agent to hold the Deposit for the Sale described in the APA, and Escrow Agent is willing to act in such capacity. Seller and Purchaser acknowledge that UMB Bank, N.A. also serves as Bond Trustee and DIP Lender. Seller and Purchaser assert that no conflict exists, nor does Seller or Purchaser assert any objection thereto.

¹ Terms not defined herein shall have the meanings ascribed to them in the APA.

AGREEMENT

NOW, THEREFORE, Seller, Purchaser, and Escrow Agent agree to the terms of this Agreement as follows:

1. Commencement of Duties. Purchaser, subject to entry of the Bidding Procedures Order, simultaneously with the execution and delivery of this Agreement, shall transfer to the Escrow Agent the aggregate sum of Two Million and Four Hundred Thousand Dollars (\$2,425,000) (the “**Escrowed Funds**”). Upon receipt of the Escrowed Funds and after the parties’ submission of all documentation required by the Escrow Agent to comply with the Bank Secrecy Act, the duties and obligations of each of the parties to this Agreement will commence.

2. Operation of the Escrow. With respect to any requested disbursement, Seller and Purchaser (i) certify they have reviewed any wire instructions set forth in such written disbursement direction to confirm such wire instructions are accurate, (ii) agree to indemnify and hold harmless the Escrow Agent from and against any and all claim, demand, loss, liability, or expense sustained, including but not limited to attorney fees, and expenses resulting directly or indirectly as a result of making the disbursement requested up to the amount of the Escrowed Funds, and (iii) agree they will not seek recourse from the Escrow Agent as a result of losses incurred by it for making the disbursement in accordance with the disbursement direction.

3. Escrowed Funds. Upon receipt of the Escrowed Funds, the Escrow Agent shall hold the Escrowed Funds in escrow pursuant to the terms of this Agreement. Until such time as the Escrowed Funds shall be distributed by the Escrow Agent as provided herein, unless the Escrow Agent is otherwise directed in writing in a joint written investment direction signed by the Seller and the Purchaser, the Escrowed Funds shall be invested and reinvested by the Escrow Agent in the an interest-bearing money market deposit account. The parties hereto acknowledge that the Escrow Agent does not have a duty nor will it undertake any duty to provide investment advice.

(a) The Escrow Agent shall be entitled to sell or redeem any such investment as necessary to make any distributions required under this Agreement and shall not be liable or responsible for any loss resulting from any such sale or redemption.

(b) Income, if any, resulting from the investment of the Escrowed Funds shall be retained by the Escrow Agent and shall be considered, for all purposes of this Agreement, to be part of the Escrowed Funds.

4. Disbursement of the Escrowed Funds. The Parties shall act in accordance with, and the Escrow Agent shall hold and release the Escrowed Funds as provided in this Section:

(a) Upon receipt of a joint written instruction executed by each of Seller and Purchaser with respect to the Escrowed Funds, the Escrow Agent shall promptly, but in any event within two (2) business days after receipt of such joint written instruction, disburse all or part of the Escrowed Funds in accordance with such joint written instruction;

(b) Upon receipt by the Escrow Agent of a copy of a final, non-appealable order of any court of competent jurisdiction which may be issued, together with (i) a certificate executed by an authorized representative of the prevailing party, to the

effect that such order is final and non-appealable and from a court of competent jurisdiction having proper authority and (ii) the written payment instructions executed by an authorized representative of the prevailing party to effectuate such order (a “Final Determination”) (a copy of which shall be delivered simultaneously to the Escrow Agent and the no-presenting party), the Escrow Agent shall, on the fifth (5th) business day following receipt of such Final Determination, disburse as directed, part of all, as the case may be, of the Escrowed Funds in accordance with such Final Determination; or

(c) the Escrow Agent shall release the Escrowed Funds in a manner consistent with the terms of the Bidding Procedures Order.

5. Duties of the Escrow Agent. The Escrow Agent shall have no duties or responsibilities other than those expressly set forth in this Agreement, and no implied duties or obligations shall be read into this Agreement against the Escrow Agent. The Escrow Agent has no fiduciary or discretionary duties of any kind. The Escrow Agent is not a party to, or bound by, the Purchase Agreement or any other agreement among the other parties hereto, and the Escrow Agent’s duties shall be determined solely by reference to this Agreement. The Escrow Agent shall have no duty to enforce any obligation of any person, other than as provided herein. The Escrow Agent shall be under no liability to anyone by reason of any failure on the part of any party hereto or any maker, endorser or other signatory of any document or any other person to perform such person’s obligations under any such document.

6. Liability of the Escrow Agent; Indemnification. The Escrow Agent acts hereunder as a depository only. The Escrow Agent is not responsible or liable in any manner for the sufficiency, correctness, genuineness or validity of this Escrow Agreement or with respect to the form of execution of the same. The Escrow Agent shall not be liable for any action taken or omitted by it, or any action suffered by it to be taken or omitted, in good faith, and in the exercise of its own best judgment, and may rely conclusively and shall be protected in acting upon any order, notice, demand, certificate, opinion or advice of counsel (including counsel chosen by the Escrow Agent), statement, instrument, report or other paper or document (not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and acceptability of any information therein contained) which is believed by the Escrow Agent to be genuine and to be signed or presented by the proper person(s). The Escrow Agent shall not be held liable for any error in judgment made in good faith by an officer or employee of the Escrow Agent unless it shall be proved that the Escrow Agent was grossly negligent in ascertaining the pertinent facts or acted intentionally in bad faith. The Escrow Agent shall not be bound by any notice of demand, or any waiver, modification, termination or rescission of this Agreement or any of the terms hereof, unless evidenced by a writing delivered to the Escrow Agent signed by the proper party or parties and, if the duties or rights of the Escrow Agent are affected, unless it shall give its prior written consent thereto. In no event shall the Escrow Agent be liable for incidental, indirect, special, consequential or punitive damages or penalties (including, but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such damages or penalty and regardless of the form of action. The Escrow Agent shall not be responsible for delays or failures in performance resulting from acts beyond its control, including without limitation acts of God, strikes, lockouts, riots, acts of war or terror, epidemics, pandemics, governmental regulations, fire, communication line failures, computer viruses, power failures, earthquakes or other disasters. The Escrow Agent shall not be obligated to take any legal action or commence any proceeding in connection with the

Escrowed Funds, any account in which Escrowed Funds are deposited, this Agreement or any other agreement, or to appear in, prosecute or defend any such legal action or proceeding.

The Escrow Agent may consult legal counsel in the event of any dispute or question as to the construction of any provisions hereof or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in accordance with the opinion or instructions of such counsel.

The Escrow Agent shall not be responsible, may conclusively rely upon and shall be protected, indemnified and held harmless by Seller and Purchaser, acting jointly and severally, for the sufficiency or accuracy of the form of, or the execution, validity, value or genuineness of any document or property received, held or delivered by it hereunder, or of the signature or endorsement thereon, or for any description therein; nor shall the Escrow Agent be responsible or liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any document, property or this Agreement.

In the event that the Escrow Agent shall become involved in any arbitration or litigation relating to the Escrowed Funds, the Escrow Agent is authorized to comply with any decision reached through such arbitration or litigation.

Seller and Purchaser, jointly and severally, hereby agree to indemnify the Escrow Agent and each direction, officer, employee, attorney, agent and affiliate of the Escrow Agent for, and to hold it harmless against any loss, liability or expense incurred in connection herewith up to the amount of the Escrowed Funds without gross negligence or willful misconduct on the part of the Escrow Agent, including without limitation legal or other fees arising out of or in connection with its entering into this Agreement and carrying out its duties hereunder, including without limitation the costs and expenses of defending itself against any claim of liability in the premises or any action for interpleader. The Escrow Agent shall be under no obligation to institute or defend any action, suit, or legal proceeding in connection herewith, unless first indemnified and held harmless to its satisfaction in accordance with the foregoing, except that the Escrow Agent shall not be indemnified against any loss, liability or expense arising out of its own gross negligence or willful misconduct as finally determined by a court of competent jurisdiction, subject to no further appeal. Such indemnity shall survive the termination or discharge of this Agreement or resignation of the Escrow Agent.

7. The Escrow Agent's Fee. Escrow Agent shall be entitled to fees and expenses for its regular services as Escrow Agent as set forth in Exhibit A. Additionally, Escrow Agent is entitled to fees for extraordinary services and reimbursement of any out of pocket and extraordinary costs and expenses, including, but not limited to, attorneys' fees. Escrow Agent shall have a first lien upon all Escrowed Funds for the purposes of paying its fees and expenses. All of the Escrow Agent's compensation, costs and expenses shall be paid by Seller. Any fees and expenses shall be payable from and may be deducted by Escrow Agent from interest and/or principal of any monies held in Escrowed Funds by Escrow Agent.

8. Security Interests. No party to this Escrow Agreement shall grant a security interest in any monies or other property deposited with the Escrow Agent under this Escrow Agreement, or otherwise create a lien, encumbrance or other claim against such monies or borrow against the same.

9. Dispute. In the event of any disagreement between the undersigned or the person or persons named in the instructions contained in this Agreement, or any other person, resulting in adverse claims and demands being made in connection with or for any papers, money or property involved herein, or affected hereby, the Escrow Agent shall be entitled to refuse to comply with any demand or claim, as long as such disagreement shall continue, and in so refusing to make any delivery or other disposition of any money, papers or property involved or affected hereby, the Escrow Agent shall not be or become liable to the undersigned or to any person named in such instructions for its refusal to comply with such conflicting or adverse demands, and the Escrow Agent shall be entitled to refuse and refrain to act until: (a) The rights of the adverse claimants shall have been fully and finally adjudicated in a Court assuming and having jurisdiction of the parties and money, papers and property involved herein or affected hereby, or (b) All differences shall have been adjusted by agreement and the Escrow Agent shall have been notified thereof in writing, signed by all the interested parties.

10. Resignation of Escrow Agent. Escrow Agent may resign or be removed, at any time, for any reason, by written notice of its resignation or removal to the proper parties at their respective addresses as set forth herein, at least 30 days before the date specified for such resignation or removal to take effect; upon the effective date of such resignation or removal:

(a) All cash and other payments and all other property then held by the Escrow Agent hereunder shall be delivered by it to such successor Escrow Agent as may be designated in writing by the Seller and the Purchaser, whereupon the Escrow Agent's obligations hereunder shall cease and terminate;

(b) If no such successor Escrow Agent has been designated by such date, all obligations of the Escrow Agent hereunder shall, nevertheless, cease and terminate, and the Escrow Agent's sole responsibility thereafter shall be to keep all property then held by it and to deliver the same to a person designated in writing by the Seller and the Purchaser or in accordance with the directions of a final order or judgment of a court of competent jurisdiction.

(c) Further, if no such successor Escrow Agent has been designated by such date, the resigning or removed Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor agent. In such instance, the resigning or removed Escrow Agent may pay into court all monies and property deposited with Escrow Agent under this Agreement.

11. Notices. All notices, demands and requests required or permitted to be given under the provisions hereof must be in writing and shall be deemed to have been sufficiently given, upon receipt, if (i) personally delivered, (ii) sent by telecopy or electronic mail and confirmed by phone or (iii) mailed by registered or certified mail, with return receipt requested, delivered as follows:

(1) If to Seller: John Falldine, Executive Director
Edgemere
8523 Thackery Street
Dallas, Texas 75225
John.Falldine@lifespacecommunities.com

with a copy to:

Jeremy Johnson & Trinitee Green
POLSINELLI PC
2950 N. Harwood, Suite 2100
Dallas, Texas 75201
jeremy.johnson@polsinelli.com
tggreen@polsinelli.com

(2) If to Purchaser:

Bay 9 Holdings LLC
265 Magnolia Avenue
Suite 100
Larkspur, CA 94939

with a copy to:

Adrienne K. Walker

Chelsey Rosenbloom List
Locke Lord LLP
111 Huntington Avenue, 9th Floor
Boston, MA 02199-7613
awalker@lockelord.com
chelsey.list@lockelord.com

(3) If to Escrow Agent:

Irina Palchuk, Senior Vice President
UMB Bank, N.A.
100 William Street, Suite 1850
New York, NY 10038
Irina.Palchuk@umb.com

with a copy to:

Daniel S. Bleck
Eric Blythe
Kaitlin R. Walsh
Mintz Levin Cohn Ferris Glovsky
and Popeo, PC
One Financial Center
Boston, Massachusetts 02111
dsbleck@mintz.com
erblythe@mintz.com
krwalsh@mintz.com

12. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Missouri without regard to the principles of conflicts of law.

13. Binding Effect; Benefit. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto.

14. Modification. This Agreement may be amended, modified or terminated at any time by a writing executed by Seller, Purchaser, and the Escrow Agent; provided the party making such assignment provides written notice to the other parties hereto.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means.

16. Headings. The section headings contained in this Agreement are inserted for convenience only, and shall not affect in any way, the meaning or interpretation of this Agreement.

17. Severability. This Agreement constitutes the entire agreement among the parties and supersedes all prior and contemporaneous agreements and undertakings of the parties in connection herewith. No failure or delay of the Escrow Agent in exercising any right, power or remedy may be, or may be deemed to be, a waiver thereof; nor may any single or partial exercise of any right, power or remedy preclude any other or further exercise of any right, power or remedy. In the event that any one or more of the provisions contained in this Agreement, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement.

18. Earnings Allocation; Tax Matters; Regulatory Compliance. The parties hereto agree that, for tax reporting purposes, all interest or other income, if any, attributable to the Escrowed Funds or any other amount held in escrow by the Escrow Agent pursuant to this Agreement shall be allocable to the Seller. The Seller agrees to provide the Escrow Agent completed Forms W-9 (or Forms W-8, in the case of non-U.S. persons) and other forms and documents that the Escrow Agent may reasonably request (collectively, "Tax Reporting Documentation") at the time of execution of this Agreement. Additionally, the parties hereto agree that they will provide any information reasonably requested by the Escrow Agent to comply with the USA Patriot Act of 2001, as amended from time to time, and the Bank Secrecy Act of 1970, as amended from time to time (together the "Acts"), which information will be used to verify the identities of the parties to ensure compliance with the terms of such Acts. The parties hereto understand that if such Tax Reporting Documentation is not so certified to the Escrow Agent, the Escrow Agent may be required by the Internal Revenue Code, as it may be amended from time to time, to withhold a portion of any interest or other income earned on the investment of monies or other property held by the Escrow Agent pursuant to this Escrow Agreement.

[SIGNATURE PAGES FOLLOW]

SELLER:

Northwest Senior Housing Corporation,
a Texas not-for-profit corporation

By: _____
Name:
Title:

PURCHASER:

Bay 9 Holdings LLC,
a Delaware limited liability company

By: _____
Name:
Title:

ESCROW AGENT:

UMB BANK, N.A., solely as Escrow Agent

By: _____
Name: Irina Palchuk
Title: Senior Vice President

EXHIBIT A

ESCROW FEES AND EXPENSES

Acceptance Fee

Review escrow agreement and establish account \$1,250.00

Annual Fee (per year or part thereof)

Maintain account \$1,250.00

Fees specified are for the regular, routine services contemplated by the Escrow Agreement, and any additional or extraordinary services, including, but not limited to disbursements involving a dispute or arbitration, or administration while a dispute, controversy or adverse claim is in existence, will be charged based upon time required at the then standard hourly rate. In addition to the specified fees, all expenses related to the administration of the Escrow Agreement (other than normal overhead expenses of the regular staff) such as, but not limited to, travel, postage, shipping, courier, telephone, facsimile, supplies, legal fees, accounting fees, etc., will be reimbursable. Acceptance and first year annual fees will be payable at the initiation of the escrow and annual fees will be payable in advance thereafter. Other fees and expenses will be billed as incurred.