

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

In re:

Northwest Senior Housing Corporation, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 22-30659 (MVL)  
(Jointly Administered)

**JOINT PLAN OF REORGANIZATION  
PROPOSED BY THE COMMITTEE AND THE DEBTORS**

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Dated: November 2, 2022

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are 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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## INTRODUCTION<sup>2</sup>

On April 14, 2022, Northwest Senior Housing Corporation d/b/a Edgemere (“**Edgemere**”) and Senior Quality Lifestyles Corporation (“**SQLC**” and together with Edgemere, the “**Debtors**”) commenced their Chapter 11 Cases, seeking relief under Chapter 11 of the Bankruptcy Code. The Debtors and the Committee (the “**Plan Proponents**”) 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 herein 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 the Plan and the risk factors relating to consummation of this Plan. No materials other than the Disclosure Statement, this Plan, and all exhibits and/or schedules attached thereto or hereto have been authorized by the Debtors for use in soliciting votes of acceptance with respect to the 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>.

The Plan proposes the following primary transactions: (i) obtaining Sponsor Support, consisting of (a) the Sponsor Contribution of \$20,000,000 in Cash on the Effective Date; (b) additional liquidity support in the form of a Liquidity Support Agreement in the unfunded amount of \$20,000,000 and a Debt Service Support Agreement in the annual unfunded amount of \$9,000,000 for seven (7) years after the Effective Date; and (c) approximately \$17,400,000 in waived and deferred overhead allocation charges; (ii) entering into the Bond Transaction, which provides for, among other things, the issuance of new 2023 Bonds that will provide approximately \$88,900,000 in new capital to the Reorganized Debtor; and (iii) transferring Assets, including, without limitation, Avoidance Actions and the Landlord Litigation into the Litigation Trust on the Effective Date, or as soon as practicable thereafter, for the benefit of holders of Allowed Claims in Classes 4, 5, 6, and 8.

Through the Sponsor Support and the Bond Transaction, the Plan will eliminate the outstanding debt on account of the Original Bonds and increase liquidity for working capital and capital expenditure needs, while ensuring that Edgemere can continue to operate as a CCRC and provide substantially the same quality of services and lifecare benefits to its Residents who choose to remain at Edgemere and sign a Replacement Residency Agreement.

The Reorganized Debtor will offer current Residents the opportunity to enter into a Replacement Residency Agreement that will maintain current Residents’ lifecare benefits and satisfy a portion of any Refund Obligations due and owing under the rejected Residency Agreements. The Debtors are rejecting the existing Residency Agreements, which are refundable Entrance Fee contracts, and offering current Residents new traditional contracts and they will receive refunds totaling forty percent (40%) of the Entrance Fees paid to Edgemere under the terms of existing Residency Agreements, which represents the approximate difference in Entrance Fee

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<sup>2</sup> Capitalized terms used but not defined shall have the meanings ascribed to them in Section 1.A of this Plan.

required for a refundable contract and a traditional contract. Similarly, former Residents will receive refunds totaling forty percent (40%) of the amount of the Entrance Fees paid to Edgemere under the terms of applicable Residency Agreements. As a result of the rejection of the current Residency Agreements, Residents will become holders of Claims in Classes 5 and 6.

Under the Plan, Allowed Administrative Claims, the DIP Facility Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and Allowed Other Secured Claims shall be paid or satisfied in full on or as soon as reasonably practicable after the Effective Date.

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 “*506(a) Valuation Hearing*” means the hearing to be held by the Bankruptcy Court to determine the valuation of the Secured portion of the Bond Claims and the amount of the Bond Deficiency Claims in accordance with Bankruptcy Code section 506(a)(1).

1.2 “*1111(b) Election*” means an election made by the holders of the Allowed Bond Claims to have such Claims treated pursuant to Bankruptcy Code section 1111(b).

1.3 “*1111(b) Note*” shall mean such note, effective, if at all, on the Effective Date, as more fully described in Section 3 hereof.

1.4 “*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.

1.5 “*2015 Bond Indenture*” means that certain Indenture of Trust, dated as of 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.

1.6 “*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.

1.7 “*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.

1.8 “*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.

1.9 “*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.

1.10 “*2023 Bond Indenture*” means that certain Bond Indenture (as such indenture may be further amended, supplemented, or modified from time to time) to be entered into by and between the Issuer and the 2023 Bond Trustee pursuant to this Plan on or after the Effective Date, and which shall be in form and substance acceptable to the Debtors, the Issuer and the Bond Trustee.

1.11 “*2023 Bond Documents*” means the 2023 Bond Indenture, and any bonds, loan agreement, mortgage, security agreement, document, agreement, or instrument executed or delivered in connection with the issuance of the 2023 Bonds, including the 2023 Loan Agreement.

1.12 “*2023 Bond Collateral*” means a lien and/or interest on the Reorganized Debtor’s assets as set forth under the 2023 Bond Documents.

1.13 “*2023 Bonds*” means the Retirement Facility Revenue Bonds (Northwest Senior Housing Corporation – Edgemere Project) to be issued by the Issuer pursuant to this Plan under the 2023 Bond Indenture.

1.14 “*2023 Loan Agreement*” means that Loan Agreement, to be entered into, by and between the Issuer and Edgemere, pursuant to which the Issuer will loan the proceeds of the 2023 Bonds to Edgemere, as the Reorganized Debtor.

1.15 “*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: (a) 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; (b) Allowed Professional Claims; (c) 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 (d) all fees and charges assessed pursuant to 28 U.S.C. § 1930(a)(6).

1.16 “*Administrative Claim Bar Date*” means the date by which Administrative Claims must be Filed, which shall be no later than thirty (30) days after the Effective Date.

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

1.18 “*Allowed*” means with respect to Claims: (a) any Claim, proof of which is timely filed by the applicable Bar Date; (b) 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 (c) any Claim Allowed pursuant to the Plan or a Final Order of the Bankruptcy Court;



provided, that with respect to any Claim described in clauses (a) and (b) 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 the 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 Debtors 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. 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.

1.19 “*Allowed 1111(b) Claim*” shall have the meaning as set forth in Section 3.3.1(b) of the Plan.

1.20 “*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).

1.21 “*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 seeking to avoid a transfer of property or recover property pursuant to Bankruptcy Code sections 542 through 550 or applicable non-bankruptcy law.

1.22 “*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.

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

1.24 “*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.

1.25 “*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.

1.26 “*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.

1.27 “*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].

1.28 “*Boards of Directors*” means the boards of directors of the Debtors as of the Petition Date.

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

1.30 “*Bond Deficiency Claim*” means the unsecured portion of the Bond Claims held by the holders of the Original Bonds as provided in Bankruptcy Code section 506(a) and as determined by the Bankruptcy Court following the 506(a) Valuation Hearing.

1.31 “*Bond Transaction*” means the financial restructuring of the outstanding indebtedness of the Obligated Group on account of the Original Bonds.

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

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

1.34 “*Cash Collateral*” means “cash collateral” as defined in Bankruptcy Code section 363.

1.35 “*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, enforcement rights, 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, alternative dispute resolution, 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.

1.36 “*CCRC*” means continuing care retirement community.

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

1.38 “*Chapter 11 Cases*” means (a) 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 (b) 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.

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

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

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

1.42 “*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].

1.43 “*Community*” means the continuing care retirement community located in Dallas, Texas known as “Edgemere” and owned and operated by Edgemere.

1.44 “*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.

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

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

1.47 “*Corporate Governance Documents*” means the certificates of incorporation, certificates of formation, resolutions, by-laws, and related documents of the Debtors and the Reorganized Debtors.

1.48 “*Cure*” or “*Cure Claim*” means any Claim (unless waived or modified by the applicable counterparty) against a Debtor based upon a Debtor’s defaults prior to the Effective Date under an Executory Contract or an Unexpired Lease assumed by such Debtor under Bankruptcy Code section 365, other than a default that is not required to be cured pursuant to Bankruptcy Code section 365(b)(2).

1.49 “*DCOH*” means Days Cash on Hand, which represents the number of days the Reorganized Debtor can continue to pay its operating expenses with the current cash it has available.

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

1.51 “*Deferred Sponsor Fees*” means the Sponsor Fees accruing after the Effective Date that Sponsor has agreed to defer if Edgemere’s available DCOH falls below 90 DCOH with any such deferred amounts being repaid only when Edgemere achieves 120 DCOH.

1.52 “*Deficiency Claim*” means a General Unsecured Claim for the difference between (i) the aggregate amount of an Allowed Claim and (ii) the value received on account of the portion of such Allowed Claim that is a Secured Claim.

1.53 “*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 by the DIP Orders.

1.54 “*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.

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

1.56 “*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]; *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).

1.57 “*Disbursing Agent*” means the Debtors, the Reorganized Debtor, or the entity or entities chosen by the Debtors or the Reorganized Debtor to make or facilitate Distributions pursuant to this Plan.

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

1.59 “*Disputed*” means, with respect to any Claim or Interest, or any portion thereof, a Claim or Interest, or any portion thereof, that is not yet Allowed, including (a) any Claim evidenced by a Proof of Claim that, on its face, is contingent or unliquidated; (b) 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; (c) any Claim or Interest scheduled by the Debtors as Contingent, unliquidated or disputed, (d) 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 (e) 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.

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

1.61 “*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.

1.62 “*DSSA*” means the Debt Service Support Agreement that will, among other things, provide support for obligations under the 2023 Bond Documents in the form of a \$9,000,000 annual guaranty from the Sponsor for a term of seven (7) years following the Effective Date.

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

1.64 “*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.

1.65 “*Effective Date Support*” means the support to be provided by the Sponsor on the Effective Date, or as soon as reasonably practicable thereafter, as set forth in Section 4.1.1(a) of the Plan.

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

1.67 “*Entrance Fee Escrow*” means the Entrance Fees received from Residents on or after September 27, 2021, which are held in escrow accounts maintained by Regions Bank, as escrow agent, on behalf of the Residents pursuant to Residency Agreements and Escrow Agreements.

1.68 “*Entrance Fee Escrow Order*” means the *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].

1.69 “*Entrance Fees*” means the fees paid by Residents, pursuant to the applicable Residency Agreement, as a requirement to obtaining the right to occupy a unit at the Community, which may be fully or partially refundable to Residents, in accordance with the terms of applicable Residency Agreements.

1.70 “*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.

1.71 “*Escrow Agreement Addendum*” means the addendum amending the Residency Agreements, entered into on or after September 27, 2021, to incorporate the terms of the Escrow Agreement and conditions for return of new Entrance Fees.

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

1.73 “*Excess Cash*” means the Cash available, above 180 DCOH, after payment of operating expenses, debt service and funding certain reserves, that the Reorganized Debtor shall deposit into the Replacement Reserve.

1.74 “*Exculpated Party*” means each of: (i) the Debtors, (ii) the Reorganized Debtor, (iii) the members of the Committee, solely in their capacity as such members, (iv) the Sponsor, 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.

1.75 “*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.

1.76 “*Final DIP Order*” means the *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).

1.77 “*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, 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.

1.78 “*First Day Declaration*” means the *Declaration of Nick Harshfield in Support of the Debtors’ Chapter 11 Petition and First Day Pleadings* [Docket No. 7].

1.79 “*General Unsecured Claim*” means any Unsecured Claim that is not an Administrative Claim, Priority Tax Claim, Other Priority Claim, Bond Deficiency Claim, Former Resident Claim, Current Resident Claim, or Intercompany Claim.

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

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

1.82 “*Indemnification Provisions*” means the Debtors’ indemnification provisions in effect as of the Petition Date, whether in the Debtors’ bylaws, certificates of incorporation, other formation, documents, board resolutions, management or indemnification agreements, employment contracts, engagement agreements, or otherwise providing a basis for any obligation of the Debtors to indemnify, defend, reimburse or limit the liability of, or to advance fees and expenses to, any of the Debtors’ current and former directors, officers, equity holders, managers, members, employees, accountants, investment bankers, attorneys, other professionals, and professionals of the Debtors, and such current and former directors’, officers’, and managers’ respective Affiliates, each of the foregoing solely in their capacity as such.

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

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

1.85 “*Intercompany Claim*” means any Claim against any Debtor held by an Affiliate.

1.86 “*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.

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

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

1.89 “*Kong*” means Kong Capital, LLC.

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

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

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

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

1.94 “*Litigation Trust*” shall mean a common law trust to be established pursuant to the Plan, the Litigation Trust Agreement and the Confirmation Order for the sole and exclusive benefit of the Litigation Trust Beneficiaries. The Litigation Trust shall distribute the Litigation Trust Assets, in accordance with the Litigation Trust Agreement.

1.95 “*Litigation Trust Agreement*” shall mean the agreement to be executed by no later than the Effective Date among the Reorganized Debtor and the Litigation Trustee, which shall govern the obligations of the Litigation Trustee with respect to oversight of the distribution of the net proceeds of the Litigation Trust Assets, as further set forth in the Litigation Trust Agreement and the Plan.

1.96 “*Litigation Trust Assets*” shall mean those assets to be transferred to and vested in the Litigation Trust, on the Effective Date, or as soon as reasonably practicable thereafter pursuant to this Plan and the Confirmation Order, plus all proceeds, earnings and replacements arising from or relating to these assets and all assets acquired by the Litigation Trust at any time. These assets shall include, without limitation: (i) the Litigation Trust Contribution; (ii) the Debtors’ rights and interests in the Avoidance Actions (and any proceeds therefrom); (iii) the Debtors’ rights and interests in the Landlord Litigation (and any proceeds therefrom); and (iv) all proceeds and claims under the Debtors’ Insurance Policies.

1.97 “*Litigation Trust Beneficiaries*” shall mean the holders of Allowed Claims in Classes 4, 5, 6, and 8.

1.98 “*Litigation Trust Board*” means the board of the Litigation Trust as provided in the Litigation Trust Agreement, which shall consist of two (2) members appointed by the Committee, one (1) member appointed by the Bond Trustee, and one (1) member appointed by the Sponsor.

1.99 “*Litigation Trust Contribution*” means the initial funding of \$1,000,000 from the Sponsor Contribution.

1.100 “*Litigation Trustee*” shall mean the trustee, or any successor, to be identified through the Plan Supplement, subject to the approval of the Bankruptcy Court, to serve as custodian for the Litigation Trust responsible for overseeing the distribution of the Litigation Trust Assets for the benefit of the Beneficiaries, pursuant to the Plan, the Confirmation order, and the Litigation Trust Agreement.

1.101 “*LSA*” means that certain Liquidity Support Agreement in the unfunded aggregate amount of \$20,000,000 that will be included in the Plan Supplement.

1.102 “*Local Rules*” means the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, or any other court having jurisdiction over the Chapter 11 Cases.

1.103 “*Management Agreement*” means that certain Management Services Agreement, dated August 15, 2019, between Edgemere and Sponsor.



1.104 “*Master Indenture*” means that certain Amended and Restated Master Trust Indenture, Deed of Trust and Security Agreement, dated as of November 15, 1999 and effective as of April 1, 2006, by and between the Obligated Group and JP Morgan Chase Bank, National Association, in its capacity 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.

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

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

1.107 “*Ongoing Support*” means the support to be provided by the Sponsor to the Reorganized Debtor, after the Effective Date, as set forth in Section 4.1.1(b) of the Plan.

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

1.109 “*Original Bond Indenture*” means, collectively, the 2015 Bond Indenture and the 2017 Bond Indenture.

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

1.111 “*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).

1.112 “*Other Secured Claim*” means any Secured Claim other than a Series 2015 Bond Claim and/or a Series 2017 Bond Claim.

1.113 “*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, including, without limitation, the Debtors.

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

1.115 “*Plan*” means this Joint Plan of Reorganization proposed by the Committee and the Debtors, dated as of 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.

1.116 “*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, which shall include, without limitation, the LSA, the DSSA, and the 2023 Bond Documents.

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

1.118 “*Pro Rata*” shall mean 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.

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

1.120 “*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.

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

1.122 “*Refinancing Transaction*” shall have the meaning ascribed to it in the Disclosure Statement.

1.123 “*Refund Obligations*” means any Resident refund obligations that are currently due and owing under the terms of the Residency Agreements, which shall include amounts due and owing to former Residents who are no longer occupying their respective higher level of care units.

1.124 “*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.

1.125 “*Rejection Claims*” means any Claim arising from, relating to, the rejection of an Executory Contract or Unexpired Lease, other than Residency Agreements, 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).

1.126 “*Rejection Damages Bar Date*” means the date by which Rejection Claims, which, for the avoidance of doubt, does not include Claims arising from the rejection of Residency Agreements, 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).

1.127 “*Released Parties*” means (i) the Debtors, (ii) the Reorganized Debtor, (iii) the Sponsor, (iv) the members of the Committee, solely in their capacity as such members, 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, direct or indirect subsidiaries and 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.

1.128 “*Releasing Party*” means each Claimant 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.

1.129 “*Replacement Reserve*” means a reserve to be funded from Excess Cash for the sole purpose of constructing a replacement campus for Edgemere at a new location, to permit Edgemere to continue to operate as a CCRC, notwithstanding the termination date under the Lease.

1.130 “*Replacement Residency Agreements*” means the Traditional Contracts to be offered to current Residents under the Plan.

1.131 “*Reorganized Debtor*” means Edgemere and any successor thereto after the Effective Date.

1.132 “*Residency Agreements*” means those certain agreements entered into by and between the Residents and Edgemere, 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, including the Escrow Agreement Addendum.

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

1.134 “*Resident Claim*” means the contractual Claims of Residents arising under a Residency Agreement or for de minimis cash deposits held by the Debtors for Resident activities at the Property, but excludes any tort or professional liability Claims against any Debtor.

1.135 “*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.

1.136 “*Secured*” means, when referring to a Claim: (i) secured by a Lien on property in which the Estates have an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or an order of the Bankruptcy Court, or that is subject to setoff, pursuant to Bankruptcy Code section 553, to the extent of the value of the interest in the Estates’ interests in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to Bankruptcy Code section 506(a); or (ii) Allowed pursuant to the Plan as a Secured Claim.

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

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

1.139 “*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.

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

1.141 “*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.

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

1.143 “*Series 2017 Bonds*” means the Retirement Facility Revenue Bonds (Northwest Senior Housing Corporation – Edgemere Project) Series 2015A, in the original aggregate principal amount of \$21,685,000 issued pursuant to the 2017 Bond Indenture.

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

1.145 “*Sponsor*” means Lifespace Communities, Inc., the sole member of each of the Debtors.

1.146 “*Sponsor Contribution*” means the Cash contribution totaling \$20,000,000 that Sponsor shall make to Edgemere on the Effective Date; *provided, however*, that the Sponsor agrees to contribute an additional \$10,000,000 in Cash to fund the Plan upon the request of the Committee so long as any such additional Cash contribution shall be credited, dollar for dollar, to the Sponsor’s commitment and obligations under the LSA.

1.147 “*Sponsor Fee*” means the overhead allocation that is charged by the Sponsor to Edgemere in accordance with the terms of the Management Agreement.

1.148 “*Sponsor Support*” means, collectively, the support described in Section 4.1.1 of the Plan, including, without limitation, the Effective Date Support and the Ongoing Support.

1.149 “*Trustee*” means (i) UMB Bank, N.A., in its capacity as successor bond trustee and Master Trustee under the Bond Indenture and Master Indenture, respectively; and (ii) any successor trustee in either capacity.

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

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

1.152 “*Unsecured Claim*” means any Claim, including Resident Claims, other than Administrative Claims, Secured Claims, Other Priority Claims, Priority Tax Claims, Series 2015 Bond Claims, and Series 2017 Bond Claims.

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

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

1.155 “*Voting Agent*” means KCC.

1.156 “*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. In the event of any ambiguity or conflict between this Plan and the Disclosure Statement, the provisions of this Plan shall govern.

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, this Plan shall control. In the event of an inconsistency between this Plan and the Confirmation Order, the Confirmation Order shall control.

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

2.1 *Administrative Claims.* To the extent that a holder of an Allowed Administrative Claim and the Debtors before the Effective Date or the Reorganized Debtor after 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: (a) if such Allowed Administrative Claim is based on liabilities that the Debtors incurred in the ordinary course of business after the Petition Date, in accordance with the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claim and without any further action by any holder of such Allowed Administrative Claim; (b) 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; (c) 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 (d) 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 have been or be filed with the Bankruptcy Court on or before the Administrative Claim 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 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.

2.2 *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 Debtors. 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 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 holder of an Allowed Priority Tax Claim will receive, as determined by the Reorganized Debtor in its

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 Disbursing Agent, 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, or (iii) over a period ending not later than five (5) years after the Petition Date.

2.4 **U.S. Trustee Fees.** U.S. Trustee Fees will be paid in full by the Debtors and the Reorganized Debtor, 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.

### SECTION 3. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

3.1 **Classification and Specification of Treatment of Claims and Interests.** Except as set forth in herein, pursuant to Bankruptcy Code sections 1122 and 1123, all Claims against and Interests in the Debtors (other than Administrative Claims, Professional Claims, Priority Tax Claims, U.S. Trustee Fees, and DIP Facility Claims) are classified for all purposes, including, without limitation, voting, confirmation and Distribution pursuant to this Plan. 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.

Classified Claims shall receive the treatment described in this Section 3 of this Plan, subject to all other applicable provisions of this Plan (including Distribution provisions). This Plan will not provide any Distributions on account of a Claim to the extent that such Claim has been disallowed, released, withdrawn, waived, or otherwise satisfied or paid as of the Effective Date, including, without limitation, Claims that have been satisfied through third party payments.

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

| Class | Claim                  | Estimated Allowed Claims | Status     | Voting Rights    |
|-------|------------------------|--------------------------|------------|------------------|
| 1     | Other Priority Claims  | \$0                      | Unimpaired | Deemed to Accept |
| 2     | Secured Bond Claims    | [\$TBD]                  | Unimpaired | Deemed to Accept |
| 3     | Other Secured Claims   | \$0                      | Unimpaired | Deemed to Accept |
| 4     | Bond Deficiency Claims | [\$TBD]                  | Impaired   | Entitled to Vote |

|   |                          |                             |            |                      |
|---|--------------------------|-----------------------------|------------|----------------------|
| 5 | Former Resident Claims   | \$37,101,059.29             | Impaired   | Entitled to Vote     |
| 6 | Current Resident Claims  | \$106,809,920.49            | Impaired   | Entitled to Vote     |
| 7 | Intercompany Claims      | \$5,221,798.74              | Impaired   | Not Entitled to Vote |
| 8 | General Unsecured Claims | \$1,500,000.00 <sup>3</sup> | Impaired   | Entitled to Vote     |
| 9 | Interests in Debtors     | N/A                         | Unimpaired | Deemed to Accept     |

3.2.1 Class 1 — Other Priority Claims. This Class consists of all Allowed Other Priority Claims, if any such Claims still exist as of the Effective Date. In accordance with Debtors’ books and records, no Class 1 Claims exist. To the extent that such Claims have been or will be asserted and allowed, Class 1 Claims will be Unimpaired and not entitled to vote on the Plan. Each Allowed Other Priority Claim shall be in a separate subclass. Except to the extent that a holder of an Allowed Other Priority Claim against the Debtors has agreed 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 Debtors and the holder of the Allowed Other Priority Claim against the Debtors.

3.2.2 Class 2 — Secured Bond Claims. Class 2 is Unimpaired and deemed to accept the Plan. This Class consists of the Secured Bond Claims, which is payable to the Trustee for the benefit of the Holders of the Series 2015 Bond Claims and the Series 2017 Bond Claims. The Trustee shall be paid in full in Cash on the Effective Date in an amount equal to the value of the Trustee’s collateral on the Petition Date as determined by the Bankruptcy Court pursuant to Bankruptcy Code section 506(a)(1). To the extent of any deficiency, the Trustee and/or the holders of the Original Bonds and the Secured Bond Claims shall have a Class 4 Claim, treated in the manner set forth below; *provided, however*, that the if the Trustee, for the benefit of the holders of the Allowed Secured Bond Claims, makes the 1111(b) Election, the Class 2 Claim(s) would be comprised of the Allowed 1111(b) Claim, and in full and final satisfaction and discharge of an in exchange for each Allowed 1111(b) Claim, the Trustee shall receive the 1111(b) Note, as further described in Section 3.3 of this Plan.

3.2.3 Class 3 — Other Secured Claims. This Class consists of any Other Secured Claims. 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, such Class 3 Claims will be Unimpaired and not entitled to vote on the Plan. In full satisfaction of an Allowed Other Secured Claim, on or as soon as reasonably practicable after the Effective Date, each holder of an Allowed Secured Claim, other than a Class 2 Claim, described above, shall, at the option of the Disbursing Agent, (i) receive Cash in the full amount of its Allowed Other Secured Claim; (ii) have its Allowed

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<sup>3</sup> For the avoidance of doubt, no amount relating to Resident and/or Rejection Claims is included in this estimated total.



Class 3 Claim reinstated such that the legal, equitable, and contractual rights to which such Allowed Claim entitles such holder are unaltered so as to leave such Allowed Class 3 Claim Unimpaired in accordance with Bankruptcy Code section 1124; or (iii) return of the applicable Collateral in satisfaction of the Allowed Other Secured Claim.

3.2.4 Class 4 — Bond Deficiency Claims. Class 4 is Impaired and entitled to vote on the Plan. This Class consists of the Bond Deficiency Claims. The holders of Class 4 Claim(s) shall receive (i) Cash on the Effective Date, or as soon as practicable thereafter, in an amount equal to twenty percent (20%) of their Allowed Class 4 Claim(s); (ii) a new note in an amount equal to twenty percent (20%) of such Allowed Class 4 Claim(s), which shall be payable in full on the fifth anniversary of the Effective Date, or as soon as practicable thereafter; and (iii) a Pro Rata interest in the Litigation Trust along with holders of Allowed Claims in Classes 5, 6, and 8. For the avoidance of doubt, the Trustee will not have a Class 4 Claim if the Trustee elects, pursuant to Bankruptcy Code section 1111(b)(1)(A)(i), to have the Trustee's Allowed Claim receive the treatment set forth under Bankruptcy Code section 1111(b)(2).

3.2.5 Class 5 — Former Resident Claims. Class 5 is Impaired and entitled to vote on the Plan. This Class consists of the Claims of former Residents, who, for the avoidance of doubt, are no longer residing at Edgemere. The Residency Agreements of former Residents shall be rejected, and the holders of Allowed Class 5 Claims shall receive (i) Cash on the Effective Date, or as soon as practicable thereafter, in an amount equal to twenty percent (20%) of the amount of Entrance Fee(s) paid to Edgemere under the terms of existing Residency Agreements; (ii) Cash on the fifth anniversary of the Effective Date, or as soon as practicable thereafter, in an amount equal to twenty percent (20%) of the amount of Entrance Fee(s) paid to Edgemere under the terms of existing Residency Agreements; and (iii) a Pro Rata interest in the Litigation Trust along with the holders of Allowed Claims in Classes 4, 6, and 8.

3.2.6 Class 6 — Current Resident Claims. Class 6 is Impaired and entitled to vote on the Plan. This Class consists of the Claims of current Residents, who, for the avoidance of doubt, reside at Edgemere, as of the date hereof. The Residency Agreements of current Residents shall be rejected, and the holders of Allowed Class 6 Claims shall receive (i) a Replacement Residency Agreement with a lifecare benefit in substantially similar form to the form to be submitted in the Plan Supplement; (ii) Cash on the Effective Date, or as soon as practicable thereafter, in an amount equal to twenty percent (20%) of the amount of Entrance Fee(s) paid to Edgemere under the terms of existing Residency Agreements; (iii) Cash on the fifth anniversary of the Effective Date, or as soon as practicable thereafter, in an amount equal to twenty percent (20%) of the amount of Entrance Fee(s) paid to Edgemere under the terms of existing Residency Agreements; and (iv) a Pro Rata interest in the Litigation Trust along with holders of Allowed Claims in Classes 4, 5 and 8.

3.2.7 Class 7 — Intercompany Claims. Class 7 is Impaired and not entitled to vote on the Plan. This Class consists of all Intercompany Claims held by the Sponsor against the Debtors, including Sponsor Fees incurred by Edgemere prior to the Petition Date. Class 7 Claims shall be waived and released and the Sponsor, as holder of such Claims, shall receive no distribution on account of Class 7 Claims.

3.2.8 Class 8 — General Unsecured Claims. Class 8 is Impaired and deemed to reject the Plan. This Class consists of all General Unsecured Claims, which, for the avoidance of doubt, includes Claims other than those included in Classes 4, 5, 6, and 7. Holders of Allowed Class 8 Claims shall receive (i) Cash on the Effective Date, or as soon as practicable thereafter, in an amount equal to twenty percent (20%) of such Allowed Class 8 Claims; (ii) Cash on the fifth anniversary of the Effective Date, or as soon as practicable thereafter, in an amount equal to twenty percent (20%) of such Allowed Class 8 Claims; and (iii) a Pro Rata interest in the Litigation Trust along with holders of Allowed Claims in Classes 4, 6 and 8.

3.2.9 Class 9 — Interests in Debtors. Class 9 is Unimpaired and not entitled to vote on the Plan. This Class consists of Interests of the Debtors, which are held by the Sponsor, as the sole member of the each of the Debtors. On the Effective Date, Interests of Edgemere shall be Reinstated, and the holder of such Interests shall retain such Interests; *provided, however,* that Interests in SQLC, which shall be dissolved pursuant to Section 4.4 of this Plan, shall be cancelled to the extent necessary and appropriate to effectuate such dissolution.

### 3.3 *Secured Bond Claims.*

3.3.1 Secured Bond Claims and Potential 1111(b) Election. Class 2 consists of the Secured portion of the Secured Bond Claims, which shall be determined by the Bankruptcy Court and established by entry of a Final Order. The holders of the Secured portion of the Allowed Secured Bond Claims shall have the opportunity, until the conclusion of the hearing on the Disclosure Statement, to make the 1111(b) Election.

- (a) If the 1111(b) Election is Not Made. If the 1111(b) Election is not made, Class 2 will be comprised of the Allowed Secured Bond Claims and the Holders of the Class 2 Allowed Secured Bond Claims will receive Cash on the Effective Date, or as soon as practicable thereafter, in an amount equal to the value of the collateral securing the Class 2 Allowed Secured Bond Claims as determined by the Bankruptcy Court pursuant to Bankruptcy Code section 506(a)(1). Any unsecured deficiency claim will be paid in accordance with the treatment of Class 4 Claims as set forth above.
- (b) If the 1111(b) Election is Made. If the 1111(b) Election is made, Class 2 will be comprised of the “Allowed 1111(b) Claim” and Holders of the Class 2 Allowed 1111(b) Claim will receive deferred cash payments totaling the face amount of the Allowed 1111(b) Claim with a net present value equal to the value of the collateral securing the Allowed 1111(b) Claim as determined by the Bankruptcy Court pursuant to Bankruptcy Code section 506(a) and Bankruptcy Rule 3012. In such event, no Class 4 Bond Deficiency Claims shall exist. Upon the 1111(b) Election being made, the Allowed 1111(b) Claim will be evidenced by an 1111(b) Note that will be effective on the Effective Date and incorporate the terms of the existing notes, as modified as follows:
  - (i) *Principal Balance.* The stated principal balance of the 1111(b) Note shall be the amount of the Allowed 1111(b) Claim.

- (ii) *Lien.* From and after the Confirmation Date, the holder of the Allowed 1111(b) Claim shall retain its Lien against the Reorganized Debtor's property as currently provided in the applicable Original Bond Documents until the 1111(b) Note is repaid in full.
- (iii) *Post-Effective Date Interest.* No interest shall accrue on the 1111(b) Note, except as necessary to satisfy Bankruptcy Code section 1111(b).
- (iv) *Monthly Payments.* Beginning on the fourteenth (14<sup>th</sup>) Business Day after the first (1<sup>st</sup>) Calendar Day of the month following the Effective Date, and on the fourteenth (14<sup>th</sup>) Business Day of subsequent months thereafter through the three hundred and sixtieth (360<sup>th</sup>) month after the Effective Date, the Reorganized Debtor shall make payments to the Trustee that totals the face amount of the Allowed 1111(b) Claim with a net present value equal to the value of the collateral securing such Allowed 1111(b) Claim as determined by the Bankruptcy Court.
- (v) *Maturity Date.* The unpaid balance of the 1111(b) Note, being the principal balance less the gross amount of all payments on the 1111(b) Note, unless sooner paid, shall be due and payable on the first (1<sup>st</sup>) Business Day of the three hundred sixty first (361<sup>st</sup>) month after the Effective Date, or such later date as agreed to in writing by the Reorganized Debtor and the Trustee.
- (vi) *Full Repayment.* As a result of the 1111(b) Election, the Allowed 1111(b) Claim shall be deemed satisfied when the gross amount of all post-Effective Date Distributions made to the Trustee on account of the Allowed 1111(b) Claim equal the amount of the Allowed 1111(b) Claim.
- (vii) *Prepayment.* There shall be no penalty for prepayment of all or part of the 1111(b) Note prior to the applicable maturity date, as described above.
- (viii) *Financial Covenants.* On and after the Effective Date, all financial covenants set forth in the Original Bond Documents, shall be of no force and effect.
- (ix) *Prohibition on Improperly Asserting Fees and Costs.* After the Effective Date, the Trustee may not seek reimbursement or add to the amount of the Allowed 1111(b) Claim any appraisal fees, title costs, charges, attorneys' fees, or other amounts unless there has been a post-Effective Date default by the Reorganized Debtor with respect to the payments required under the Plan. Any and all costs, fees, or other charges arising or relating to events occurring before the Effective Date shall be forever released unless expressly included as part of the Allowed 1111(b) Claim, to be determined by Final Order of the Bankruptcy Court.

3.4 ***Acceptance or Rejection of this Plan.***

3.4.1 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.

3.4.2 Presumed Acceptance of this Plan. Classes 1, 2, 3, and 9, to the extent any Claims in such Classes exist, are conclusively presumed to have accepted this Plan pursuant to Bankruptcy Code section 1126(f).

3.4.3 Presumed Rejection of this Plan. No Class is conclusively presumed to have rejected this Plan pursuant to Bankruptcy Code section 1126(g).

3.4.4 Voting Classes. Classes 4, 5, 6, and 8 are Impaired under this Plan and are entitled to vote to accept or reject this Plan. For the avoidance of doubt, holders of Allowed Claims in Class 7 are Impaired but not entitled to vote on the Plan because such holders are affiliated with the Debtors.

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 Proponents shall request that the Bankruptcy Court confirm the Plan in accordance with Bankruptcy Code section 1129(b) on the bases that the Plan is fair and equitable and does not discriminate unfairly with respect to each Class of Claims or Interests that is Impaired under, and has not accepted or is deemed to reject, the Plan.

#### **SECTION 4. MEANS FOR IMPLEMENTATION OF THIS PLAN**

The Reorganized Debtor or Disbursing Agent, as applicable, shall fund Distributions under the Plan with: (i) available Cash, including Cash from operations and the DIP Facility; (ii) the Sponsor Support; (iii) proceeds from the Bond Transaction, which shall include, net proceeds from the Series 2023 Bond issuance; (iv) funds available from the Entrance Fee Escrow; and (v) any proceeds of the Litigation Trust Assets and Litigation Trust recoveries for the benefit of the Litigation Trust Beneficiaries.

4.1 ***Refinancing Transaction.*** On the Effective Date, the Plan Proponents, the Reorganized Debtor, or any other entities may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including: (a) the execution and delivery of appropriate agreements or other documents of merger, consolidation, or reorganization containing terms that are consistent with the terms of this Plan and that satisfy the requirements of applicable law; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any property, right, liability, duty, or obligation on terms consistent with the terms of this Plan; (c) the filing of appropriate certificates of incorporation, merger, or consolidation with the appropriate governmental authorities under applicable law; and (d) all other actions that the Plan Proponents or the Reorganized Debtor, as applicable, determine are necessary or appropriate. In this regard, the Confirmation Order shall and shall be deemed to, under both Bankruptcy Code sections 1123 and 363, authorize, among other things, all actions as may be necessary.

4.1.1 Sponsor Support. Subject to confirmation of this Plan, the Sponsor agrees to provide substantial financial support to the Reorganized Debtor, set forth more fully below.

(a) Effective Date Support:

- (i) *Cash Contribution*. The Sponsor will contribute \$20,000,000 in Cash to the Reorganized Debtor on the Effective Date or as soon as reasonably practicable thereafter
- (ii) *Litigation Trust Contribution*. The Cash Contribution will be used to contribute an initial \$1,000,000 in Cash to fund the Litigation Trust.
- (iii) *Waived Prepetition and Postpetition Sponsor Fees*. The Sponsor agrees to release and waive all Sponsor Fees accruing (i) prior to the Petition Date, and, as such, the Sponsor will receive no Distribution on account of such amounts totaling \$1,620,724.90, which is included in the Class 7 Intercompany Claim; and (ii) after the Petition Date and prior to the Effective Date, and, as such, the Sponsor will receive no payment on account of approximately \$2,579,564.84 in Sponsor Fees.<sup>4</sup> The aggregate amount of the Sponsor Fees being waived as of the Effective Date will be approximately \$4,200,289.74.

(b) Ongoing Support.

- (i) *LSA*. Pursuant to an LSA that will be submitted with the Plan Supplement, as of the Effective Date, the Sponsor agrees to provide liquidity support for the Reorganized Debtor in the form of an unfunded commitment in the aggregate amount of \$20,000,000, in accordance with the terms of the LSA.
- (ii) *Debt Service Support*. Pursuant to a DSSA that will be submitted with the Plan Supplement, as of the Effective Date, the Sponsor agrees to provide debt service support for the 2023 Bonds obligations up to \$9,000,000 per year for a term of seven (7) years after the Effective Date.
- (iii) *Waived Sponsor Fees*. The Sponsor will waive overhead allocations for management services provided to Edgemere, pursuant to the Management Agreement, on a graduated schedule for a period of nine (9) years following the Effective Date, which is expected to provide approximately \$17,400,000 of additional savings to the Reorganized Debtor.
- (iv) *Deferred Sponsor Fees*. After the Effective Date, if Edgemere's available DCOH falls below 90 DCOH, the Sponsor agrees to defer up to one hundred

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<sup>4</sup> This estimation assumes an Effective Date of March 31, 2022. The Debtors' books and records reflect that, as of September 30, 2022, Sponsor Fees totaling \$1,179,564.84 have accrued since the Petition Date and the Debtors, through their professionals, estimate that Sponsor Fees totaling \$1,400,000 will accrue between October 1, 2022 and March 31, 2023.

percent (100%) of the Sponsor Fees with such amounts being repaid to the Sponsor only when Edgemere achieves 120 DCOH.

4.1.2 Bond Transaction. The Plan Proponents expect that on the Effective Date, or as soon as reasonably practicable thereafter, the Issuer will issue, in accordance with the terms of the Plan, the 2023 Bonds in the aggregate principal amount of \$88,900,000. The Bond Transaction contemplates the following, without limitation:

(a) Cancellation of Original Bonds.

Except as otherwise provided in the Plan or the Confirmation Order, on the Effective Date, the Original Bonds shall be deemed cancelled on the Effective Date, and the related Original Bond Documents shall continue in effect solely to the extent they relate to and are necessary to (i) allow for the applicable Distributions pursuant to the Plan, (ii) permit the Trustee to set one or more record dates and Distribution dates with respect to the Distribution of funds to beneficial holders of the Original Bonds, as applicable, and (iii) permit the Trustee and the Issuer to perform any functions that are necessary in connection with the foregoing clauses (i) through (ii).

(b) 2023 Bond Documents.

The Reorganized Debtor shall be authorized to enter into the 2023 Bond Documents, in the form set forth in the Plan Supplement. On the Effective Date, and following the consummation of the Refinancing Transaction, the 2023 Bond Documents shall constitute legal, valid, binding, and authorized obligations of the Reorganized Debtor, enforceable in accordance with their terms. The financial accommodations to be extended under the 2023 Bond Documents shall be deemed to have been extended in good faith and for legitimate business purposes, are reasonable and shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any other applicable non-bankruptcy law. On the Effective Date, all of the Liens and security interests to be granted in accordance with the 2023 Bond Documents (a) shall be deemed to be granted, (b) shall be legal, binding, and enforceable Liens on and security interests in the collateral granted thereunder in accordance with the terms of the 2023 Bond Documents, (c) shall be deemed automatically perfected on the Effective Date (without any further action being required by the Reorganized Debtor, the Trustee, or any of holders of 2023 Bonds), having the priority set forth in the 2023 Bond Documents and subject only to such Liens and security interests as may be permitted under the 2023 Bond Documents, and (d) shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtor, and the Entities granted such Liens and security interests are authorized to make all filings and recordings and to obtain all governmental approvals and consents necessary to establish and perfect such Liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that would be applicable in the absence of this Plan and the

Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order, and any such filings, recordings, approvals, and consents shall not be required) and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such Liens and security interests to third parties.

(c) 2023 Bonds.<sup>5</sup>

On the Effective Date, the Reorganized Debtor will cause the Issuer to issue the 2023 Bonds, which shall be new money tax-exempt bonds on the following general terms:

|                         |                                    |
|-------------------------|------------------------------------|
| <b>Principal:</b>       | \$88,90,000.00                     |
| <b>Rate of Interest</b> | 9.0% per annum                     |
| <b>Maturity Date:</b>   | 20 years from the date of issuance |
| <b>Call Protection:</b> | TBD                                |
| <b>Collateral:</b>      | 2023 Bond Collateral               |

The issuance of the 2023 Bonds under the Plan is authorized without the need for further corporate action, and all of the 2023 Bonds issued or issuable under the Plan shall be duly authorized and validly issued under the Plan. The Reorganized Debtor shall cause to be delivered customary legal opinions and other documents in connection with the issuance of the 2023 Bonds, in form and substance acceptable to the Issuer.

4.1.3 Litigation Trust.

(a) Funding and Transfer of Contributed Litigation Trust Assets.

On the Effective Date, the Debtors and the Reorganized Debtor, as applicable, shall preserve, irrevocably transfer, and assign the Litigation Trust Assets, including all Causes of Action, including, without limitation the Avoidance Actions and the Landlord Litigation, to the Litigation Trust. On or as soon as practicable after the Effective Date, the Reorganized Debtor shall fund the Litigation Trust Contribution from available Cash. For the avoidance of doubt, the Litigation Trustee shall have no power or authority to pursue any Cause of Action or assert any Claim against any of the Released Parties or Exculpated Parties.

(b) Beneficiaries and Distributions.

The Litigation Trust shall be governed by the terms of the Litigation Trust Agreement, in which shall be submitted through the Plan Supplement and shall use the Litigation Trust Contribution and any recoveries from transferred Assets to, first, pay costs

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<sup>5</sup> The information set forth herein is solely for summary purposes. To the extent there is any discrepancy between the information set forth in this Plan and the 2023 Bond Documents, the 2023 Bond Documents will control.

and expenses of the Litigation Trust, with the balance of any remaining recoveries to be paid as follows: (i) \$3,000,000 paid to the Sponsor; and (ii) any remaining net proceeds to be paid Pro Rata to the Litigation Trust Beneficiaries.

(c) Management and Oversight.

The Litigation Trust shall be governed by the Litigation Trust Board and administered by the Litigation Trustee, who shall be selected by the Board, and disclosed in the Plan Supplement. On the Effective Date, in accordance with Bankruptcy Code section 1141, all contributed Causes of Action shall automatically vest in the Litigation Trust. The Litigation Trust shall be established for the sole purpose of prosecuting the contributed Causes of Action and distributing the proceeds thereof in accordance with the Plan and the Litigation Trust Agreement, with no objective to continue or engage in the conduct of a trade or business

(d) Authority.

The Litigation Trustee shall, subject to the terms of the Litigation Trust Agreement, have full power, authority, and standing to prosecute, compromise, or otherwise resolve the contributed Causes of Action. The Litigation Trust, acting by and through the Litigation Trustee pursuant to the Litigation Trust Agreement, shall be authorized to exercise and perform all rights and powers held by the Debtors and the Estates concerning the Litigation Trust Assets with respect to the Litigation Trust, including the authority under Bankruptcy Code section 1123(b)(3). The Reorganized Debtor, the Estates and other Released Parties shall not be subject to any Claim (including any counterclaim) with respect to the Litigation Trust and/or Litigation Trust Assets, including, without limitation, contributed Causes of Action and/or Insurance Policies.

(e) Retention of Professionals.

The Litigation Trustee may retain and reasonably compensate counsel and other professionals to assist in its duties on such terms as the Litigation Trustee deems appropriate without Bankruptcy Court approval, including an hourly fee basis, a contingent fee basis, or a hybrid of the two.

#### 4.2 *Entrance Fee Escrow*

4.2.1 As of the Petition Date, the Entrance Fee Escrow, which is maintained by the Debtors for the benefit of certain Residents, held \$15,844,326 in funds anticipated to be disbursed on the Effective Date or as reasonably practicable thereafter. As of October 31, 2022, the Entrance Fee Escrow balance held for the benefit of Residents, which excludes interest earned, is \$16,494,326.

4.2.2 Effective Date Transactions. After the Confirmation Date, but prior to the Effective Date, in accordance with the Escrow Agreement Addendum and the Entrance Fee Escrow Order, Edgemere shall provide notice to Residents with interests in the funds being held in the Entrance Fee Escrow regarding the proposed restructuring, which includes the offer to current Residents to enter into Replacement Residency Agreements. On the Effective Date or as



soon as practicable thereafter, the Reorganized Debtor will disburse the funds from the Entrance Fee Escrow in the following order of priority: (i) first, returning deposits and Entrance Fees to Residents who elect to terminate the Escrow Agreement Addendum and Escrow Agreement and further elect to vacate Edgemere's premises within thirty (30) days; (ii) second, to pay forty percent (40%) of the amount of deposits received from each Resident who elects to remain at Edgemere through the execution of a Replacement Residency Agreement; and (iii) third, releasing the remainder of the funds to the Debtors to use as Cash for Effective Date transactions.

4.3 **Continued Corporate Existence.** Except as otherwise provided in the Plan, Edgemere shall continue to exist as of the Effective Date as a separate corporate Entity, with all the powers of a corporation under the applicable law in the jurisdiction where Edgemere is incorporated and/or formed and under the certificate of incorporation and bylaws (or other formation documents) in effect prior to the Effective Date, except to the extent such certificate of incorporation and bylaws (or other formation documents) are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be under the Plan and require no further action or approval.

4.4 **Dissolution of Debtor SQLC.** Debtor SQLC shall not be a Reorganized Debtor. Upon the Effective Date, Debtor SQLC shall be deemed to be dissolved without any further action by the Debtors or the Bankruptcy Court, including the filing of any documents with the secretary of state for Texas. The Plan shall constitute a decree of dissolution. For the avoidance of doubt, SQLC shall be deemed to remain intact solely with respect to the preparation, filing, review, and/or resolution of applications and motions to be filed following the Effective Date for, among other things, the assertion of Professional Claims.**Reorganized Debtor's Board of Directors.** The existing members of the Boards of Directors of the Debtors shall continue to be members of the boards of directors of the Reorganized Debtor subject to any changes that may be made through the Plan Supplement.

4.6 **Reorganized Debtor's Officers.** The existing officers of the Debtors shall continue to be officers of the Reorganized Debtor.

4.7 **Vesting of Assets in the Reorganized Debtor.** Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated therein, on the Effective Date, or as soon as practicable thereafter, all property of the Debtors' Estates (except the Litigation Trust Assets and/or any Assets released pursuant to the Releases by the Debtors) shall vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges, or other encumbrances (except for Liens securing the 2023 Bonds). On and after the Effective Date, except as otherwise provided in the Plan (including the 2023 Bond Documents), the Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims or Causes of Action, excluding the Landlord Litigation, without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. For the avoidance of doubt, all property held for Distribution pursuant to the Plan shall be held by the Reorganized Debtor and the Litigation Trust Assets shall be held in trust for the Litigation Trust Beneficiaries and shall not be deemed property of the Debtors and/or the Reorganized Debtor. The Debtors and Reorganized Debtor, as applicable, are hereby authorized and directed to take such steps as may be necessary or appropriate to confirm such transfer and contribution of the Litigation Trust Assets to the Litigation Trust, subject to oversight of the Litigation Trustee, as applicable.

4.8 **Restructuring Transactions.** On the Effective Date or as soon as reasonably practicable thereafter, the Debtors and the Reorganized Debtor may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including: (i) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution, or liquidation containing terms that are consistent with the terms of this Plan and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Persons may agree; (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of this Plan and having other terms to which the applicable Persons agree; (iii) the filing of appropriate certificates or articles of incorporation or amendments thereof, reincorporation, merger, consolidation, conversion, or dissolution pursuant to applicable state law; and (iv) all other actions that the applicable Persons determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law.

4.9 **Corporate Action.** Upon the Effective Date, all actions contemplated by the 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 the Plan involving the corporate structure of the Debtors or the Reorganized Debtor and any corporate action required by the Debtors or the Reorganized Debtor in connection with the Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the directors or officers of the Debtors or the Reorganized Debtor.

On or (as applicable) before the Effective Date, the appropriate officers of the Debtors or the Reorganized Debtor, 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 the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Debtors or the Reorganized Debtor, as the case may be, and any and all other agreements, documents, securities, and instruments relating to the foregoing.

4.10 **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 the 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 creation and recordation of any mortgage, deed of trust, lien, or other security interest; (ii) the making or assignment of any lease or sublease; (iii) any restructuring transaction authorized by the Plan, including, without limitation, the issuance by the Issuer of the 2023 Bonds; or (iv) the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the 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 the Plan.

4.11 ***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 Released Claims against the Released Parties), the Reorganized Debtor or Litigation Trustee, as applicable, shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, and the Reorganized Debtor's right(s) to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. The Reorganized Debtor or Litigation Trustee, as applicable, shall be the sole party with authority to pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtor. 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, the Reorganized Debtor, 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, the Reorganized Debtor, or other Persons have released any Person on or before the Effective Date (including pursuant to the Releases or otherwise), the Debtors, the Reorganized Debtor, or the Litigation Trustee, as applicable, expressly reserve all rights to prosecute any and all Causes of Action against any Person, except as otherwise expressly provided in the Plan. Unless any Causes of Action against a Person are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or by an order of the Bankruptcy Court, the Reorganized Debtor and/or the Litigation Trustee expressly reserve 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 Section 4 of this Plan shall affect or impair the releases provided in Section 8 of this Plan.

4.12 ***Section 1145 Exemption.*** Pursuant to Bankruptcy Code section 1145, the offering, issuance, and Distribution of the 2023 Bonds shall be exempt from, among other things, the registration and prospectus delivery requirements of Section 5 of the Securities Act of 1933 (as now in effect or hereafter amended) and any other applicable state or federal law requiring registration and/or delivery of a prospectus prior to the offering, issuance, Distribution, or sale of securities. Any Person who solicits or participates in the offer, issuance, sale, or purchase of the 2023 Bonds issued under, or in accordance with, this Plan, in good faith and in compliance with the applicable provisions of the Bankruptcy Code, is not liable, on account of such solicitation or participation, for violation of an applicable law, rule, or regulation governing solicitation of acceptance or rejection of this Plan or the offer, issuance, sale, or purchase of securities pursuant thereto.

## **SECTION 5. EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

5.1 ***Rejection of Residency Agreements.*** The Debtors will reject all Residency Agreements, and the Reorganized Debtor will offer current Residents with a Replacement Residency Agreement that provides the Resident with the right to remain at Edgemere with

substantially the same life care benefits as currently provided in the Residency Agreement. Current Residents will also receive a Class 6 Current Resident Claim. Former residents who are parties to rejected Residency Agreements shall become holders of Class 5 Former Resident Claims.

5.2 ***Assumption of the Ground Lease.*** Although the Debtors intend to assume the Lease, the Debtors are not obligated to assume or reject the Lease until Confirmation of the Plan in these Chapter 11 Cases because the Debtors and the Landlord, among other constituents, have stipulated that the Lease is a residential lease and is not a “non-residential” lease of real property within the meaning of Bankruptcy Code section 365. Accordingly, the Debtors reserve the right to request entry of a separate order approving assumption of the Lease pursuant to Bankruptcy Code sections 365 and 1123 until Confirmation of the Plan. Following a hearing and determination with respect thereto, including resolution of any dispute regarding Cure obligations under the Lease, the Debtors will pay any Cure amount(s) established by order of the Bankruptcy Court on the Effective Date or as soon as reasonably practicable thereafter.

5.3 ***Assumption and/or Rejection of Executory Contracts.*** Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the Debtors’ assumption(s) or rejection(s) of Executory Contracts or Unexpired Leases, including Residency Agreements, as set forth in the Plan, 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 the Plan are effective as of the Effective Date. Each Executory Contract or Unexpired Lease assumed pursuant to the Plan or by Bankruptcy Court Order but not assigned to a third party before the Effective Date shall revert in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as such terms may have been modified by such order. Notwithstanding anything to the contrary in the Plan, the Debtors or the Reorganized Debtor, as applicable, reserve the right to alter, amend, modify, or supplement the Plan Proponents’ list of Executory Contracts and Unexpired Leases identified in the Plan Supplement at any time before the Effective Date. After the Effective Date, the Reorganized Debtor 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.

Except as otherwise provided in the Plan or in an order of the Bankruptcy Court, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, each of the Executory Contracts and Unexpired Leases of the Debtors will be deemed assumed as of the Effective Date, unless such Executory Contract or Unexpired Lease: (i) was assumed or rejected previously by the Debtors; (ii) expired or terminated pursuant to its own terms before the Effective Date; (iii) is the subject of a motion to reject filed on or before the Effective Date; (iv) is identified as an Executory Contract or Unexpired Lease to be rejected in the Plan Supplement; or (v) is a Residency Agreement. As stated above, pursuant to the Plan, the Debtors propose to reject all existing Residency Agreements and offer current Residents with Replacement Residency Agreements that maintain current Residents’ existing life care benefits.

The Debtors will provide notice to counterparties to Executory Contracts and Unexpired Leases that the Debtors intend to assume, which shall (i) include proposed Cure costs, if any, and (ii) be provided no less than twenty-eight (28) days prior to the Plan Objection Deadline. Any party objecting to the assumption of an Executory Contract or Unexpired Lease shall File a detailed statement setting forth the basis of the objection at least seven (7) days prior to the Confirmation

Hearing. The Bankruptcy Court shall determine any dispute as to the proposed assumption at the Confirmation Hearing unless the Debtors and the counterparties agree otherwise.

5.4 ***Rejection Claims Based on Executory Contracts or Unexpired Leases.*** All Proofs of Claim with respect to Rejection Claims arising from the rejection of Executory Contracts or Unexpired Leases, including Residency Agreements, 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). With the exception of Residents' Claims arising out of rejected Residency Agreements, Claims arising from the rejection of an Executory Contract or Unexpired Lease that are 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 Reorganized Debtor, the Estates, or the Debtors' property, without the need for any objection by the Debtors or the Reorganized Debtor or further notice to, action by, or order or approval of the Bankruptcy Court.

5.5 ***Cure of Defaults.*** Any Executory Contract or Unexpired Lease assumed under the Plan shall be Cured, pursuant to Bankruptcy Code section 365(b)(1). If there is a dispute regarding (i) the nature or amount of any Cure; (ii) the ability of the Reorganized Debtor to provide adequate assurance of future performance within the meaning of Bankruptcy Code section 365; or (iii) any other matter pertaining to assumption, shall occur following the entry of a Final Order of the Bankruptcy Court resolving the dispute and approving the assumption.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full waiver, release, and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting change in control or ownership interest composition and other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the effective date of the assumption.

5.6 ***Insurance Policies.*** Notwithstanding anything herein to the contrary, as of the Effective Date, the Debtors shall assume (and assign to the Reorganized Debtor if necessary to continue the Insurance Policies in full force) all of the Insurance Policies pursuant to Bankruptcy Code section 365(a). Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Debtors' foregoing assumption and assignment of each of the Insurance Policies.

5.7 ***Indemnifications.*** On and as of the Effective Date, the Indemnification Provisions will be assumed and irrevocable and will survive the effectiveness of this Plan, and the Reorganized Debtor's governance documents will provide for the indemnification, defense, reimbursement, exculpation, and/or limitation of liability of and advancement of fees and expenses to the Debtors and the Reorganized Debtor's current and former directors, officers, employees, and agents to the fullest extent permitted by law and at least to the same extent as the certificate of incorporation, bylaws, or similar organizational documents of the Debtors as of the Petition Date, against any claims or Causes of Action whether direct or derivative, liquidated or unliquidated, fixed, or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted. The Reorganized Debtor shall not amend and/or restate its certificate of incorporation, bylaws, or similar organizational document before or after the Effective Date to terminate or materially adversely affect (1) the Reorganized Debtor's obligations referred to in the immediately preceding sentence or (2) the rights of such managers, directors,

officers, employees, or agents referred to in the immediately preceding sentence. Notwithstanding anything to the contrary in the Plan, the Reorganized Debtor shall not be required to indemnify the Debtors' managers, directors, officers, or employees for any claims or Causes of Action for which indemnification is barred under applicable law, the Debtors' organizational documents, or applicable agreements governing the Debtors' indemnification obligations.

**5.8 *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 the 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.

**5.9 *Full Release and Satisfaction.*** Assumption of any Executory Contract pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, 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 Executory Contract at any time before the effective date of the assumption.

**5.10 *Reservation of Rights.*** Nothing contained in the Plan or the Plan Supplement shall constitute an admission by the Plan Proponents or the Reorganized Debtor that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Debtors or the Reorganized Debtor have any liability thereunder.

**5.11 *Contracts and Leases Entered Into After the Petition Date.*** Notwithstanding any other provision in the Plan, contracts and leases entered into after the Petition Date by the Debtors, including any Executory Contracts and Unexpired Leases assumed by the Debtors, will be performed by the Debtors or the Reorganized Debtor, as applicable, in the ordinary course of business. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive and remain unaffected by entry of the Confirmation Order.

**5.12 *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 Section 6 of 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 the Plan provides for Allowed Claims in the applicable Class and in the manner provided herein. In the event that any payment or act under the 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 the Plan. Except as otherwise provided for in the 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 **Disbursing Agent.** Except as otherwise provided in the Plan, all Distributions under the Plan shall be made by the Disbursing Agent. With respect to the issuance of the 2023 Bonds, such bonds shall be deemed. The Distribution Record Date in connection with the holders of the 2023 Bonds shall be as early as practicable so as to enable the Debtors, the Issuer, and their respective agents to comply with the customary practices and procedures of the Depository Trust Company.

6.3 **Rights and Powers of Disbursing Agent.** The Disbursing Agent shall be empowered to: (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (ii) make all Distributions contemplated under the Plan; (iii) employ professionals to represent it with respect to its responsibilities; and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent 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 Debtors or the Reorganized Debtor, 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 the Plan, Distributions to holders of Allowed Claims shall be made to holders of record as of the Distribution Record Date by the Disbursing Agent. 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 the 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 the Plan. None of the Plan Proponents, the Reorganized Debtor, or the applicable Disbursing Agent shall incur any liability whatsoever on account of any Distributions under the 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 Disbursing Agent shall use reasonable efforts to determine the current address of such holder. No Distribution to such holder shall be made unless and until the Disbursing Agent 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 (a) the Effective Date and (b) the date of the initial attempted Distribution. After such date, all "unclaimed property" or interests in property shall revert to the Reorganized Debtor (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 the Plan and all instruments issued in connection therewith, the Disbursing Agent shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all Distributions under the 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 may, 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 the 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 the Plan or otherwise), and any Distribution to which a holder is entitled under the 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 entered by the Bankruptcy Court 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.



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. For the avoidance of doubt, any and all existing insurance proceeds and claims with respect to the Insurance Policies shall be included in the Litigation Trust Assets to be transferred to the Litigation Trust.

6.11 **Applicability of Insurance Policies.** Except as otherwise provided in the 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 the Plan, nothing contained therein 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.** To the extent that any Claim entitled to a Distribution under the 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 the 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 the 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 Debtors or the Reorganized Debtor, as applicable, shall have the exclusive authority to file, settle, compromise, withdraw, or litigate to judgment any objections to Claims as permitted under the Plan. Except as provided otherwise under the Plan, from and after the Effective Date, the Reorganized Debtor may settle or compromise any Disputed Claim without approval of the Bankruptcy Court. The Reorganized Debtor 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 the Plan or in any order entered in the Chapter 11 Cases before the Effective Date (including the Confirmation Order), the Reorganized Debtor 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, any

amount it owes the Debtors (unless the Debtors and such Person agree otherwise with such agreement being in writing).

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 Disbursing Agent shall provide to the holder of such Claim the Distribution (if any) to which such holder is entitled under the Plan, without any interest to be paid on account of such Claim.

7.4 ***Estimation of Claims.*** The Debtors (before the Effective Date) or the Reorganized Debtor (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 Debtors or the Reorganized Debtor, as applicable, 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 the 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.

## **SECTION 8. EFFECT OF CONFIRMATION, INCLUDING SETTLEMENT, RELEASE, INJUNCTION AND RELATED PROVISIONS**

8.1 ***Compromise and Settlement of Claims, Interests and Controversies.*** Except for Causes of Action that constitute Litigation Trust Assets that shall be transferred to the Litigation Trust, pursuant to Bankruptcy Code section 1123 and Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided pursuant to the 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 claims against the Sponsor, 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 Debtor, its Estate, 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 Reorganized Debtor may compromise and settle Claims against it and Causes of Action against other Persons. For the avoidance of doubt, notwithstanding anything to the contrary, this Plan is not settling or releasing that certain adversary proceeding commenced on April 14, 2022 (Adv. No. 22-03073-mvl) and captioned Official

Committee of Unsecured Creditors v. UMB Bank, N.A., in its capacity as bond trustee and master trustee.

**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 THE PLAN, THE PLAN SUPPLEMENT, OR THE CONFIRMATION ORDER, FOR GOOD AND VALUABLE CONSIDERATION, INCLUDING THE INVESTMENT AND SERVICE OF THE RELEASED PARTIES TO FACILITATE THE EXPEDITIOUS REORGANIZATION OF THE DEBTORS AND THE IMPLEMENTATION OF THE RESTRUCTURING CONTEMPLATED BY THE PLAN, THE RELEASED PARTIES ARE DEEMED RELEASED AND DISCHARGED BY THE DEBTORS, THE REORGANIZED DEBTOR, AND THE ESTATES FROM ANY AND ALL CLAIMS, INTERESTS, OBLIGATIONS, RIGHTS, SUITS, DAMAGES, CAUSES OF ACTION, SETOFFS, RECOUPMENTS, REMEDIES, ENFORCEMENT RIGHTS 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 REORGANIZED DEBTOR, 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, REPRESENTATION, OMISSION, AFFILIATION, TRANSACTION, 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 THE PLAN, THE DISCLOSURE STATEMENT, ANY PLAN SUPPLEMENT OR RELATED AGREEMENTS, INSTRUMENTS OR OTHER DOCUMENTS, 2023 BOND DOCUMENTS, THE DIP FACILITY, OR THE REFINANCING 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 OR A FORMER OFFICER OR DIRECTOR OF THE DEBTORS THAT CONSTITUTES WILLFUL MISCONDUCT (INCLUDING FRAUD) OR GROSS NEGLIGENCE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE FOREGOING, THE RELEASE SET FORTH ABOVE DOES NOT RELEASE ANY POST-EFFECTIVE DATE OBLIGATIONS OF ANY PARTY UNDER THE PLAN OR ANY DOCUMENT, INSTRUMENT, OR AGREEMENT (INCLUDING THE PLAN SUPPLEMENT, INCLUSIVE OF THE 2023 BOND DOCUMENTS) EXECUTED TO IMPLEMENT THE PLAN. FOR THE AVOIDANCE OF DOUBT, THE LITIGATION TRUSTEE SHALL NOT HAVE AUTHORITY TO PURSUE ANY DEBTOR RELEASED CLAIM(S) FOR THE BENEFIT OF ANY PARTY AS SUCH CLAIMS ARE RELEASED PURSUANT TO THIS PLAN AND, AS SUCH, DO NOT AND WILL NOT CONSTITUTE LITIGATION TRUST ASSETS.

**8.3 *Releases by Holders of Claims.* AS OF THE EFFECTIVE DATE AND EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THE 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 REORGANIZED DEBTOR, THE ESTATES, THE SPONSOR, AND OTHER 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, ANY ACT, REPRESENTATION, 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 THE PLAN, THE DISCLOSURE STATEMENT, ANY PLAN SUPPLEMENT OR RELATED AGREEMENTS, INSTRUMENTS OR OTHER DOCUMENTS, THE DIP FACILITY, OR THE REFINANCING TRANSACTION (COLLECTIVELY, "CREDITOR RELEASED CLAIMS"), OTHER THAN CLAIMS OR LIABILITIES ARISING OUT OF OR RELATING TO ANY ACT OR OMISSION OF A RELEASED PARTY OR A FORMER OFFICER OR DIRECTOR OF THE DEBTORS THAT CONSTITUTES WILLFUL MISCONDUCT (INCLUDING FRAUD) OR GROSS NEGLIGENCE. FOR THE AVOIDANCE OF DOUBT, THE LITIGATION TRUSTEE SHALL NOT HAVE AUTHORITY TO PURSUE CREDITOR RELEASED CLAIMS ON ACCOUNT OF THE LITIGATION TRUST AS SUCH CLAIMS ARE RELEASED PURSUANT TO THIS PLAN AND, AS SUCH, DO NOT AND WILL NOT CONSTITUTE LITIGATION TRUST ASSETS.**

**8.4 *Exculpation.* UPON THE EFFECTIVE DATE, THE DEBTORS, THE COMMITTEE AND THE SPONSOR, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, INVESTMENT BANKERS, FINANCIAL ADVISORS, AND OTHER PROFESSIONAL ADVISORS AND AGENTS WILL BE DEEMED TO HAVE SOLICITED ACCEPTANCES OF THE 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 THE 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 THE PLAN OR ANY CONTRACT, INSTRUMENT, RELEASE, OR OTHER AGREEMENT OR DOCUMENT CREATED OR ENTERED INTO IN CONNECTION WITH THE PLAN, THE FILING OF THE CHAPTER 11 CASES, THE PURSUIT OF CONFIRMATION OF THE PLAN, THE ADMINISTRATION AND IMPLEMENTATION OF THE PLAN, THE DISTRIBUTION OF PROPERTY UNDER THE 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, THE PLAN OR ANY OTHER RELATED DOCUMENT, INSTRUMENT, OR AGREEMENT. FOR THE AVOIDANCE OF DOUBT, THE LITIGATION TRUSTEE SHALL NOT HAVE AUTHORITY TO PURSUE ANY CLAIMS DESCRIBED IN THIS SECTION 8.4 OF THIS PLAN AGAINST ANY EXCULPATED PARTY.**

**8.5 *Discharge of Claims.* PURSUANT TO BANKRUPTCY CODE SECTION 1141(D), AND EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THE BAR DATE ORDER, IN THE PLAN, OR IN ANY CONTRACT, INSTRUMENT, OR OTHER AGREEMENT OR DOCUMENT CREATED PURSUANT TO THE PLAN (INCLUDING, BUT NOT LIMITED TO, THE 2023 BOND DOCUMENTS), THE DISTRIBUTIONS, RIGHTS, AND TREATMENT THAT ARE PROVIDED IN THE 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 ASSERTED AGAINST THE DEBTORS OR THE ESTATES, 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 THE 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 THE 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 THE 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, ENFORCEMENT RIGHT, INTEREST, OR REMEDY RELEASED OR TO BE RELEASED PURSUANT TO THE PLAN OR THE CONFIRMATION ORDER.**

**FROM AND AFTER THE EFFECTIVE DATE, TO THE EXTENT OF THE RELEASES AND EXCULPATION GRANTED IN THE 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, ENFORCEMENT RIGHT, INTEREST, OR REMEDY RELEASED OR TO BE RELEASED PURSUANT TO THE PLAN.**

**EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE PLAN, THE PLAN SUPPLEMENT, OR RELATED DOCUMENTS, OR FOR OBLIGATIONS ISSUED PURSUANT TO THE PLAN (INCLUDING, BUT NOT LIMITED TO, THE OBLIGATIONS RELATING TO THE 2023 BONDS), 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 RIGHTS, CLAIMS OR INTERESTS; (II) ENFORCING, ATTACHING, COLLECTING, OR RECOVERING BY ANY MANNER OR MEANS ANY JUDGMENT, AWARD, DECREE, ENFORCEMENT PROCEEDING, 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 THE PLAN.**

**THE RIGHTS AFFORDED IN THE 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 THE PLAN).**

**EXCEPT AS OTHERWISE EXPRESSLY PROVIDED FOR IN THE PLAN OR IN OBLIGATIONS ISSUED PURSUANT TO THE PLAN (INCLUDING, BUT NOT LIMITED TO, THE OBLIGATIONS RELATING TO THE 2023 BONDS) 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 REORGANIZED DEBTOR, TH SPONSOR, AND EACH OF THEIR RESPECTIVE SUCCESSORS AND ASSIGNS OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, INVESTMENT BANKERS, FINANCIAL ADVISORS, AND OTHER PROFESSIONAL ADVISORS, AGENTS, 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.* Upon the Bankruptcy Court's entry of the Confirmation Order, all holders of Claims and Interests, the Debtors, the Liquidating Trustee, and other parties in interest, along with their respective present or former employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the Plan Proponents', the Reorganized Debtor's, the Sponsor's, and each of their respective affiliates', employees', advisors', officers' and directors', and agents' implementation or consummation of this Plan.

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 Reorganized Debtor 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 Reorganized Debtor or another Person with whom the Reorganized Debtor 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 the Plan, the 2023 Bond Documents, or any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to the 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 Reorganized Debtor and its successors and assigns. For the avoidance of doubt, except as otherwise provided in the Plan (including the Plan Supplement, inclusive of the 2023 Bond Documents), 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.** Confirmation of the Plan shall not occur, and 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 Debtors, the Sponsor, and the Committee;
- (b) The 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 Debtors, the Sponsor, and the Committee; and
- (c) The Bankruptcy Court shall have determined and established by Final Order the amount of the Secured portion, if any, of the Bond Claims pursuant to Bankruptcy Code section 506(a) and Bankruptcy Rule 3012.

9.2 **Conditions Precedent to the Effective Date.** The Effective Date shall not occur until each of the following conditions precedent 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 Debtors, the Sponsor, and the Committee, which Confirmation Order shall not be subject to any stay, and which Confirmation Order shall include or provide, among other things:
  - (i) a finding by the Bankruptcy Court that the 2023 Bonds to be issued on the Effective Date will be authorized and exempt from registration under the applicable securities law, pursuant to Bankruptcy Code section 1145;



- (ii) all provisions, terms and conditions of this Plan and related documents are approved; and
  - (iii) all Executory Contracts or Unexpired Leases assumed by the Debtors during the Chapter 11 Cases including under the Plan shall remain in full force and effect for the benefit of the Reorganized Debtor or its 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) The 2023 Bonds shall be issued;
  - (d) The Debtors and/or the Reorganized Debtor, as applicable, must have provided Resident counterparties to Escrow Agreement Addendums with fifteen (15) business days' notice of the occurrence of such Trigger Date (as defined in the Escrow Agreement to mean "the date on which a restructuring or refinancing of substantially all of the [Original] Bonds . . . is consummated");
  - (e) The Plan and all Plan Supplement documents, including any amendments, modifications, or supplements thereto, shall be in form and substance reasonably acceptable to the Debtors, the Sponsor, and the Committee;
  - (f) All payments and transfers to be made on the Effective Date shall be made or duly provided for, and the Debtors shall have sufficient Cash on such date to make such payments;
  - (g) All actions, documents and agreements necessary to create the Litigation Trust, including the Litigation Trust Agreement, shall be in a form and substance reasonably acceptable to the Debtors, the Sponsor and the Committee, and shall have been executed and delivered to the Litigation Trustee;
  - (h) All authorizations, consents, and regulatory approvals required, if any, in connection with the consummation of this Plan shall have been obtained; and
  - (i) All other actions, documents and agreements necessary to implement the Plan shall be in form and substance acceptable to the Debtors, the Sponsor, and the Committee, and shall have been executed.

9.3 ***Waiver of Conditions.*** Each of the conditions to Confirmation and the Effective Date set forth in the Plan, as outlined above, may be waived at any time only upon the agreement of the Debtors, the Committee, and the Sponsor; *provided, however*, that the Debtors, the Committee, and the Sponsor may not waive entry of an order or orders approving the Disclosure Statement and confirming the Plan.

9.4 ***Effect of Failure of Conditions.*** If the Effective Date does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (i) constitute a waiver or release of any claims by or Claims against the Debtors; (ii) prejudice in any manner the rights of the Debtors, any holders of Claims, or any other Person; or (iii) constitute an admission, acknowledgment, offer, or undertaking by the Debtors, any holders, 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 Debtors reserve the right to modify the Plan as to material terms 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 the Plan, the Debtors expressly reserve their rights to alter, amend, or modify materially the 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 the Plan or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan, all the forgoing subject to the approval of the Sponsor. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with the Plan. For the avoidance of doubt, nothing in this Section 10.1 of this Plan 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 the 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 Debtors reserve the right to, consistent with their fiduciary duties, revoke or withdraw the Plan before the Effective Date. If the Debtors revoke or withdraw the Plan, or if confirmation does not occur, then: (i) the Plan shall be null and void in all respects, (ii) any settlement or compromise embodied in the 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 the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void, and (iii) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtors or any other Person; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtors 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 all matters arising out of, or related to, the Chapter 11 Cases and the Plan, excluding the rights and remedies under the 2023 Bond Documents, but 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 the 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 Reorganized Debtor 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 Bankruptcy Code section 1141;
- (h) enter and enforce any order for the sale of property pursuant to Bankruptcy Code sections 363, 1123, or 1146(a);
- (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 the Plan or any Person's obligations incurred in connection with the Plan (exclusive of the obligations arising under the 2023 Bonds or relating to the 2023 Bond Documents);

- (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 the Plan;
- (l) resolve any cases, controversies, suits, disputes, or Causes of Action that may implicate the discharge, releases, injunctions, exculpations, indemnifications, and other provisions contained in the Plan and enter such orders as may be necessary or appropriate to implement and enforce 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 the Plan;
- (o) consider any modifications of the 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 the Plan or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan (exclusive of those documents relating to the 2023 Bonds);
- (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 the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Plan Proponents, the Sponsor, the Reorganized Debtor, and any and all holders of Claims or Interests (irrespective of whether such holders of Claims or Interests are deemed to have accepted the Plan), all Persons that are parties to or are subject to the settlements, compromises, releases, exculpation, discharges, and injunctions described in the Plan, each Person acquiring property under the 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 Proponents 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 the Plan. The Debtors or the Reorganized Debtor, as applicable, and all holders of Claims receiving Distributions pursuant to the 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 the 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 **Discharge of Patient Care Ombudsman.** On the Effective Date, the PCO shall be deemed discharged and relieved of any further duties and/or authority with respect to the Debtors and/or the Reorganized Debtor, as applicable.

12.5 **Reservation of Rights.** Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the Plan, any statement or provision contained in the Plan, or any action taken or not taken by the Debtors or other Person with respect to the 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 Debtors or other Person with respect to the holders of Claims or Interests before the Effective Date.

12.6 **Successors and Assigns.** The rights, benefits, and obligations of any Person named or referred to in the 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.

12.7 **Votes Solicited in Good Faith.** Upon entry of the Confirmation Order, the Plan Proponents will be deemed to have solicited votes on the 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 Proponents 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 or the offer, issuance, sale, or purchase of the 2023 Bonds offered under this Plan.

12.8 **Closing of Chapter 11 Cases.** The Debtors or the Reorganized Debtor 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.

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

If to the Debtors:  
POLSINELLI PC  
Attn: Jeremy R. Johnson  
600 3rd Avenue, 42nd Floor  
New York, New York 10016  
jeremy.johnson@polsinelli.com

If to the Committee:  
Foley & Lardner LLP  
Attn: Stephen A. McCartin  
2021 McKinney Avenue, Ste. 1600  
Dallas, Texas 75201  
smccartin@foley.com

And

Attn: Trinitee G. Green  
2950 N. Harwood Street, Suite 2100  
Dallas, Texas 75201  
tggreen@polsinelli.com

Erle A. Nye  
c/o Foley & Lardner LLP  
Attn: Stephen A. McCartin  
2021 McKinney Avenue, Ste. 1600  
Dallas, Texas 75201

Northwest Senior Housing Corporation  
d/b/a Edgemere  
Attn: Nick Harshfield  
4201 Corporate Drive  
West Des Moines, IA 50266

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 Section 12.9 of this Plan, which designation will be effective upon receipt by the Plan Proponents.

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

12.11 **Severability.** If, prior to confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, other than with respect to the 2023 Bond Documents, 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 the Plan will remain in full force and effect and will in no way be affected, Impaired, or invalidated by such holding, alteration, or interpretation.

12.12 ***Validity and Enforceability.*** The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the 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 the 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 the Plan.

12.13 ***Plan Supplement.*** Any exhibits or schedules not filed with the Plan, including, without limitation, the LSA, the DSSA, the 2023 Bond Documents, and the Litigation Trust Agreement, may be contained in the Plan Supplement and the Plan Proponents hereby reserve the right to file such a Plan Supplement until seven (7) days prior to the Voting Deadline and further reserve the right to alter, modify, or amend the Plan Supplement to and through the Effective Date.

12.14 ***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 the Plan and the restructuring transactions consummated or to be consummated in connection therewith.

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

Dated: November 2, 2022

Respectfully submitted,

**Official Committee of Unsecured  
Creditors**

By: /s/ DRAFT

Name: Earl A. Nye  
Title: Chairman

**Northwest Senior Housing Corporation  
and Senior Quality Lifestyles  
Corporation**

By: /s/ DRAFT

Name: Nick Harshfield  
Title: Director, Vice-Chair, & Treasurer